

# REQUEST FOR Planning Commission Action



**PLANNING COMMISSION MEETING DATE:**

**OCTOBER 22, 2018**

**TITLE:**

**PUBLIC HEARING – FILED BY RALPH DEPPISCH  
FOR CONDITIONAL USE PERMIT NO. 2018-19,  
CONDITIONAL USE PERMIT NO. 2018-20 AND  
VARIANCE NO. 2018-11 TO ALLOW AN EATING  
ESTABLISHMENT WITH DRIVE-THROUGH SERVICE,  
AFTER-HOURS OPERATIONS AND A DRIVEWAY  
WITHIN 150 OF AN INTERSECTION AT 2301 NORTH  
TUSTIN AVENUE**

**{STRATEGIC PLAN NO. 3, 2}**

Prepared by Selena Kelaher, AICP

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Executive Director

**PLANNING COMMISSION SECRETARY**

**APPROVED**

- ☐ As Recommended
- ☐ As Amended
- ☐ Set Public Hearing For \_\_\_\_\_

**DENIED**

- ☐ Applicant's Request
- ☐ Staff Recommendation

**CONTINUED TO** \_\_\_\_\_

A blue ink signature of the Planning Manager, written over a horizontal line.

Planning Manager

## **RECOMMENDED ACTION**

1. Adopt a resolution approving Conditional Use Permit No. 2018-19 as conditioned to allow drive-through window service.
2. Adopt a resolution approving Conditional Use Permit No. 2018-20 as conditioned to allow for after-hours operations within 150 feet of residentially zoned and used property.
3. Adopt a resolution approving Variance No. 2018-11 as conditioned to allow for a driveway within 150 feet of a street intersection.

## **Executive Summary**

Ralph Deppisch, representing The Liese L. Rego Family Trust, is requesting approval of two conditional use permits and a variance to facilitate construction of a commercial building at 2301 North Tustin Avenue. The adjacent property at 2151 East Santa Clara Avenue will be merged with the development site and the existing convenience store facade will be enhanced. Specifically, the applicant is requesting a CUP per Section 41-424.5(e) to allow a restaurant with drive-through window service, a CUP per Section 41-424.5(j) to allow the drive-through to operate after 12 midnight adjacent to residential uses, and a variance from Section 41-428(a) to allow a driveway to be located within 150 feet of a street intersection.

At the October 8, 2018, Planning Commission meeting two members of the public spoke and one comment letter was received. Public comments were made regarding concerns with an increase in traffic with the project and traffic safety. The Planning Commission directed staff to work with the applicant to discuss any additional traffic safety measures, including the potential to limit both

right-turn only movement onto Tustin Avenue and/or eastbound Santa Clara and Tustin Avenue left-turn (arrow) signalization. The Planning Commission continued the item to October 22, 2018.

Staff worked with the Public Works Agency and the applicant to address the Commission's concerns. Staff recommends that a "pork chop" right-turn only directional curb be installed on-site within the Tustin Avenue driveway. As a result, the driveway width will increase and the driveway may be approximately 5 feet closer to the intersection, furthering the need to request a variance for the driveway's proximity to the intersection. For the Santa Clara Avenue driveway, staff recommends that a right-turn only sign be installed to direct traffic westbound onto Santa Clara. In addition, staff studied the signalization to add the eastbound/westbound phasing (left-turn arrow) at the intersection. The signalization cost is estimated at \$320,000, however the development will only impact the eastbound movement, therefore 50% of improvement is \$160,000 which is the basis of the fair-share calculation. After analyzing the trip generation created by the project the fair-share amount is \$30,989. Three additional conditions of approval have been added to the entitlements to implement the traffic control measures.

Staff is recommending approval of the entitlements to allow for construction of a new building and operations for Starbucks. The proposed project will create a cohesive commercial development and provide additional services to residents, workers, and visitors in the area. The project will not negatively impact the surrounding community as the project has been designed to minimize impacts to the nearby sensitive land uses.

**Table 1: Project and Location Information**

Item	Information
Project Address	2301 North Tustin Avenue
Nearest Intersection	North Tustin Avenue and East Santa Clara Avenue
Surrounding Land Uses (Exhibit 1)	North Commercial
	East Residential
	South Commercial
	West Commercial
General Plan Designation	General Commercial (GC)
Zoning Designation	Arterial Commercial (C5)
Property Size	23,141 SF (0.53 acres) - 2301 North Tustin Avenue 16,146 SF (0.37 acres) - 2151 East Santa Clara Avenue
Existing Conditions	Vacant - 2301 North Tustin Avenue Convenience Store & Wireless Communication Facility - 2151 East Santa Clara Avenue
Development Standards	Sections 41-424 through 41-431 SAMC
Use Permissions/CUP/Variance	Section 41-424.5(e) and (j) and Section 41-428 SAMC

### **Project Description**

The applicant is proposing to construct a new 3,567-square-foot commercial building with two tenant spaces and a 300-square-foot outdoor patio at 2301 North Tustin Avenue. Starbucks is the anticipated tenant of "Building A" and is proposing drive-through window service and 24-hour a day operations. The future tenant for "Building B" is unknown at this time but, there is sufficient parking for a retail or restaurant business. In addition, the façade of the existing convenience store building (2151 East Santa Clara Avenue - "Building C") will be remodeled to match the design elements of the new building including a new storefront. A monopine will remain at the current location. However, the non-conforming pole sign along Santa Clara Avenue associated with the convenience store will be removed. A driveway is proposed to be located within 150 feet from the intersection to provide access to the site from Tustin Avenue.

