

RESOLUTION NO. 2025-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2025-11 AS CONDITIONED TO ALLOW DRIVE-THROUGH SERVICES FOR THE PROPERTY LOCATED AT 1819 NORTH TUSTIN AVENUE (APN: 396-302-031 and 396-312-15)

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

**Section 1.** The Planning Commission of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. John Caglia, representing Dutch Bros Inc. ("Applicant"), on behalf of Hall John C Trust ("Property Owner"), is requesting approval of Conditional Use Permit ("CUP") No. 2025-11 to allow drive-through window service for an eating establishment in the Community Commercial (C-1) zoning district located at 1819 North Tustin Avenue ("Project").
- B. In 2019, the City of Santa Ana annexed Assessor Parcel Nos (APNs) 396-302-03 & 396-312-15, previously under the jurisdiction of the County of Orange. Both sites are currently vacant parcels.
- C. On April 2, 2024, the Applicant submitted Development Project (DP) application No. 2024-06 to the City. Since then, the Applicant has worked with City staff on addressing various agency comments.
- D. Santa Ana Municipal Code ("SAMC") Section 41-365.5(e) requires approval of a CUP for eating establishments located within the C-1 zoning district with drive-through window service.
- E. Pursuant to SAMC Section 41-638, the Planning Commission is authorized to review and approve the CUP for this Project as set forth by the Santa Ana Municipal Code.
- F. On April 28, 2025, the Planning Commission held a duly noticed public hearing for CUP No. 2025-11.
- G. The Planning Commission of the City of Santa Ana has considered the information and determines that the following findings, which must be established in order to grant CUP No. 2025-11, for drive-through window service, have been established as required by SAMC Section 41-638.
  - 1. That the proposed use will provide a service or facility, which will contribute to the general wellbeing of the neighborhood or community.

The eating establishment with drive-through window service will contribute to the general well-being of the neighborhood or community by providing additional food servicing options that are convenient for people working or residing in the surrounding area, facilitate development of a long vacant site, promote economic growth, and contribute to the City's fiscal security. Moreover, as part of the Project, the Applicant will develop a long-vacant and under-utilized site and construct a new pad building featuring a contemporary design characterized by stone veneer, fiber cement siding, and cement plaster in a neutral color scheme of grey, white, and alongside a tower element painted "Dutch Bros Blue". Rooftop mechanical and heating, ventilation and air conditioning (HVAC) equipment will be screened by roof parapet extensions made of matching materials, ensuring they blend seamlessly with the overall building design. This development will reintroduce commercial activity to the previously underutilized site and vacant site since 1997. The new commercial development will deter illicit activity and generate business that, in the long term, will promote the economic viability of the City and the well-being of the community through the creation of new permanent jobs and increase in property and sales tax revenue.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The proposed use would not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, but rather the intent of the proposed use is to provide an additional service to the community and to provide a convenient method for customers to enjoy takeout food. Additionally, the drive-through layout was designed in a manner that ensures safe onsite circulation by providing an approximate 250-foot double drive-throughout lane (500 feet of stacking space) that yields a capacity for 24 vehicles. An additional 150 feet of spillover space is located behind the parking stalls, ensuring it does not interfere with vehicle parking back up requirements. An additional 150 feet of spill over area is provided between the driveway entrance off Tustin Avenue Frontage Road and the driveway exit area (designated as "do not block"), resulting in a total of 300 feet of spillover area beyond the start of the drive-through lanes. Furthermore, the drive-through lane would have a clearly delineated exit area, which would further prevent blocked vehicles and avoid any site circulation concerns. Lastly, while the property is located adjacent to residential land uses towards the north and east, the design and measures related to noise, lighting, and traffic would be taken would result in a project that is not anticipated to result in a nuisance to the neighboring properties. The lighting would not be detrimental to the persons residing in the adjacent residential properties as it the illumination

would be less than 5-foot candles as required by the City's design guidelines and range from 0.49 to 4.2-foot candles at the property line. Beyond the property line, the illumination would reduce to 0.0-foot candles as a result of careful placement, light shields, and landscaping. Within the drive-through lane, through the landscape plan, enhanced shrubs and vegetation will act as a buffer, screening vehicular lights and areas outside of the drive-through. In commercial and parking areas, a minimum of 1-foot candle light is provided throughout the site for a well illuminated area which contributes to overall safety and security.

