

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2024-13 AS CONDITIONED TO ALLOW THE OPERATION OF A DRIVE-THROUGH WINDOW SERVICE FOR THE PROPERTY LOCATED AT 2235 SOUTH BRISTOL STREET (APN:015-194-43)

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 Conditional Use Permit (“CUP”) No. 2024-13 to allow the operation of a drive-through window service at a new eating establishment located at 2235 South Bristol Street.
- B. Section 41-424.5(e) of the Santa Ana Municipal Code (“SAMC”) requires approval of a CUP for eating establishments wishing to operate drive-through window service.
- C. On December 9, 2024, the Planning Commission of the City of Santa Ana held a duly-noticed public hearing on CUP No. 2024-13.
- D. The Planning Commission of the City of Santa Ana has determined that the following findings, which must be established in order to grant a CUP pursuant to Section 41-638 of the SAMC, have been established for CUP No. 2024-13 to allow the operation of drive-through window service at a new eating establishment located at 2235 South Bristol Street.
 - 1. That the proposed use will provide a service or facility which will contribute to the general well being of the neighborhood or community.

The operation of drive-through window service at the subject site will provide a service to persons that work, go to school, or reside in the area. The project will revitalize an existing vacant site with a new, viable commercial use. The project includes the construction of a new commercial building that will activate the street and provide a service to the surrounding community. The architecture of the building has been designed to maximize the building’s prominence on Bristol Street and enhance the streetscape of the commercial corridor.

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 drive-through window service will not be detrimental to the health, safety or welfare of those residing or working in the vicinity as it is designed and intended to generate the least amount of impacts as possible. The drive-through lane meets the City's stacking requirements and will allow for a minimum of sixteen vehicles to queue without disrupting drive aisle or onsite parking spaces and circulation. In addition, vehicle queuing at the driveway is not anticipated to exceed, and vehicles queuing in the drive-through lane will have adequate space to queue within the project area and will not spill over onto Bristol Street.

The drive-through operation is also designed to generate minimal noise impacts as the speaker boards are facing away from the nearby residences. Additionally, the project will be conditioned to plant additional landscape along the northern and eastern property lines to help buffer any potential noise generated from the idling of vehicles or the drive-through speakers. Furthermore, a seven-foot high block wall will be constructed on the northern property line to match the existing wall located to the northeast of the subject property.

Lastly, various off-site improvements and special considerations were made to safeguard the adjacent neighborhood. The driveway design includes a one-way exit to prevent incoming traffic to the site from Magnolia Avenue. Secondly, a raised traffic island on Magnolia Avenue has been included to further mitigate any potential traffic impacts through the neighborhood. Lastly, a traffic knuckle design has been included on the corner of Magnolia and Warner Avenue, which has been successfully implemented in other parts of the City to prohibit potential neighborhood traffic impacts. The Public Works Agency have proposed these mitigation measures with the neighborhood and ensured their support for each of these traffic-calming solutions.

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

The introduction of the drive-through window service is poised to have a positive impact, safeguarding the economic stability and fostering future economic development in the surrounding properties. Starbucks, through its innovative offerings, is set to enrich the local landscape by providing additional services

and dining opportunities. This not only enhances the area's amenities but also establishes a commercial business that contributes to the City's revenue through generated sales tax. The development of a vacant lot, which not only improves blighted conditions, but minimizes the drain on City resources, for having to monitor the property in case of illegal dumping, vagrant activity, or potential code enforcement issues. The development of a vacant property will positively benefit the community by reinforcing economic vitality and providing a valuable resource for the community.

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

With the exception of the minimum front landscape requirement, for which the project seeks relief through Variance No. 2024-03 under concurrent review, the project meets all development standards. Specifically, the applicant is requesting approval for Variance No. 2024-03 to reduce the required front-yard landscaped area. The proposed use is consistent with other stipulations and requirements outlined in Chapter 41 of the SAMC, encompassing building heights, setback specifications, and parking provisions. As part of the conditional use permit, a vital condition has been incorporated to record a property maintenance agreement against the property. This measure is designed to guarantee the proper upkeep of the property and all associated improvements, ensuring a sustained level of maintenance in accordance with approved standards.

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 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 an 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 categorically exempt from further review per Section 15303 (Class 3 – Existing Facilities) of the CEQA Guidelines. 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 allow the operation of a drive-through window service at an existing developed site. 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 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.

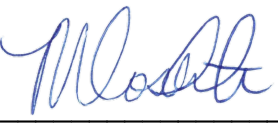
Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Conditional Use Permit No. 2024-13, as conditioned in Exhibit A, attached hereto and incorporated herein, for the operation of a drive-through window service at 2235 South Bristol Street. 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 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 9th 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 Conditional Use Permit No. 2024-13

Conditional Use Permit (“CUP”) No. 2024-13 allowing the operation of a 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.

The Applicant must comply with each and every condition listed below in order to exercise the rights conferred by this CUP.

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 CUP.

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 CUP must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the CUP 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 business owner shall maintain and adhere to a “Good Neighbor Policy,” implementing measures to ensure patrons comply with applicable noise, parking, and outdoor smoking regulations, and removing litter and preventing loitering in the areas in the immediate vicinity of the business.

6. 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.
7. At any time that vehicle stacking extends beyond the entrance to the drive through facility, the eating establishment shall 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, and/or queuing onto Bristol Street. A stacking plan illustrating vehicle stacking management in parking areas shall be posted and maintained onsite.
8. Violations of the Conditional Use Permit 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.
9. 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.
10. 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.