A lot merger (for 2301 North Tustin Avenue and 2151 East Santa Clara Avenue) is proposed to create one cohesive development site. With the completion of the lot merger customers of all three "buildings" will be able to access and utilize all of the parking space on the site. A total of 39 total parking spaces and new parking lot landscaping will be provided.

The architecture of the buildings has been designed to appear as an integrated development, which includes a California contemporary design style with earth tones, cement plaster, metal canopies, stained cedar siding and green screens. In addition, the Public Works Agency has determined that an 8-foot irrevocable offer of dedication along Tustin Avenue is required. Tables 2A and 2B provide a detailed comparison of the project's compliance with the applicable land use and development standards.

**Table 2A: Land Use Standards**

<b>General Commercial (C5) (SAMC Sec. 41-424 and 41-424.5)</b>	
<b>Proposed Land Use</b>	<b>Permit Requirements</b>
Eating establishment	Allowed by Right
Drive-through window service for an eating establishment	Conditional Use Permit
Eating establishments within 150 feet of residentially zoned property operating between the hours of 12:00 a.m. and 5:00 a.m.	Conditional Use Permit

**Table 2B: Development Standards**

<b>Standard</b>	<b>Required by General Commercial (C5) Zone</b>	<b>Provided</b>
Front yard	15 feet minimum	Complies: 15 feet
Side yard (street)	15 feet minimum	Complies: 15 feet

Side yard (interior)	0 feet minimum	Complies; 0 feet
Rear yard	0 feet minimum	Complies; 2 feet, 9 inches
Lot Size & Frontage	15,000 sq. ft. and 120 feet	Complies; approximately 36,813 sq. ft. and 353 feet after lot merger and dedication
Building height	35 feet maximum	Complies; 27 feet
Parking	38 spaces (9 for retail and 29 for restaurants) 5 spaces per 1,000 sq. ft. of retail 8 spaces per 1,000 sq. ft. restaurant	Complies; 39 spaces after lot merger and dedication
Floor Area Ratio (F.A.R.)	0.50 FAR maximum	Complies; 0.15 FAR after lot merger and dedication
Driveways	No entry way or exit way shall be located within 150 feet of any intersection corner radius	<b>Does not comply;</b> driveway within 113 feet of the intersection corner radius
Stacking Distance	160 feet; 80 feet to menu board and 80 feet to pick-up window	Complies; 80 feet to menu board, 80 feet to pick-up window

### **Project Background and Chronology**

A gas station with ancillary auto repair service operated at 2301 North Tustin Avenue from 1968 to 1994. In 1994, the building was demolished and the underground storage tanks removed. The property has been vacant for the past 24 years. Currently, the property is being used as temporary construction staging yard for the OC Streetcar project. The temporary use will conclude by the end of the calendar year (2018).

The property at 2151 Santa Clara Avenue has been occupied by a convenience store with ancillary sales of alcoholic beverages since 1974. In 2010, Conditional Use Permit No. 2010-11 was approved for a wireless facility. The monopine is located at the rear of the property and west of the convenience store. The easterly driveway is shared with the property to the north (2333 North Tustin Avenue) and provides vehicular access to both sites through a reciprocal access agreement.

### **Project Analysis**

#### **Conditional Use Permit for Drive-Through Window Service**

The applicant is requesting drive-through window service which is a typical component of Starbucks' business operations. The drive-through was 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 approximately 8-cars to queue without disrupting drive aisles or on-site parking spaces. The drive-through is also designed to generate minimal noise impacts; the speaker boxes are located at the rear of the site and are oriented towards the north a commercial property. Any

potential noise generated from the idling of vehicles or the drive-through speakers is not anticipated to impact the closest residential uses as they are approximately 185 feet away to the east. Furthermore, the existing convenience store building will help buffer light and noise impacts to the residential uses. The drive-through lane was designed to be at the rear of the property, to produce minimal visual impact to Tustin or Santa Clara Avenues as the new building will be the prominent view from the street. In addition, large shrubs (*Podocarpus gracilior*) will be planted along the northern property line to create a visual buffer between the drive-through lane and the commercial building to the north (Exhibit 2).

Pursuant to Section 41-424.5 (e) of the Santa Ana Municipal Code (SAMC) eating establishments with drive-through service are subject to a CUP. The applicant's request for a CUP to allow drive-through window service will provide an added amenity to the property, for the employees who work in the vicinity and for the residents who live in the general area. In addition, the new use will activate the street corner and generate property and sales tax revenue for the City.

#### Conditional Use Permit for After-Hours Service

Pursuant to Section 41-424.5 (j) of the SAMC, eating establishments located within 150 feet of properties zoned or used for residential purposes that wish to operate between the hours of 12:00 a.m. and 5:00 a.m. are subject to a CUP. The purpose of regulating after-hours operations is to preserve the surrounding community characteristics and minimize any negative secondary impacts. Staff has reviewed the applicant's request to operate the Starbucks eating establishment and drive-through window service 24-hours per day and has determined that the operations will not be detrimental to the community. The future tenant of "Building B" is not anticipate to operate after-hours, if after-hours operations are proposed a separate Conditional Use Permit application will be filed.

The property to the east is a multi-family development referred to as the Latitude Apartment Homes (2243 East Santa Clara). Although, the residential property is within 150 feet of the subject property as measured from property lines; the new building will be approximately 185 feet away from the nearest residential building. In addition, the convenience store, drive aisle and an existing 4-foot wall will help buffer the residential uses from any light, noise, or traffic impacts that the commercial businesses may have on the residents. The Meredith Parkwood Neighborhood Association was contacted and did not express any concerns with the proposed project. Approval of this application would be consistent with the goals of the General Plan, specifically Goals 2 and 5 of the Land Use Element which promotes land uses that enhance the City's economic fiscal viability and mitigate any potential impacts to the surrounding community (Exhibit 3).