The primary noise sources associated with the proposed Dutch Bros would consist of drive-through operations (e.g., sound from the employees taking orders and vehicles idling/queuing in the drive-thru lanes), parking lot noise, and mechanical equipment. To mitigate noise concerns, the Applicant proposes enhanced landscaping along the northern property line wall with Davis Gold Toyon shrubs and Australian Willow trees. These plants can grow up to the height of the perimeter wall in order to provide additional sound attenuation, which would supplement existing/proposed perimeter block walls. Moreover, the nearest residence, located north at 2232-2240 Lenita Lane, is buffered by an existing parking area consisting of carports and is physically located approximately 126 feet from the drive-through area, further acting as a natural barrier towards any noise generated by drive-through operations.

Relating to traffic concerns, Dutch Bros has prepared an onsite queuing Traffic Management Plan (Exhibit 9) during peak hours to address emergency overflow scenarios. Under this plan, Dutch Bros staff will deploy employees to key areas of the drive-through to expedite operations. "Drink Runners" will deliver food orders more quickly, "Line Busters" will take orders more efficiently, and "Traffic Coordinators" will manage parking lot circulation to ensure smooth traffic flow and prevent sensitive areas from being blocked. Additionally, during peak hours of operation, access to the drive-through will be restricted to Tustin Avenue frontage road. Per the traffic management plan, temporary directional signage will be installed to close ingress driveway areas and direct traffic into the site from Tustin frontage road. Therefore, the Project would not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The drive-through will not adversely affect the economic stability or future economic development of properties in the surrounding area,

as the site is currently vacant and closed off with temporary construction fencing. Approval of the subject request would allow the Applicant to establish a new eating establishment in the city and reintroduce activity to the site. Additionally, the food service offerings stimulate commercial business that generates sales tax revenue for the City as well would generate new and permanent employment opportunities in favor of the economic growth and stability of the City.

4. That the proposed use will comply with the regulations and conditions specified in Chapter 41 for such use.

The proposed use will be in compliance with all applicable regulations of Chapter 41 of the SAMC for eating establishments in which operate a drive-through service. Approval of the CUP will bring the use into compliance with operational standards and conditions of approval will mitigate any potential impacts to the general vicinity and ensure that the use does not impact neighboring properties or create an attractive nuisance.

5. That the proposed use will not adversely affect the General Plan of the city or any specific plan applicable to the area of the proposed use.

The approval of the proposed Project is consistent with the General Plan land use designation of General Commercial (GC), as the proposed Project would serve a commercial use, which are supported in the land use designation area. Additionally, the proposed Project would also be consistent with several goals and policies of the General Plan. Specifically, the Project aligns with Land Use Element (LU) Goal LU-2 and Policies LU-2.2 and LU-2.6, which aims to provide a balance mix of land uses that meet the City's diverse needs, capture local spending, offer a range of employment opportunities, and promote rehabilitation. The proposed project would provide for a new food service opportunity in the local area that would include an additional service to Santa Ana residents and visitors, which would promote local spending and offer employment opportunities. Furthermore, the Applicant's investment to develop the property would further encourage development in the surrounding area.

The proposed redevelopment as part of the Project would also be consistent with Goal LU-3 and Policies LU-3.4 and LU-3.7, which seek to preserve and enhance the character of the existing commercial area, foster a safe and clean environment for the community and ensure that the scale and massing of the new development is compatible and harmonious. The Applicant is proposing to construct a new pad building with associated site improvements and extensive site landscaping, which would overall enhance the character of the area considering the site was previously vacant and undeveloped. Additionally, the proposed

building would be 24 feet in height and 1,025 square feet in size to ensure the building size is compatible with the adjacent residential properties and would not cast a shadow or create a looming effect on adjacent residential properties. The Project proposes landscaping improvements, which will feature a variety of plant materials including trees, perennials, succulents, shrubs, grasses, and groundcover, which would further help enhanced the viability of the commercial site, would create a harmonious environment, and would help promote a clean and safe environment for Santa Ana's residents, workers, and visitors.

