

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING MINOR EXCEPTION NO. 2024-03 AS CONDITIONED TO ALLOW THE CONTINUANCE OF AN OVERHEAD ELECTRICAL FEED AND ON-SITE POWER POLE FOR THE PROPERTY LOCATED AT 2235 SOUTH BRISTOL STREET

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. Amir Houriani with Santana Green Development, LLC. (“Applicant” and “Property Owner”), and representing Starbucks (“Tenant”), is requesting approval of Minor Exception (“ME”) No. 2024-03 to allow the continuance of an overhead electrical feed and on-site power pole to continue to service the property located at 2235 South Bristol Street.
- B. Pursuant to Santa Ana Municipal Code (SAMC) Section 41-626, approval of a minor exception is required to allow an overhead electrical feeder when otherwise required to be placed underground for new developments.
- C. The applicant is currently constructing a new commercial building on a vacant property. During the Development Project Review process, it was identified that the proposed overhead electrical feeder service necessitated application for a minor exception to allow overhead electrical feeder and the on-site power pole to remain in order to service the new development and reduce impacts to adjacent land uses.
- D. On December 9 2024, the Planning Commission of the City of Santa Ana held a duly-noticed public hearing on Minor Exception No. 2024-03.
- E. For Minor Exception No. 2024-03, the Planning Commission of the City of Santa Ana determines that the following findings have been established as required by SAMC Section 41-638:
  1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, that the strict application of the zoning ordinance is found to deprive the subject property of privileges not otherwise at variance with the intent and purpose of the provisions of this Chapter.

The project site has a special circumstance related to its location and surroundings. Drawing electrical service from the only other power pole capable of providing an underground

service is not feasible; to obtain power from this pole, the owner would have to relocate the existing power pole and trench southbound across Warner Avenue in order to continue electrical service. This option would be impractical to the applicant and the associated costs are beyond the typical range of cost experienced by most developers of single-family residences in Santa Ana.

2. That the granting of a minor exception is necessary for the preservation and enjoyment of one or more substantial property rights.

The granting of the minor exception is necessary for the preservation and enjoyment of substantial property rights. The granting of the minor exception will preserve the property owner's ability to complete construction of a new commercial building and to provide power for the enjoyment of future occupants.

3. That the granting of a minor exception will not be materially detrimental to the public welfare or injurious to surrounding property.

The granting of this minor exception will not be detrimental to the public or surrounding properties. There is an existing power pole that currently provides overhead electrical service to the subject site. Continuing to provide overhead service will alleviate the need to trench southbound across Warner Avenue that the property owner does not control. Additionally, temporarily closing of West Warner Avenue to allow construction and trenching would create traffic and inconveniences to the surrounding residents and the general public. Approving this minor exception to allow the overhead electrical feeder and on-site power pole to remain will not have any negative impacts to the surrounding properties or the welfare of the general public and will be the most feasible option for the applicant, Southern California Edison (SCE) as the electric utility provider, and the City.

4. That the granting of a minor exception will not adversely affect the General Plan of the City.

The approval of the proposed project will be consistent with several goals and policies of the General Plan land use designation of General Commercial (GC), which allows for the development of highly visible and accessible shopping opportunities along arterial corridors. Additionally, this designation supports the development and continued operation of recreational, cultural, and entertainment opportunities near established residential neighborhoods. The project would

provide an added amenity and would promote a land use that enhances the City's economic fiscal viability and mitigates any potential impacts to the surrounding community. Approval of this application would be consistent with several goals and policies of the General Plan, specifically Goals 1, 2, 3, and 4 of the Land Use ("LU") Element and Goals 1 and 3 of the Economic Prosperity ("EP") Element as discussed below.

Starbucks will offer a walk-up window service and outdoor patio area to support the local community. Policy LU-1.1 encourages development that is compatible with and supporting of surrounding businesses and community needs. Policy LU-2.7 supports land use decisions that encourage the creation, development, and retention of business in Santa Ana. The construction of a new café along a major corridor, near similar commercial uses and residential development, will continue to encourage a wide range of commercial uses that benefit the existing neighborhood and the surrounding community. Policy LU-3.1 supports new development which provides a net community benefit and contributes to neighborhood character and identity, specifically when it comes to an outdoor patio area, which would not only increase accessibility and convenience for patrons, but also strengthen the commercial viability and enduring success of the establishment. Policy LU-4.1 promote complete neighborhoods by encouraging a mix of complementary uses, community services, and people places within a walkable area. The development of the proposed café and the outdoor patio area holds the potential to foster a cohesive neighborhood, catering to both the residential community in its vicinity and the commercial corridor along Bristol Street with sidewalk access from all three street sides.