#### Police Department Analysis

The Police Department reviews conditional use permit applications for after-hours operations in order to ensure that potential crime or nuisance behaviors associated with such a use are mitigated to the greatest extent possible. For after-hours operations, the Police Department analyzes the crime rate in the area by matching the location of the business' census tract to the

corresponding Police Grid. The City of Santa Ana is broken up into 103 police reporting grids. The Police Department generates an annual report, the Citywide Incident Ranking report, which ranks these reporting grids based on police activity. The Police Department then compares the number of such crimes in the reporting district as compared to the number of crimes in other reporting districts. In keeping with the standard used by the State Business and Professions Code, should the Police Department determine that the reporting district has a 20 percent greater number of reported crimes than the average number found in all reporting districts, the Police Department would consider this information in making its recommendation.

**Table 3: Police Department Analysis and Criteria for Recommendation**

<b>Police Department Analysis and Criteria for Recommendation</b>	
Police Grid No. and Rank	Police Grid No. 262; ranked 77 out of 103 Police Reporting Grids (75 <sup>th</sup> percentile)
Incidents in Police Grid No. 262	173 incidents
Average Incidents in Citywide Police Grids	376 incidents
Threshold for High Crime	539 incidents = 20% threshold; This reporting district is below the 20 percent threshold established by the State for high crime.

The Police Department reviewed Police related activity for the location and the entire block on which the center is located for the last year, and found that no incidents have occurred at the location and seven incidents occurred in the entire block. The Police Department has determined that the location of the business is within an area that has experienced minimal police activity within the last year. Based on this analysis, the Police Department is not opposed to the after-hours conditional use permit as requested.

#### Driveway Variance

Currently, there are four driveway cuts to the vacant site. The applicant is proposing to close three of the driveways and replacing them with curb, sidewalks and street trees per the City's standards. The applicant is proposing to utilize a driveway on Tustin Avenue that is approximately 110 feet away from the intersection and is located as far away as possible from the corner.

Pursuant to Section 41-428(a) of the SAMC a driveway shall not be within 150 feet of a street corner radius. The purpose of the provision is to limit the number of driveways on arterial streets to reduce potential vehicular conflicts and facilitate traffic flow on arterial streets. The subject property has 125 feet of street frontage along Tustin Avenue. Therefore, any driveway that is proposed along Tustin Avenue would require a variance. The proposed tenant Starbucks is requesting a driveway on Tustin Avenue to capture customers traveling along both Tustin and

Santa Clara Avenues. The driveway will increase the viability of the businesses by providing direct access to traffic traveling in all directions. In addition, the design of the driveways, drive aisles, and parking area is practical and the additional driveway will improve on-site circulation. The Public Works Agency reviewed the proposed plans and did not identify any concerns regarding the location of the driveway (Exhibit 4).

**Table 4: CEQA, Strategic Plan Alignment, and Public Notification & Community Outreach**

Strategic Plan Alignment, and Public Notification & Community Outreach		
CEQA		
CEQA Type	Section 15303 – Class 3 – New Construction or Conversion of Small Structures	
Reason(s) Exempt or Analysis	This exemption applies to the construction of small structures, which in an urbanized area is defined as a building not exceeding 10,000 square feet in floor area, on sites zoned for such use, not using significant amounts of hazardous substances, where public services are available and the surrounding area is not environmentally sensitive.	
	The proposed building is 3,567 square feet in floor area within the Arterial Commercial zone which allows for service, retail and commercial uses. The proposed tenants are not anticipated to use significant amount of hazardous substances. There are public services available through the City of Santa Ana and the Orange County Fire Authority and the surrounding area is not environmentally sensitive.	
Strategic Plan Alignment		
Goal(s), Policy or Policies	3, 2 (create new opportunities for business/job growth and encourage private development through new General Plan and Zoning Ordinance policies).	
Public Notification & Community Outreach		
Public Hearing	Site posting	A public notice was posted on the project site on September 28, 2018.
	Notification by mail	Notices were mailed to all property owners and occupants within 500 feet of the project site on September 28, 2018.
	Newspaper posting	Newspaper posting was published in the Orange County Reporter on September 28, 2018.
Additional Measures	The Meredith Parkwood Neighborhood Association was contacted on September 26, 2018. At the time this report was printed, no issues of concern were raised regarding this application.	

### **Economic Development Benefits**

The project will generate property tax revenue, sales tax revenue, temporary jobs, permanent jobs and services for the community. Property tax revenue will increase as the lot is currently vacant and the total net value of the property will increase after the building and improvements for the project are made. The construction of the project will require that permit fees are paid to the City and there will be temporary construction jobs. The commercial tenants will provide additional sales tax revenue to the City that is estimated to be over \$4,000 annually. In addition, it is estimated that 40

to 50 new job opportunities will be created with the operation of the new eating and/or retail establishments.

### **Conclusion**

Based on the analysis provided within this report, staff recommends that the Planning Commission approve Conditional Use Permit No. 2018-19, Conditional Use Permit No. 2018-20 as conditioned and Variance No. 2018-11 as conditioned.