The Project would also be consistent with the Economic Prosperity Element (EP), Goal EP-1 and Policy EP-1.2, which seeks to foster a dynamic local economy that provides and creates employment opportunities and expand the City's efforts in achieving its full employment potential. The proposed request would allow the Property Owner and Applicant to establish a business and construct a new building that would result in fostering a dynamic local economy, by creating new employment opportunities through activating an underutilized undeveloped property. This would in turn promote the fiscal stability and growth of the sales tax of the City as a whole. This would also be consistent with Policy EP-1.8, which promotes fiscal stability and growth of sales tax. Lastly, the Project would be consistent with Goal EP-3 and Policies EP-3.7 and EP-3.8, which promotes a business-friendly environment where businesses thrive, promotes a solution-based customer focus in order to facilitate additional development, and promotes a balance of community benefits. Consistent with these goals, the redevelopment of the with a new pad building that would serve an eating establishment would create a more business- friendly environment along Tustin Avenue as it would deter any illicit activity and encourage business operations at neighboring properties and other remaining undeveloped properties in the corridor. Additionally, it would provide services to the community and additional food service options through the drive-through in a manner that is not anticipated to create on-site or off-site impacts to customers or the community, through careful site planning and operation practices.

**Section 2.** Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is exempt from further review pursuant to Section 15303 of the CEQA Guidelines (Class 3 – New Construction). Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures, which includes commercial buildings such as a restaurant use not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four commercial buildings not exceeding 10,000 square feet on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The Project proposes to establish an eating establishment within a new 1,025-square-foot commercial building with double drive-through

lanes in an urbanized area. The proposed size of the project is less than 2,500 square feet, does not involve the use of significant amounts of hazardous substances, and the surrounding area is not environmentally sensitive. As such, a Notice of Exemption, Environmental Review No. 2024-36, will be filed for this Project.

**Section 3.** The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

**Section 4.** The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Conditional Use Permit No. 2025-11, as conditioned in Exhibit A, attached hereto and incorporated herein, for the Project. This decision is based upon the evidence submitted at the above-referenced hearing, including, but not limited to: The Request for Planning Commission Action dated April 28, 2025, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 28th day of April 2025 by the following vote.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

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Jennifer Oliva  
Chairperson

APPROVED AS TO FORM:  
Sonia R. Carvalho, City Attorney



By: \_\_\_\_\_  
Melissa M. Crosthwaite  
Senior Assistant City Attorney

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2025-XX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on April 28, 2025.

Date: \_\_\_\_\_

\_\_\_\_\_  
Nuvia Ocampo  
Recording Secretary  
City of Santa Ana

## EXHIBIT A

### **Conditions of Approval for Conditional Use Permit No. 2025-11**

Conditional Use Permit ("CUP") No. 2025-11 for drive-through window service is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, they shall meet the following conditions of approval:

The Applicant must remain in compliance with all conditions listed below throughout the life of the conditional use permit. Failure to comply with each and every condition may result in the revocation of the conditional use permit.

1. The Applicant must comply with all conditions and requirements of the Development Review Committee for the Development Project (DP) No. 2024-06.
2. Any proposed amendment to this conditional use permit must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the conditional use permit must be amended.
3. Prior to the issuance of a Building Permit, the Applicant shall submit a landscape and irrigation plan for the entire site to the Planning Division for review and approval. The landscape and irrigation shall comply with the zoning district's landscape standards, the Water Efficient Landscape Ordinance (WELO), and the Citywide Design Guidelines. The landscape plan shall also include a proposal for a diverse selection of shade-producing trees, reviewed and approved by the Planning Division and enhanced buffer shrubs/vines in conjunction with appropriately sized fencing alongside the southern property line from Tustin Avenue until the location of where the In-N-Out building begins, in an effort to mitigate and discourage any unsafe crossing of pedestrians through the drive aisle connecting the Dutch Brother's site and 1809 North Tustin Avenue (In-N-Out site).
4. Prior to issuance of a Certificate of Occupancy, the Applicant shall install signage instructing pedestrians to use the designated sidewalk in an effort to mitigate and discourage any unsafe crossing of pedestrians through the drive aisle connecting the Dutch Brother's site and 1809 North Tustin Avenue (In-N-Out site). Such signage shall be subject to review and approval by the Planning and Building Agency.
5. The Applicant shall, beginning from the date of issuance of the Certificate of Occupancy, until a period of six (6) months, implement a separate Grand Opening Traffic Management Plan that addresses onsite emergency overflow scenarios in which encroach upon the public street. This separate traffic management plan shall be reviewed and approved by the Planning Division, Public Works Agency Traffic Division, and the Santa Ana Police Department. The Grand Opening Traffic Management Plan shall include increased staff to provided traffic control throughout operating hours to assist with vehicular overflow should patron vehicles encroach into public streets or obstruct access onto adjacent private properties. The Grand Opening Traffic Management Plan shall be required to be implemented for the first six initial