Policy EP-1.2 promotes new job-producing businesses that provide living-wage employment opportunities, which would generate property and sales tax revenue and provide employment opportunities to Santa Ana residents. Policy EP-3.8 promotes a balance of fiscal and qualitative community benefits when making land use decisions. The project would help create a friendly business environment and help the overall commercial strip along Bristol Street to enhance their business offerings and compete with nearby commercial businesses. Lastly, by working on an improved site design with the applicant, staff ensured that that project provided a high level of community investment for residents, workers, and visitors in the area.

**Section 2.** In accordance with 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 exemption for new construction or conversion of small structures). Class 3 exemption applies to the construction of new small structures or conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The project proposes to construct a 1,205-square-foot commercial building and allow a drive-through window service. As such, a Notice of Exemption, Environmental Review No. 2023-19, 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, which approval will not be unreasonably withheld, 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 Minor Exception No. 2024-03, as conditioned in Exhibit A, attached hereto and incorporated herein, for the project located at 2235 South Bristol Street. This decision is based upon the evidence submitted at the abovesaid hearing, which includes, but is not limited to: the Request for Planning Commission Action dated December 9, 2024, and exhibits attached thereto; and, the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 9<sup>th</sup> day of December, 2024.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

\_\_\_\_\_  
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. 2024-XX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on December 9, 2024.

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

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

## EXHIBIT A

### **Conditions of Approval for Minor Exception No. 2024-03**

Minor Exception 2024-03 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code and all other applicable regulations.

The Applicant must comply in full with each and every condition listed below prior to exercising the rights conferred by this minor exception.

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

1. All proposed site improvements must conform to Development Project Review (DP No. 2023-01) and the staff report exhibits.
2. Any amendment to this minor exception must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the minor exception must be amended.
3. Prior to the issuance of a building permit, the Applicant shall submit a full landscape and irrigation plan to the Planning Division for review and approval. The landscape plan shall conform to the commercial landscape standards, Citywide Design Guidelines, the City's Recommended Tree and Plant List, and the City's Water Efficient Landscape Ordinance, and shall note that all landscape planted along the east property line shall be mature and sufficiently tall to buffer any potential noise; all landscape along Bristol Street shall be enhanced to screen the drive-through vehicle queue; and decorative pavers or an alternative concrete design deemed appropriate by Planning Division staff, shall be required to be installed at the proposed driveway.
4. Prior to the issuance of a building permit, the final street improvement plans approved by the Public Works Agency shall include a raised concrete median on Magnolia Avenue to restrict vehicular movements from existing the project site onto northbound Magnolia Avenue and to prevent traffic from entering the project site from Magnolia Avenue. Moreover, the exit driveway onto Magnolia Avenue shall be designed with a curvature to direct exiting vehicles onto southbound Magnolia Avenue and prevent vehicles exiting the site from traveling northbound on Magnolia Avenue.
5. The applicant shall maintain the site as necessary, including but not limited to: the repair and upkeep of the property; cleanup of trash and debris; repair and upkeep of any damaged and/or weathered components of the building;

repair and upkeep of exterior paint; parking striping, lighting and irrigation fixtures; landscaping and related landscape, furnishing, and hardscape improvements.

6. Violations of the Minor Exception as contained in Section 41-647.5 of the Santa Ana Municipal Code will be grounds for permit suspension and/or revocation as described in Section 41-651 of the Santa Ana Municipal Code.
7. 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.
8. Prior to the issuance of a Certificate of Occupancy, a Property Maintenance Agreement must be recorded against the property. The agreement will be 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. Developer/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 Maintenance Agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The Maintenance 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; adherence to approved project phasing etc.), if applicable;
  - 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) if applicable;
  - 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 and immediately adjacent to 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 Developer/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 Maintenance 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, obligations and responsibilities set forth under the Maintenance Agreement; and
- g. The Maintenance 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 maintenance 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.