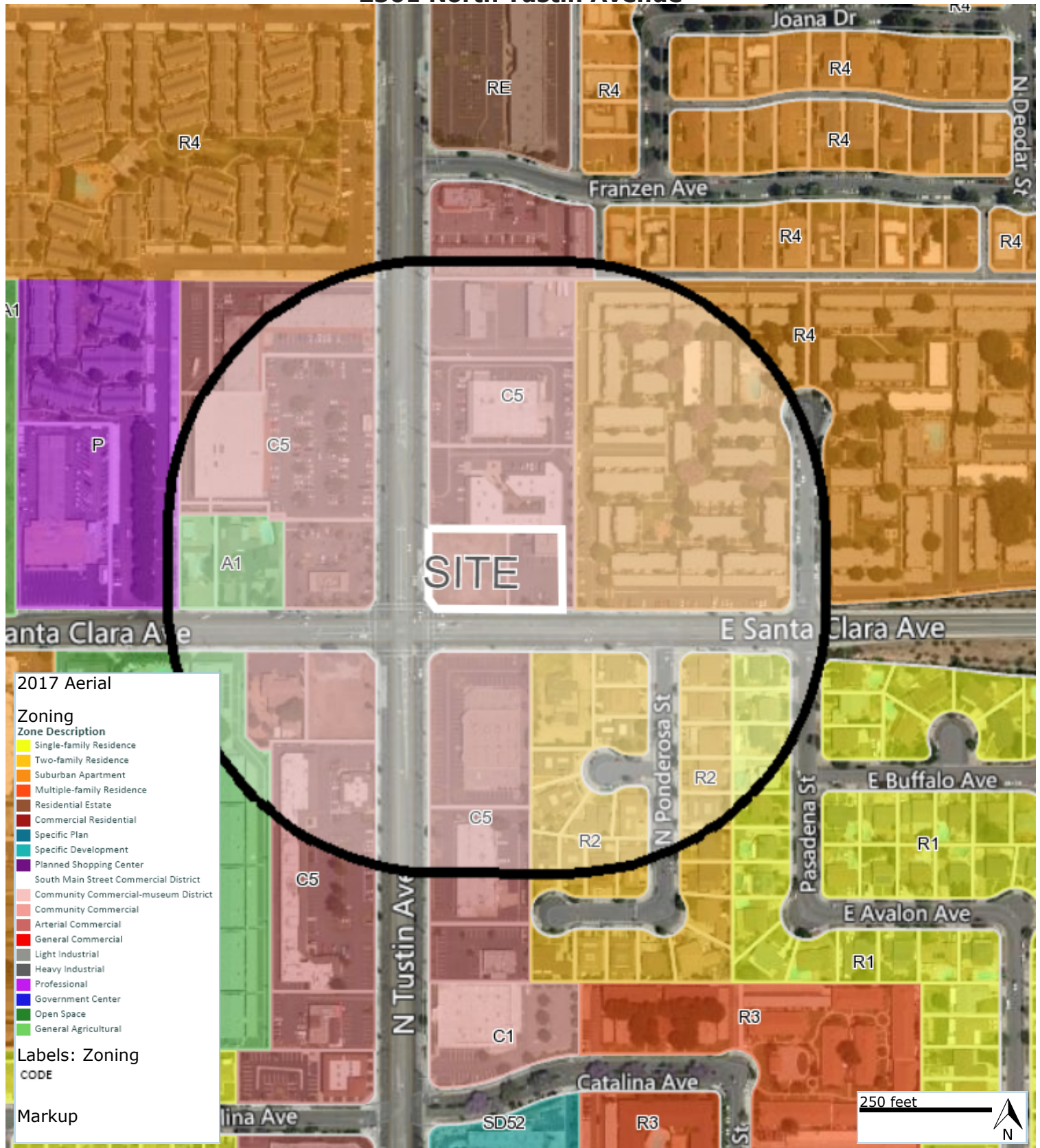


Selena Kelaher, AICP  
Associate Planner

SK:sb

lo\Planning Commission\

- Exhibits:
1. Vicinity Zoning & Aerial View
  2. Conditional Use Permit Resolution – Drive-through
  3. Conditional Use Permit Resolution – After-Hours
  4. Variance Resolution
  5. Site Plan
  6. Elevations



## Exhibit 1 - Vicinity Zoning and Aerial View



## RESOLUTION NO. 2018-xx

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF SANTA ANA APPROVING  
CONDITIONAL USE PERMIT NO. 2018-19 AS  
CONDITIONED TO ALLOW A DRIVE-THROUGH  
FOR THE PROPERTY LOCATED AT 2301 NORTH  
TUSTIN AVENUE

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. Ralph Deppisch, representing The Liese L. Rego Family Trust ("Applicant"), is requesting approval of Conditional Use Permit No. 2018-19 to allow drive-through window service for a restaurant in the Arterial Commercial (C5) zoning district at 2301 North Tustin Avenue.
- B. Santa Ana Municipal Code (SAMC) Section 41-424.5(e) requires approval of a conditional use permit for eating establishments with drive-through window service.
- C. Pursuant to SAMC Section 41-638, the Planning Commission is authorized to review and approve the conditional use permit for this project as set forth by the Santa Ana Municipal Code.
- D. On October 8, 2018, the Planning Commission held a duly noticed public hearing for Conditional Use Permit No. 2018-19. At the conclusion of the public hearing, the Commission continued the item to the October 22, 2018 Planning Commission meeting and asked staff and the Applicant to review potential traffic safety measures.
- E. 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 Conditional Use Permit No. 2018-19, 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 well being of the neighborhood or community.

The proposed eating establishment with drive-through window service will provide a service to persons that are working or

residing in the area. The project will redevelop a vacant lot with a new building with a contemporary design with cement plaster finishes, metal canopies, stained cedar siding, green screens, an outdoor patio and enhanced landscaping which will contribute to the aesthetics of the area. This will benefit the community by allowing the construction of a retail building on a vacant lot.