months of business operations and subsequently extended for another six-month period, at the sole discretion of the City, until the initial visitor crowds have stabilized to a more consistent level. Stabilization shall mean that visitors shall be able to fully queue onsite and where the queue does not enter public streets or obstruct access to adjacent private properties during operating hours. At the end of each six-month period, the Applicant shall provide a queuing status report to the Planning Division, in which includes average waiting time, average queue vehicular length, overall staffing numbers, assigned traffic management stations/locations, and a site plan of existing directional signage, cones, and stations for traffic control. The City, at any time may require adjustment of the Grand Opening Traffic Management Plan to address any ongoing queuing concerns. Once the queuing status report indicates there is no consistent queuing spillover into the public street, the standard Traffic Management Plan, indicated in Condition Nos. 7 & 8, shall be implemented to address traffic spillover entirely within the subject site. Failure by the Applicant to maintain adequate traffic control measures whereby the City of Santa Ana has to provide traffic control shall result in all costs being borne by the applicant as determined by the Chief of Police and Executive Director of Public Works.

6. All landscaping shall be installed per the approved landscape and irrigation plan. In addition, Applicant shall be required maintain the landscaping in a healthy manner and in accordance with the approved landscape and irrigation plan throughout the lifetime of the CUP. Moreover, any unhealthy or dead landscaping shall be required to be removed and replaced in-kind immediately.
7. At any time that vehicle stacking extends beyond the entrance to the drive-through facility, the establishment shall implement the Traffic Management Plan in place and provide field staff as reasonably required to expedite drive-through operations, assist with onsite parking, and prevent vehicles from blocking onsite parking spaces, drive aisles, the ingress and egress easement onto adjacent properties, sidewalks and bicycle lanes, and/or queuing onto public roadways. A stacking plan illustrating vehicle stacking management in parking areas shall be reviewed and approved by Planning Staff and shall be posted and maintained onsite.
8. In the event that the adopted Traffic Management Plan results in a nuisance for the surrounding neighborhood, the Applicant is required to develop a revised traffic management plan to be reviewed and approved by Planning & Public Works Traffic Staff. Failure by the Applicant to maintain adequate traffic control measures whereby the City of Santa Ana has to provide traffic control shall result in all costs being borne by the applicant as determined by the Chief of Police and Executive Director of the Public Works Agency.
9. All parking areas shall be reasonably accessible to the general public while accessing the site. In the event that overflow from the drive through occurs, employees of the establishment shall assist with traffic management practices to ensure guests can enter the site, park their vehicle, and adequately leave the site when appropriate.
10. In the event that site parking availability results in a nuisance for the surrounding neighborhood, the Applicant is to develop a Parking Management Plan to be reviewed and approved by Planning Staff and shall be posted and maintained onsite.

11. The Applicant shall process and record a lot merger prior to issuance of a building permit.
12. The business shall post in a conspicuous location at the entry to the building the contact information for the responsible onsite manager, including full name, phone number, and emergency or backup phone number, in case of noise and related operational complaints.
13. Site illumination levels must remain in compliance with Section 8-211 (Special Commercial Building Provisions) of the Santa Ana Municipal Code at all times.
14. Subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney, to ensure that the property and all improvements located thereupon are properly maintained, Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located, if different from the Applicant) shall execute a Property Maintenance Agreement with the City of Santa Ana. The Agreement shall be recorded against the property by the City and shall be in a form reasonably satisfactory to the City Attorney. The Applicant must execute and submit the agreement to the Planning Division within ninety (90) days of the approval of this Resolution. The agreement shall contain covenants, conditions and restrictions relating to the following:
  - a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);
  - b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including, but not limited to, hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);
  - c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
  - d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including, but not limited to, controls on the proliferation of trash and debris about the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
  - e. If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms.

- f. The agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties and obligations and responsibilities set forth under the agreement.
- g. The agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City.
- h. The execution and recordation of the agreement shall be a condition precedent to the issuance of final approval for any construction permit related to this entitlement.