

RESOLUTION NO. 2022-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2021-15 AS CONDITIONED TO ALLOW A CHECK CASHING FACILITY AT THE NORTHGATE MARKET LOCATED AT 2603 WEST WESTMINSTER 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. Kevin Le ("Applicant"), representing property owner Northgate Gonzalez, LLC is requesting approval of Conditional Use Permit (CUP) No. 2021-15 to allow operation of a check cashing facility at 2603 West Westminster Avenue.
- B. Pursuant to Santa Ana Municipal Code ("SAMC") Section 41-365.5, a CUP is required for check cashing facilities established in the Community Commercial (C1) zoning district within the City of Santa Ana.
- C. Pursuant to Santa Ana Municipal Code (SAMC) Section 41-374.5, it shall be unlawful to establish any check cashing facility within one thousand (1,000) feet of another check cashing facility, measured from property line to property line. The subject location satisfies this code standard.
- D. On February 28, 2022, the Planning Commission held a duly noticed public hearing on CUP No. 2021-15 to allow a new check cashing facility.
- E. The Planning Commission determines that the following findings, which must be established in order to grant this Conditional Use Permit pursuant to SAMC Section 41-638, have been established for Conditional Use Permit No. 2021-15 to establish a check cashing facility:
 1. That the proposed use will provide a service or facility which will contribute to the general wellbeing of the neighborhood or community.

Northgate Market proposes to offer onsite check-cashing services through their partner, Propsera. In addition to check-cashing services, Propsera offers money transfer services and of means of making utility payments. Such services would be available with ease to Northgate Market patrons located in the comfort of their neighborhood grocery store. Approval of

would provide access to services that may not be available to members of the community and in approving such service would promote the general well-being of the community.

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 check-cashing service would not be detrimental to persons residing or working in the area. The proposed check-cashing facility would be located within an existing commercial center and operate as an ancillary use within the Northgate Market. The subject site is also not located within 1,000 feet of another check-cashing facility, and the nearest such facility is located 7,843 miles away at 1601 West Seventeenth Street.

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

The proposed check-cashing facility would be compatible with the surrounding area and will not adversely affect the economic viability in the area. The proposed use is an ancillary service offered by the Northgate Market and would increase the economic stability by providing an additional service for business owners, workers, and residents in the area. Additionally, the overall site improvement proposed by Northgate market represent a major reinvestment to the commercial center.

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

The use will comply with all regulations and conditions identified in Chapter 41 (Zoning Code) of the SAMC. The check-cashing facility would be located within a zoning district in which such facilities are permissible and provide sufficient separation (1,000 feet minimum) from another facility to satisfy the requirements detailed in the SAMC. The will occupy an existing commercial building.

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 check-cashing facility will not adversely affect the General Plan, as the use would be compatible with the surrounding environment and consistent with the goals and objectives of the Land Use Element. Goal 1 promotes a balance of land uses to address community needs, which

includes the services provided by the check cashing facility. In addition, Goals 3 and 5 require preservation of neighborhood character and integrity as well as mitigation of developments' impacts. The proposed check-cashing facility would be contained within an existing commercial building and therefore would not visually impact the surrounding area. Further, Policy 2.2 encourages land uses that accommodate the City's needs for services. The proposed check-cashing facility provides a service that may not be available through traditional banking methods to residents and members of the community.

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 15301 (Class 1 – Existing Facilities). Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Based on this analysis, a Notice of Exemption, Environmental Review No. 2021-115 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. 2021-15, as conditioned in Exhibit A, attached hereto and incorporated 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 February 28, 2022, and exhibits attached thereto; and the public testimony, all of which are incorporated herein by this reference.

ADOPTED this 28th day of February 2022 by the following vote:

AYES: Commissioners: CALDERON, MCLOUGHLIN, MORRISSEY, PHAM,
RAMOS, WOO (6)
NOES: Commissioners:
ABSENT: Commissioners: ALDERETE (1)
ABSTENTIONS: Commissioners:


Thomas Morrissey
Chairperson

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

By: 
John M. Funk
Senior Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Christina Leonard, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2022-05 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on February 28, 2022.

Date: 3/14/22


Recording Secretary

EXHIBIT A

Conditions of Approval for Conditional Use Permit No. 2021-15

Conditional Use Permit No. 2021-15 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 conditional use permit.

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.

Planning Division

1. The Applicant must comply with all conditions and requirements of the Development Review Committee for the Development Project (DP) No. 2021-26.
2. Prior to issuance of the Certificate of Occupancy, the property shall be brought into full maintenance compliance with all applicable SAMC standards. Maintenance shall include, but is 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 historic building (e.g., siding, windows, historic features); repair and upkeep of exterior paint; parking striping, lighting and irrigation fixtures; landscaping and related landscape, furnishing, and hardscape improvements.
3. The proposed facility shall be maintained on an ongoing basis as per approved plans and any existing landscaping shall be enhanced and well maintained. Any damage to existing structures, walls, parking areas, or landscaping must be repaired.
4. Outside loading, unloading, and delivery shall take place only between 7:00 a.m. and 8:00 p.m. daily. The Owner shall post the contact information for onsite management in a conspicuous location at the business's front entry to facilitate communication by surrounding owners and tenants of any noise or site maintenance issues.
5. The east trellis area is to be reserved in perpetuity as an ADA path of travel and not to be used as cart storage. ***Added by Planning Commission February 28, 2022.***

6. Prior to issuance of a building permit, a Property Maintenance Agreement shall 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, 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 measure; adherence to approved project phasing etc.);
 - b) Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);
 - c) Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
 - d) Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
 - e) If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms;

- f) The 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; and
- 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.