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 will not be detrimental to the health, safety or welfare of those residing or working in the vicinity. The closest residential land use is approximately 185 feet to the east of the site. The drive-through lane meets the City's stacking requirements and provides for queuing of approximately 8 vehicles. In addition, the drive-through lane was placed at the rear of the site to reduce the chance for overflow vehicular queuing onto any public streets. The menu board and speaker are at the rear and will be oriented towards the north to reduce any noise impacts to the nearby residential uses to the east.

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. The site is currently vacant and the new building will establish a commercial use of the property. An eating establishment with drive-through service will provide an additional service and eating opportunities for the area and will provide a commercial business that generates sales tax revenue for the City.

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

The proposed use complies with the regulations and conditions in Chapter 41 including building heights, yards, parking and landscaping. A condition of approval has been added to the conditional use permit for a property maintenance agreement to be recorded against the property which will ensure that the property and all improvements are properly maintained.

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 proposed eating establishment with drive-through service will not adversely affect the General Plan. The project is located in a General Commercial (GC) General Plan land use designation which allows for commercial uses such as retail, service and eating establishment uses. The project is consistent with several goals and policies of the General Plan, including the Economic Development Element, Land Use Element, and Urban Design Element. Land Use Element Goal 1 promotes a balance of land uses to address basic community needs. Policy 1.10, encourages the location of commercial centers at arterial roadway intersections in commercial districts. The project will provide for a new commercial building on two arterial streets. Land Use Element Goal 2 promotes land uses that enhance the City's economic and fiscal viability. Policy 2.8, promotes rehabilitation of commercial properties, and encourages increased levels of capital investment. The drive-through will contribute to the viability of the commercial center in which it is located and the existing building will be rehabilitated to match the design of the new building. Policy 2.9, supports developments that create a business environment that is safe and attractive. The Condition of Approval for property maintenance will maintain a safe and attractive environment in the community. Economic Development Element Goal 2 maintains and enhances the diversity of the City's economic base. Policy 2.3 encourages the development of mutually beneficial and supportive business clusters within the community. Urban Design Element Goal 1 improves the physical appearance of the City through development of districts that project a sense of place, positive community image and quality environment. Specifically, Policy 1.5 enhances architectural forms, textures, colors, and materials for all projects.

Section 2. In accordance with the California Environmental Quality Act, the project is exempt from further review per Section 15303 of the Guidelines for the California Environmental Quality Act. The Class 3 exemption applies to the construction of small structures, which in an urbanized area is defined as a building not exceeding 10,000 square feet in floor area, on sites zoned for such use, not using significant amounts of hazardous substances, where public services are available and the surrounding area is not environmentally sensitive.

The proposed building is 3,567 square feet in floor area within the Arterial Commercial zone which allows for service, retail and commercial uses. The proposed

tenants are not anticipated to use significant amounts of hazardous substances. There are public services available through the City of Santa Ana and the Orange County Fire Authority and the surrounding area is not environmentally sensitive. As a result, Categorical Exemption, Environmental Review No. 2017-136 will be filed for this project.

Section 3. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including, without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 4. The Planning Commission of the City of Santa Ana after conducting the public hearing hereby approves Conditional Use Permit No. 2018-19, as conditioned in Exhibit A, attached hereto and incorporated herein for the project located at 2301 North Tustin Avenue. 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 October 8, 2018 and October 22, 2018, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 22<sup>nd</sup> day of October, 2018.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

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Mark McLoughlin  
Chairperson

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

By: \_\_\_\_\_  
Lisa Storck  
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2018-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on October 22, 2018.

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

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

## EXHIBIT A

### **Conditions of Approval for Conditional Use Permit No. 2018-19**

Conditional Use Permit No. 2018-19 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 comply with each and every condition listed below prior to exercising the rights conferred by this conditional use permit.

I. 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. All proposed site improvements must conform to the Site Plan Review (DP No. 2017-37) and the staff report exhibits.
2. Any 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 the conditional use permit must be amended.
3. Prior to the issuance of a building permit, a lot merger for 2031 North Tustin Avenue and 2151 East Santa Clara Avenue shall be recorded.
4. Prior to the issuance of a certificate of occupancy, the non-conforming pole sign on 2151 East Santa Clara Avenue must be removed.
5. Prior to the issuance of a building permit, a landscape and irrigation plan is to be submitted for review and approval. The landscape plan shall conform to the commercial landscape standards, Citywide Design Guidelines and the City's Water Efficient Landscape Ordinance.
6. Prior to the issuance of a building permit, 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 (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 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 Developer 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.

(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.

(h) The execution and recordation of the Maintenance Agreement shall be a condition precedent to the issuance of final approval for any construction permit related to this entitlement.

II. The following are requirements that will need to be addressed and/or approved by the Police Department prior to issuance of a building permit:

1. Submitted plans must indicate that all structures and parking lots comply with the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). All applicable sections must be printed verbatim on the submitted set of plans.

III. The following are requirements that will need to be addressed and/or approved by the Orange County Fire Authority prior to issuance of a building permit:

1. Prior to the issuance of a building permit, the Applicant shall submit the Architectural Plans (PR208) for Starbucks to the Orange County Fire Authority for review and approval.

IV. The following are requirements that will need to be addressed and/or approved by the Public Works Agency prior to issuance of a building permit:

1. The Applicant shall submit plans to install a “pork chop” right-turn only directional curb on-site within the driveway on Tustin Avenue. The driveway and “pork chop” shall be designed to City Standards and approved by the Public Works Agency. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
2. The Applicant shall submit plans showing the installation of a right-turn only sign at the Santa Clara Avenue driveway. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
3. The Applicant shall submit payment of the fair-share contribution in the amount of \$30,898.00 for the Santa Clara Avenue and Tustin Avenue traffic signal modification.

