

RESOLUTION NO. 2024-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2024-05 AS CONDITIONED TO ALLOW DRIVE-THROUGH SERVICES FOR THE PROPERTY LOCATED AT 1430 EAST EDINGER AVENUE (APN: 403-111-06)

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. Darian Radac with Novum Architecture, Inc. (Applicant), on behalf of Spiros Politis (Property Owner) is requesting approval of Conditional Use Permit (CUP) No. 2024-05 to allow drive-through window service for an eating establishment in the Light Industrial (M1) zoning district at 1430 East Edinger Avenue.
- B. In 1976, the site was developed with a standalone commercial building occupied by an eating establishment without drive-thru operations, which remained in operation until December 2022.
- C. In December 2022, the Property Owner purchased the property and subsequently submitted Development Project (DP) application No. 2023-04 to the City on February 1, 2023. The DP application was deemed complete on May 2, 2024, and the required Conditional Use Permit application was submitted on May 6, 2024.
- D. Santa Ana Municipal Code (SAMC) Section 41-472.5(g) requires approval of a CUP for eating establishments with drive-through window service.
- E. 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.
- F. On June 24, 2024, the Planning Commission held a duly noticed public hearing for CUP No. 2024-05.
- G. 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. 2024-05, 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 wellbeing of the neighborhood or community.

The eating establishment with drive-through window service will provide a service, which will contribute to the general wellbeing of the neighborhood or community as the additional drive-through window service would enable peoples working or residing in the surrounding area additional dining options that would be convenient and meet their needs. Additionally, as part of the request to establish a drive-through window service, the Applicant will remodel a currently vacant building, enhancing it with a contemporary design featuring hardie panels, black, gray, white, and orange accent paint colors, along with metal finishes. The remodel will include reducing the building's size from 3,060 square feet to 2,450 square feet to accommodate the required landscaping adjacent to the street (a minimum of ten feet) and an both an eight- and ten-foot dedication. The landscaped area will be improved with a variety of plants to create a buffer from the intersection, this contributing to the character of the surrounding area and promoting 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 use would not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, but rather the intent of the proposed use is to provide an additional services to the community and to provide a convenient method for customers to enjoy takeout food. Additionally, the drive-through layout was designed in a manner that ensures safe onsite circulation by separating the southern drive aisle and drive-through lane. Signage would also be placed at the Grand Avenue entrance to discourage any drive-through access off Grand Avenue to ensure safety at the establishment, thus promoting the general wellbeing of persons visiting the site and the community. Moreover, the nearest residential uses are located approximately 1,080 feet to the east of the project site.

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, 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 services offered and dinning opportunity 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 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. Moreover, a separate condition of approval has been added to ensure that all landscaping is maintained evergreen, throughout the lifetime of the CUP.

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 is a commercial use in nature and will be situated in an established commercial area in which the proposed use would be compatible. 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. Furthermore, the Applicant's investment to rehabilitate the property would promote reinvestment in the surrounding area.

The proposed improvements 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 extensive site improvements that include reducing the size of the building, resulting in a building more compatible with City standards, mass, scale, and a building featuring a more enhanced design. Moreover, the project proposes landscaping improvements, which will feature a variety of plant materials including trees, palms, shrubs, 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

to establish a business and make improvements that would result in fostering a dynamic local economy, by creating new employment opportunities through activating an underutilized 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. The project would provide for redevelopment of an existing underutilized vacant parcel, which would deter any illicit activity and encourage business operations at neighboring properties. Additionally, it would provide services to the community and additional dining options 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. Moreover, the site improvements would help create a friendly business environment and help the overall commercial area enhance their business offerings and compete with nearby commercial centers, thus consistent with the general plan goals and policies.

Section 2. Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is exempt from further review pursuant to Section 15301 of the CEQA Guidelines (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. The project proposes to establish an eating establishment with drive-through on a site previously utilized by an eating establishment. As such, a Notice of Exemption, Environmental Review No. 2023-32 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. 2024-05, as conditioned in Exhibit A, attached hereto and incorporated herein, for the project located at 1430 East Edinger Avenue. 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 June 24, 2024, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

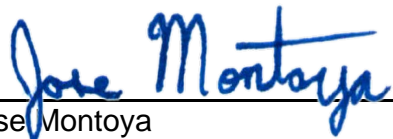
ADOPTED this 24th day of June 2024 by the following vote.

AYES: Commissioners: Carl Benninger, Manuel J. Escamilla, Jennifer Oliva, Bao Pham, Isuri Ramos, Alan Woo (6)
NOES: Commissioners: (0)
ABSENT: Commissioners: Christopher Leo (1)
ABSTENTIONS: Commissioners: (0)



Bao Pham
Chairperson

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

By:  _____
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. 2024-12 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on June 24, 2024.

Date: 6/24/2024

Nuvia Ocampo
Nuvia Ocampo
Recording Secretary
City of Santa Ana

EXHIBIT A

Conditions of Approval for Conditional Use Permit No. 2024-05

Conditional Use Permit (“CUP”) No. 2024-05 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 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. 2023-04.
2. Any amendment to this CUP must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the 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, and note application of anti-graffiti coating.
4. The applicant shall work with Planning Division staff to identify an appropriate canopy tree replacement, in place of the “Queen Palms” proposed adjacent to Edinger and Grand Avenue, identified as part of the conceptual landscape plan included in the request for Planning Commission Action dated June 24, 2024, and exhibits attached thereto. The replacement trees should offer a larger canopy and shall be selected from the City of Santa Ana Public Work Agency's Designated Tree Species Guide. ***Added on June 24, 2024 by the Planning Commission.***
5. 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.
6. 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.

7. 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.
8. 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.
9. Site illumination levels must remain in compliance with Section 8-211 (Special Commercial Building Provisions) of the Santa Ana Municipal Code at all times.
10. 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.