Public Works Agency

1. Final approved plans shall depict and note all the affected parcels that are part of this project. Additional comments may follow if additional parcels are included.
2. Final approved plans shall depict and note the proposed Lot Line Adjustment lines (existing and future).
3. Plans shall identify on a separate sheet the proposed parcel lines, common areas, number of parcels and letter parcels.
4. The applicant shall provide a copy of the easement agreement for reciprocal ingress/egress access, parking, and drainage as necessary.
5. Final approved plans shall depict and dimension all existing topography, within the public right-of-way, along the property frontage (i.e., trees, driveway approach, street signs, streetlights, sidewalk and street widths, etc.).
6. Final approved plans shall depict and note the installation of all public utilities required to service the project site (i.e., new sewer lateral, water laterals, fire service, irrigation laterals and storm drain). Additional paving requirements may be identified during street improvement plan check if excavation is needed for any new utility service(s).

7. Final approved plans shall depict and note all existing easements, per the current title report. Submit copies of all the referenced and supporting documents defining each easement. Clarify easements on the site plan and/or Alta/ACSM Land Title Survey. Structures are not allowed over existing easements or along a driving aisle. The rights of the easement holder shall remain in effect without interference. If a structure is proposed to be built over an easement, a signed non-interference letter from the easement holder is required or easement holder must quitclaim rights to the easement. An updated title report will be required if quitclaim process is selected. The quitclaim(s) need(s) to be submitted to the Public Works Agency prior to any permit issuance.
8. Final approved plans shall depict a 15-foot by 15-foot sight distance triangle area at the vehicular site access locations (See Exhibit A). The height of proposed back flow device may not exceed 2.5 feet.
9. Final approved plans shall depict and note the removal and reconstruction of the easterly driveway on Westminster Avenue, per City Standards, (W=28' min., A=38' min., X=4'). The driveways must be located a minimum of 10' away from any utility facility, such as power poles, streetlights, catch basins, etc.
10. Final approved plans shall depict the proposed planter(s) in alignment with the new/existing driveway widths along Westminster Avenue.
11. Final approved plans shall depict and note grinding and capping of a minimum of 2"-3" of the existing AC pavement on Westminster Avenue along project frontage for curb lane.
12. Final approved plans shall depict the safe and efficient access of trash vehicles to trash receptacles. The following are the guidelines and the minimum requirements:
 - Depict and note the exact location(s) of the trash and recycling receptacles.
 - The project shall comply with all requirements specified in SAMC Sec. 16-37.
 - Minimum 40' x 16' wide staging area shall be available on service days from 6 a.m. to 6 p.m.
 - Minimum vertical clearance of 25' at the staging area for bin service clearance.
 - Minimum 13' vertical clearance for scout truck.
 - Per CALGreen, all commercial establishments must have adequate space in trash enclosures for three waste streams - trash, recycling, and food waste. Food waste service is offered in 2-yard bins.
 - All staging areas are to be onsite. No street staging is permitted.
 - 42' on a 90-degree turn radius
 - **All driveway and staging areas must be able to sustain a minimum gross weight of 60,000 lbs. per vehicle.**
 - Maximum size of bin shall be 4 cubic yards.
 - Depict the trash trucks' turning radius at all proposed internal corners.

- Provide complete circulation for trash trucks, backing up into the streets is not allowed for safety reasons.
- **All items must be noted on the final site plan.**

In addition to the items above, the applicant shall provide a copy of the will-serve letter obtained from Waste Management, Inc.

13. Prior to Building plan check submittal, the applicant shall submit a preliminary evaluation of surface drainage showing the direction and means of flow to the adjacent streets and/or on/off site storm drain facilities. Include the estimated volumetric flow (Q) in each direction.
14. Final approved plans shall depict and note the drainage pattern of this site. Cross-lot drainage is allowed only by the means of recording a covenant, reviewed and approved by the City of Santa Ana. Should a Lot Merger be recorded, if required by the Planning and Building Agency, a Covenant will be unnecessary.
15. The applicant shall submit preliminary surface drainage/utility plan that depicts all applicable "Site Design," structural "Source Control," and "Treatment Control" Best Management Practices (BMPs) in accordance with the Orange County Drainage Area Management Plan (DAMP) and the City of Santa Ana Local Implementation Plan (LIP). Site drainage should go to the landscape swale and should not be in conflict with the landscape plantings.
16. Final approved plans shall contain the note "This site will be designed and constructed in accordance with the California Regional Water Quality Control Board Santa Ana Region Order No. R8-2009-0030 discharge requirements (MS4 Permit)."

Police Department

1. The applicant shall install burglary bars at any rooftop ventilation openings or air conditioning return and supply openings that exceed ninety-six square inches.