## RESOLUTION NO. 2018-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2018-20 AS CONDITIONED TO ALLOW AFTER-HOURS (24-HOUR) OPERATION FOR AN EATING ESTABLISHMENT LOCATED AT 2301 NORTH TUSTIN AVENUE

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. Ralph Deppisch, representing The Liese L. Rego Family Trust (“Applicant”), is requesting approval of Conditional Use Permit No. 2018-20 to allow Starbucks to operate after-hours (24-hours) in the Arterial Commercial (C5) zoning district at 2301 North Tustin Avenue.
- B. Santa Ana Municipal Code (SAMC) Section 41-424.5(j) requires approval of a conditional use permit for eating establishments open at any time between the hours of 12:00 a.m. and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property.
- C. Pursuant to SAMC Section 41-638, the Planning Commission is authorized to review and approve the conditional use permit for this project to as set forth by the Santa Ana Municipal Code.
- D. On October 8, 2018, the Planning Commission held a duly noticed public hearing for Conditional Use Permit No. 2018-20. At the conclusion of the public hearing, the Commission continued the item to the October 22, 2018 Planning Commission meeting and asked staff and the Applicant to review potential traffic safety measures.
- E. The Planning Commission of the City of Santa Ana has considered the information and determines that following findings, which must be established in order to grant Conditional Use Permit No. 2018-20, to operate between the hours of 12:00 a.m. and 5:00 a.m. within one hundred fifty (150) feet of residentially zoned and used property, 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 well being of the neighborhood or community.

**EXHIBIT 3**

The proposed eating establishment with 24-hour operations will provide a service to persons that are working or residing in the area. The site will be redevelop a vacant lot with a new building with a contemporary design with cement plaster finishes, metal canopies, stained cedar siding, green screens, an outdoor patio and enhanced landscaping which will contribute to the aesthetics of the area.

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 operations will not be detrimental to the health, safety or welfare of those residing or working in the vicinity. The closest residential building is approximately 185 feet to the east of the proposed building. In addition, the existing commercial building at 2151 East Santa Clara Avenue creates an additional buffer between the new building with after-hours operations and the residential units. Any light, noise or traffic from the business during after-hours operations will be minimal. In addition, the Police Department has determined that there are no crime related issues and does not object to granting the conditional use permit.

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

The after-hours operations will not adversely affect the economic stability or future economic development of properties in the surrounding area. The site will be redeveloped with a new building and water efficient landscaping. An eating establishment with after-hours operations will provide additional service and eating opportunities for the area and will provide a commercial business that will generate sales tax revenue for the City. The new businesses will provide job opportunities and allow the business to compete with other after-hours businesses within close proximity.

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

The proposed use complies with the regulations and conditions in Chapter 41 including building heights, yards, parking and landscaping. A condition of approval has been added to the conditional use permit for a property

maintenance agreement to be recorded against the property which will ensure that the property and all improvements are properly maintained.

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 proposed eating establishment with after-hours operations will not adversely affect the General Plan. The project is located in a General Commercial (GC) General Plan land use designation which allows for commercial uses such as retail, service and eating establishment uses. The project is consistent with several goals and policies of the General Plan, including the Economic Development Element, Land Use Element, and Urban Design Element. Land Use Element Goal 1 promotes a balance of land uses to address basic community needs. Policy 1.10, encourages the location of commercial centers at arterial roadway intersections in commercial districts. The project will provide for a new commercial building on two arterial streets. Land Use Element Goal 2 promotes land uses that enhance the City's economic and fiscal viability. Policy 2.8, promotes rehabilitation of commercial properties, and encourages increased levels of capital investment. The after-hours operations will contribute to the viability of the business and the existing building will be rehabilitated to match the design of the new building. Policy 2.9, supports developments that create a business environment that is safe and attractive. The Condition of Approval for property maintenance will maintain a safe and attractive environment in the community. Economic Development Element Goal 2 maintains and enhances the diversity of the City's economic base. Policy 2.3 encourages the development of mutually beneficial and supportive business clusters within the community. Urban Design Element Goal 1 improves the physical appearance of the City through development of districts that project a sense of place, positive community image and quality environment. Specifically, Policy 1.5 enhances architectural forms, textures, colors, and materials for all projects.

Section 2. In accordance with the California Environmental Quality Act, the project is exempt from further review per Section 15303 of the Guidelines for the California Environmental Quality Act. The Class 3 exemption applies to the construction of small structures, which in an urbanized area is defined as a building not exceeding 10,000 square feet in floor area, on sites zoned for such use, not using significant

amounts of hazardous substances, where public services are available and the surrounding area is not environmentally sensitive.

The proposed building is 3,567 square feet in floor area within the Arterial Commercial zone which allows for service, retail and commercial uses. The proposed tenants are not anticipated to use significant amounts of hazardous substances. There are public services available through the City of Santa Ana and the Orange County Fire Authority and the surrounding area is not environmentally sensitive. As a result, Categorical Exemption, Environmental Review No. 2017-136 will be filed for this project.

Section 3. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including, without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 4. The Planning Commission of the City of Santa Ana after conducting the public hearing hereby approves Conditional Use Permit No. 2018-20, as conditioned in Exhibit A, attached hereto and incorporated herein for the project located at 2301 North Tustin Avenue. 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 October 8, 2018 and October 22, 2018, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 22<sup>nd</sup> day of October, 2018.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

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Mark McLoughlin  
Chairperson

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

By: \_\_\_\_\_  
Lisa Storck  
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2018-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on October 22, 2018.

