

RESOLUTION NO. 2024-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2024-07 AS CONDITIONED TO ALLOW AFTER-HOURS OPERATION FOR THE PROPERTY LOCATED AT 1303 NORTH BRISTOL STREET (APN: 405-272-24 AND APN: 405-272-21)

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. Jay Higgins, with Raising Canes Chicken Fingers (Applicant), on behalf of Charles Manh (Property Owner) is requesting approval of Conditional Use Permit (CUP) No. 2024-06 to allow drive-through window service for an eating establishment in the Commercial (COM) zoning district of the Bristol Corridor Specific Plan (SP1) at 1303 North Bristol Street.
- B. In 1991, the City the City adopted SP1 to accommodate the flow of traffic at the time and projected increase in traffic as part of revitalization efforts of the corridor.
- C. The existing 1,200-square-foot commercial building previously developed on the subject property was later demolished in 2008 as part of the widening effort
- D. On April 21, 2020, the City Council adopted Resolution No. 2020-032 declaring the property as surplus. The property was subsequently acquired by Charles Manh on June 21, 2022, through Agreement for Exchange of Real Property No. A-2022-113.
- E. The Property Owner entered into a lease agreement with Raising Canes Chicken Fingers, which submitted Development Project (DP) application No. 2023-22 to the City on May 30, 2023. The DP application was deemed complete on May 20, 2024, and the required entitlement applications were submitted May 20, 2024.
- F. Santa Ana Municipal Code (SAMC) Section 41-424.5(j) requires approval of a CUP for eating establishments with after-hours operation.
- G. Pursuant to SAMC Section 41-638, the Planning Commission is authorized to review and approve the CUP for this project as set forth by the Santa Ana Municipal Code.
- H. On July 8, 2024, the Planning Commission held a duly noticed public hearing for CUP No. 2024-07.
- I. The Planning Commission of the City of Santa Ana has considered the information

and determines that the following findings, which must be established in order to grant CUP No. 2024-07, for after-hours operation, have been established as required by SAMC Section 41-638.

1. That the proposed use will provide a service or facility, which will contribute to the general wellbeing of the neighborhood or community.

The eating establishment with after-hours operation in combination with the new eating establishment and drive-through window service will contribute to the general well-being of the neighborhood or community by providing additional dining options that are convenient for people working or residing in the surrounding area. Additionally, as of the project, the Applicant will develop the currently vacant lot and construct a new pad building featuring a contemporary design characterized by brick veneer, wood paneling, distressed metal panels, and smooth stucco in a neutral color scheme of brown, grey, black, and white. This development will introduce activity to the previously underutilized site, deter illicit activity, and generate business that, in the long term, will promote the economic viability of the City and the well-being of the community.

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 after-hours operation would not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, rather the development of the site would discourage any illicit activity in the area and provide for more activity and property over site. Additionally, the proposed hours of operation and drive-through hours of operation would be Sunday through Thursday from 9:00 a.m. to 1:00 a.m. and on Friday and Saturday from 9:00 a.m. to 1:30 a.m. While the outdoor patio seating would be limited to 12:00 a.m. so as to minimize any potential impacts to the neighboring residential properties. Lastly, while the property is located adjacent to residential land uses, the design and measures related to noise, lighting, and odor would be taken would result in a project that is not anticipated to result in a nuisance to the neighboring properties. The lighting would not be detrimental to the persons residing in the adjacent residential properties as the illumination would be than 5-foot candles as required by the City's design guidelines and range from 0.49 to 4.2-foot candles at the property line. Beyond the property line, the illumination would reduce to 0.0-foot candles as a result of careful placement, light shields, and screen wall. The primary noise sources associated with the proposed Raising Cane's restaurant would consist of drive-through operations (i.e., sound from the ordering intercom and vehicles idling/queuing in the drive-thru lanes), parking lot noise, outdoor dining, and mechanical equipment. To address noise

concerns, the Applicant is proposing to provide enhanced landscaping along the property line wall to provide additional sound attenuation, which would supplement existing/proposed perimeter block walls. Pursuant to a noise study provided for the project, the exterior noise levels generated in the project vicinity would be within 1.1 A-weighted decibels (dBA) of the City's allowable exterior noise standards of 50 dBA. Per the California Department of Transportation (Caltrans) Technical Noise Supplement to the Traffic Noise Analysis Protocol (2013), a noise level increases of 3 dBA is generally regarded as barely perceivable. Therefore, the 1.1 dBA is not anticipated to generate significant noise that would negatively impact the adjacent properties. To address odor emissions from the building, a high-quality air scrubber would be installed to limit odors from prepared food. Therefore, the project would not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

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

The proposed after-hours operation will not adversely affect the economic stability or future economic development of properties in the surrounding area, as the site is currently vacant and closed off with temporary construction fencing. Approval of the subject request would allow the Property Owner to establish a new eating establishment in the city and reintroduce activity to the site. Additionally, the after-hours would allow for additional hours of operation during which additional sales would be by providing that dining opportunity which would stimulate commercial business that generates sales tax revenue for the City as well as and would generate new and permanent employment opportunities in favor of the economic growth and stability of the City.

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

The proposed use complies with the regulations and conditions in Chapter 41 with the exception of the required parking as 32 parking spaces are required based on the size of the building and outdoor dining area and 21 parking spaces are proposed. Pursuant to Assembly Bill (AB) 2097, project sites located within a major transit area and would not be subject to requesting a deviation for the reduced parking. However, the reduced parking is not anticipated to impact the surrounding neighborhood as the drive-through services are typically the primary attraction for proposed Raising Canes Chicken Fingers location based on observations of other locations. Moreover, a separate condition of approval has been added to ensure that the operator establish a parking management plan should concerns related to the parking arise.