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

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

## EXHIBIT A

### **Conditions of Approval for Conditional Use Permit No. 2018-20**

Conditional Use Permit No. 2018-20 for after-hours operations (24-hours) 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 comply with each and every condition listed below prior to exercising the rights conferred by this conditional use permit.

I. 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. All proposed site improvements must conform to the Site Plan Review (DP No. 2017-37) and the staff report exhibits.
2. Any 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 the conditional use permit must be amended.
3. Prior to the issuance of a building permit, a lot merger for 2031 North Tustin Avenue and 2151 East Santa Clara Avenue shall be recorded.
4. Prior to the issuance of a certificate of occupancy, the non-conforming pole sign on 2151 East Santa Clara Avenue must be removed.
5. Prior to the issuance of a building permit, a landscape and irrigation plan is to be submitted for review and approval. The landscape plan shall conform to the commercial landscape standards, Citywide Design Guidelines and the City's Water Efficient Landscape Ordinance.
6. Prior to the issuance of a building permit, 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 (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 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 Developer 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 and obligations and responsibilities set forth under the Maintenance Agreement.

(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.

(h) The execution and recordation of the Maintenance Agreement shall be a condition precedent to the issuance of final approval for any construction permit related to this entitlement.

II. The following are requirements that will need to be addressed and/or approved by the Police Department prior to issuance of a building permit:

1. Submitted plans must indicate that all structures and parking lots comply with the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). All applicable sections must be printed verbatim on the submitted set of plans.

III. The following are requirements that will need to be addressed and/or approved by the Orange County Fire Authority prior to issuance of a building permit:

1. Prior to the issuance of a building permit, the Applicant shall submit the Architectural Plans (PR208) for Starbucks to the Orange County Fire Authority for review and approval.

IV. The following are requirements that will need to be addressed and/or approved by the Public Works Agency prior to issuance of a building permit:

1. The Applicant shall submit plans to install a “pork chop” right-turn only directional curb on-site within the driveway on Tustin Avenue. The driveway and “pork chop” shall be designed to City Standards and approved by the Public Works Agency. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
2. The Applicant shall submit plans showing the installation of a right-turn only sign at the Santa Clara Avenue driveway. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
3. The Applicant shall submit payment of the fair-share contribution in the amount of \$30,898.00 for the Santa Clara Avenue and Tustin Avenue traffic signal modification.

A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF SANTA ANA APPROVING VARIANCE NO.  
2018-11 AS CONDITIONED TO ALLOW FOR A DRIVEWAY  
WITHIN 150-FEET OF AN INTERSECTION AT 2301  
NORTH TUSTIN AVENUE

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. Ralph Deppisch, representing The Liese L. Rego Family Trust ("Applicant"), is requesting approval of Variance No. 2018-11 as conditioned, to allow for a driveway within 150-feet of an intersection at 2301 North Tustin Avenue.
- B. Santa Ana Municipal Code (SAMC) Section 41-428 states that no entry way or exit ways shall be located within one hundred fifty (150) feet of any street intersection corner radius. The Applicant is proposing a driveway approximately 110 feet from the street intersection corner radius.
- C. Pursuant to SAMC Section 41-638, the Planning Commission is authorized to review and approve the variance for this project as set forth by the Santa Ana Municipal Code.
- D. On October 8, 2018, the Planning Commission held a duly noticed public hearing for Variance No. 2018-11. At the conclusion of the public hearing, the Commission continued the item to the October 22, 2018 Planning Commission meeting and asked staff and the Applicant to review potential traffic safety measures.
- E. 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 Variance No. 2018-11, for vehicle access within 150 feet of an intersection 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, 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.

There are special circumstances related to the existing dimensions of the property. The property is located at the northeast corner of Tustin and Santa Clara Avenues and is currently 125 feet by 125 feet. In order to provide direct vehicular access which is needed for any commercial

business, a variance from the development standards of the Arterial Commercial zoning district is required. In addition, the proposed project will improve the existing conditions, by eliminating three (3) existing driveways to the site and replacing them with curb and sidewalks constructed to City standards and allowing the site to be developed with a less intense commercial use.

2. That the granting of a variance is necessary for the preservation and enjoyment of one (1) or more substantial property rights.

Granting this variance is necessary for the preservation and enjoyment of substantial property rights. Vehicular access is required for the viability of any commercial business. In addition, the proposed tenant Starbucks is requesting a driveway along Tustin Avenue to provide direct access for customers traveling north. Tustin Avenue is a north-south arterial street with access to the State Route 22 highway and provides local access to east-west arterials. Providing vehicular access from both Tustin and Santa Clara Avenues will increase opportunities for sales.

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

Granting this variance will not be detrimental to the public or surrounding properties. The Public Works Agency reviewed the proposed plans and did not identify concerns regarding the location of the driveway. The design of the driveways, drive aisles and parking areas are safe and practical. Additionally, the property owner to the north did not want vehicles from the subject property on their site, so the driveway will provide customers with direct access to the subject site.

4. That the granting of a variance will not adversely affect the General Plan of the city.

The variance for vehicle access will not adversely affect the General Plan. The project is located in a General Commercial (GC) General Plan land use designation which allows for commercial uses such as retail, service and eating establishment uses. The project is consistent with several goals and policies of the General Plan, including the Economic Development Element, Land Use Element, and Urban Design Element. Land Use Element Goal 1 promotes a balance of land uses to address basic community needs. Policy 1.10, encourages the location of commercial centers at arterial roadway intersections in commercial districts. The project will provide for a new commercial building on two arterial streets.

Land Use Element Goal 2 promotes land uses that enhance the City's economic and fiscal viability. Policy 2.8, promotes rehabilitation of commercial properties, and encourages increased levels of capital investment. The driveway will contribute to the viability of the commercial center in which it is located and the existing building will be rehabilitated to match the design of the new building. Policy 2.9, supports developments that create a business environment that is safe and attractive. The Condition of Approval for property maintenance will maintain a safe and attractive environment in the community. Economic Development Element Goal 2 maintains and enhances the diversity of the City's economic base. Policy 2.3 encourages the development of mutually beneficial and supportive business clusters within the community. Urban Design Element Goal 1 improves the physical appearance of the City through development of districts that project a sense of place, positive community image and quality environment. Specifically, Policy 1.5 enhances architectural forms, textures, colors, and materials for all projects.

Section 2. In accordance with the California Environmental Quality Act, the project is exempt from further review per Section 15303 of the Guidelines for the California Environmental Quality Act. The Class 3 exemption applies to the construction of small structures, which in an urbanized area is defined as a building not exceeding 10,000 square feet in floor area, on sites zoned for such use, not using significant amounts of hazardous substances, where public services are available and the surrounding area is not environmentally sensitive.

The proposed building is 3,567 square feet in floor area within the Arterial Commercial zone which allows for service, retail and commercial uses. The proposed tenants are not anticipated to use significant amounts of hazardous substances. There are public services available through the City of Santa Ana and the Orange County Fire Authority and the surrounding area is not environmentally sensitive. As a result, Categorical Exemption, Environmental Review No. 2017-136 will be filed for this project.

Section 3. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Variance No. 2018-11 as conditioned in Exhibit A, attached hereto and incorporated as though fully set forth herein. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the Request for Planning Commission Action dated October 8, 2018 and October 22,

2018, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 22<sup>nd</sup> day of October, 2018.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTENTIONS: Commissioners:

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Mark McLoughlin  
Chairperson

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

By: \_\_\_\_\_  
Lisa Storck  
Assistant City Attorney

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2018-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on October 22, 2018.

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

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Recording Secretary  
City of Santa Ana

## EXHIBIT A

### **Conditions of Approval for Variance No. 2018-11**

Variance No. 2018-11 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 comply with each and every condition listed below prior to exercising the rights conferred by this variance.

I. 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. All proposed site improvements must conform to the Site Plan Review (DP No. 2017-37) and the staff report exhibits.
2. Any 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 the conditional use permit must be amended.
3. Prior to the issuance of a building permit, a lot merger for 2031 North Tustin Avenue and 2151 East Santa Clara Avenue shall be recorded.
4. Prior to the issuance of a certificate of occupancy, the non-conforming pole sign on 2151 East Santa Clara Avenue must be removed.
5. Prior to the issuance of a building permit, a landscape and irrigation plan is to be submitted for review and approval. The landscape plan shall conform to the commercial landscape standards, Citywide Design Guidelines and the City's Water Efficient Landscape Ordinance.
6. Prior to the issuance of a building permit, 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 (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 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 Developer 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 and obligations and responsibilities set forth under the Maintenance Agreement.
- (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.
- (h) The execution and recordation of the Maintenance Agreement shall be a condition precedent to the issuance of final approval for any construction permit related to this entitlement.

II. The following are requirements that will need to be addressed and/or approved by the Police Department prior to issuance of a building permit:

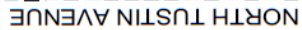
1. Submitted plans must indicate that all structures and parking lots comply with the provisions of Chapter 8, Article II, Division 3 of the Santa Ana Municipal Code (Building Security Ordinance). All applicable sections must be printed verbatim on the submitted set of plans.

III. The following are requirements that will need to be addressed and/or approved by the Orange County Fire Authority prior to issuance of a building permit:

1. Prior to the issuance of a building permit, the Applicant shall submit the Architectural Plans (PR208) for Starbucks to the Orange County Fire Authority for review and approval.

IV. The following are requirements that will need to be addressed and/or approved by the Public Works Agency prior to issuance of a building permit:

1. The Applicant shall submit plans to install a “pork chop” right-turn only directional curb on-site within the driveway on Tustin Avenue. The driveway and “pork chop” shall be designed to City Standards and approved by the Public Works Agency. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
2. The Applicant shall submit plans showing the installation of a right-turn only sign at the Santa Clara Avenue driveway. The improvements shall be installed prior to issuance of a Certificate of Occupancy.
3. The Applicant shall submit payment of the fair-share contribution in the amount of \$30,898.00 for the Santa Clara Avenue and Tustin Avenue traffic signal modification.



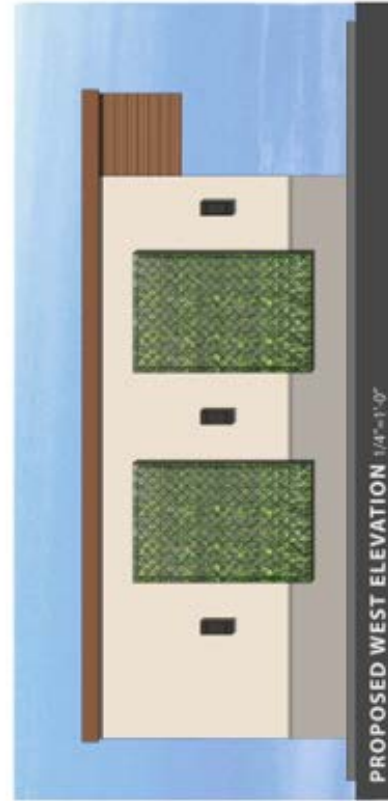


EXHIBIT 6  
CONVENIENCE STORE ELEVATIONS  
2151 EAST SANTA CLARA AVENUE



EXHIBIT 6  
STARBUCKS ELEVATIONS  
2301 NORTH TUSTIN AVENUE