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

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

The proposed redevelopment as part of the project would also be consistent with Goal LU-3 and Policies LU-3.4 and 3.7, which seek to preserve and enhance the character of the existing commercial area, foster a safe and clean environment for the community and ensure that the scale and massing of the new development is compatible and harmonious. The Applicant is proposing to construct a new pad building with associated site improvements and extensive site landscaping, which would overall enhance the character of the area considering the site was previously vacant and undeveloped. Additionally, the proposed building would be 22.5 feet in height and 2,899 square feet in size to ensure the building size is compatible with the adjacent residential properties and would not cast a shadow or create a looming effect on adjacent residential properties. The project proposes landscaping improvements, which will feature a variety of plant materials including trees, perennials, succulents, shrubs, grasses, and groundcover, which would further help enhanced the viability of the commercial site, would create a harmonious environment, and would help promote a clean and safe environment for Santa Ana's residents, workers, and visitors.

The project would also be consistent with the Economic Prosperity Element (EP), Goal EP-1 and Policy EP-1.2, which seeks to foster a dynamic local economy that provides and creates employment opportunities and expand the City's efforts in achieving its full employment potential. The proposed request would allow the owner and Applicant to establish a business and construct a new building that would result in fostering a dynamic local economy, by creating new employment opportunities through activating an underutilized

undeveloped property. This would in turn promote the fiscal stability and growth of the sales tax of the City as a whole. This would also be consistent with Policy EP-1.8, which promotes fiscal stability and growth of sales tax. Lastly, the project would be consistent with Goal EP-3 and Policies EP-3.7 and EP-3.8, which promotes a business friendly environment where businesses thrive, promotes a solution-based customer focus in order to facilitate additional development, and promotes a balance of community benefits. Consistent with these goals the redevelopment of site to develop with a new pad building that would serve an eating establishment would create a more business friendly environment along Bristol Street as it would deter any illicit activity and encourage business operations at neighboring properties and other remaining undeveloped properties in the corridor. Additionally, it would provide services to the community and additional dining options through the drive-through and after-hours services in a manner that is not anticipated to create on-site or off-site impacts to customers or the community, through careful site planning and operation practices.

Section 2. Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is exempt from further review pursuant to Section 15303 of the CEQA Guidelines (Class 3 – New Construction). Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures, which includes commercial buildings for restaurant uses not exceeding 10,000 square feet located in urbanized areas. The project proposes to establish an eating establishment within a new 2,899 square foot commercial building with double drive-through lanes in an urbanized area. As such, a Notice of Exemption, Environmental Review No. 2023-72 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. 2024-07, as conditioned in Exhibit A, attached hereto and incorporated herein, for the project located at 1303 North 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 July 8, 2024, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 8th day of July 2024 by the following vote.

AYES: Commissioners: Carl Benninger, Manuel J. Escamilla, Christopher Leo, Jennifer Oliva, Bao Pham, Isuri Ramos, Alan Woo (7)

NOES: Commissioners: (0)


ABSENT: Commissioners: (0)

ABSTENTIONS: Commissioners: (0)



Bao Pham
Chairperson

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

By: 
for Jose Montoya
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2024-16 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on July 8, 2024.

Date: 7/8/2024

Nuvia Ocampo

Nuvia Ocampo
Recording Secretary
City of Santa Ana



EXHIBIT A

Conditions of Approval for Conditional Use Permit No. 2024-07

Conditional Use Permit (“CUP”) No. 2024-07 for after-hours operation is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, they shall meet the following conditions of approval:

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

1. The Applicant must comply with all conditions and requirements of the Development Review Committee for the Development Project (DP) No. 2023-22.
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 if the conditional use permit must be amended.
3. Prior to the issuance of a Building Permit, the Applicant shall submit a landscape and irrigation plan for the entire site to the Planning Division for review and approval. The landscape and irrigation shall comply with the zoning district's landscape standards, the Water Efficient Landscape Ordinance (WELO), and the Citywide Design Guidelines. The landscape plan shall also include block wall details, including details for the proposed block wall on the northern property line following the required lot merger, and note application of anti-graffiti coating.
4. All landscaping shall be installed per the approved landscape and irrigation plan. In addition, all landscaping shall be evergreen, be required to be maintained throughout the lifetime of the CUP, and shall be required to be maintained in a healthy manner. Moreover, any unhealthy or dead landscaping shall be required to be removed and replaced in-kind.
5. At any time that vehicle stacking extends beyond the entrance to the drive-through facility, the restaurant 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, sidewalks and bicycle lanes, and/or queuing onto public roadways. A stacking plan illustrating vehicle stacking management in parking areas shall be reviewed and approved by Planning Staff and shall be posted and maintained onsite.
6. In the event that site parking availability result in a nuisance for the surrounding neighborhood the Applicant is to develop a parking management plan to be reviewed and approved by Planning Staff and shall be posted and maintained onsite.
7. Outdoor patio use shall terminate by 12:00 a.m. daily.
8. The Applicant is to process and finalize lot merger application No. LM-2023-04 prior

to permit issuance.

9. Prior to issuance of a certificate of occupancy, the Applicant shall have demolished the existing block wall on the existing northern property line and constructed a new block wall on the new northern property line, following recordation of LM No. 2023-04, as per the approved site and landscape plans.
10. 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.
11. 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.
12. Site illumination levels must remain in compliance with Section 8-211 (Special Commercial Building Provisions) of the Santa Ana Municipal Code at all times.
13. Prior to the 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 on or 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.