

RESOLUTION NO. 2023-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2023-10 AS CONDITIONED TO ALLOW THE OPERATION OF A DRIVE-THROUGH WINDOW SERVICE FOR THE PROPERTY LOCATED AT 3000 SOUTH BRISTOL STREET

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. Michael Tran with 7 Leaves Café (“Applicant”), on behalf of CJ Segerstrom and Sons (“Property Owner”), is requesting approval of Conditional Use Permit (“CUP”) No. 2023-10 for the operation of a drive-through window service at a new eating establishment located at 3000 South Bristol Street.
- B. Section 41-365.5(e) of the Santa Ana Municipal Code (“SAMC”) requires approval of a CUP for eating establishments wishing to operate a drive-through window service.
- C. On May 8, 2023, the Planning Commission of the City of Santa Ana held a duly-noticed public hearing on CUP No. 2023-10.
- D. The Planning Commission of the City of Santa Ana has determines that the following findings, which must be established in order to grant a CUP pursuant to Section 41-638 of the SAMC, have been established for CUP No. 2023-10 to allow the operation of a drive-through window service at a new eating establishment located at 3000 South Bristol Street.
  1. That the proposed use will provide a service or facility which will contribute to the general well being of the neighborhood or community.

The operation of a drive-through window service at the subject site will provide a service to persons that work or reside in the area. The project will revitalize an existing building with a new, viable commercial use. The project includes façade enhancements which include the installation of wood-stone siding, earth tone color palette, smooth stucco finishes, brick veneer, canopies and trim, green walls, and a prominent front entry. The architecture of the building has been designed to maximize the building’s prominence on Bristol Street and enhance the streetscape of the commercial corridor.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The proposed drive-through window service will not be detrimental to the health, safety or welfare of those residing or working in the vicinity as it is designed and intended to generate the least amount of impacts as possible. The drive-through lane meets the City's stacking requirements and will allow for eight vehicles to queue without disrupting drive aisle or onsite parking spaces and circulation. In addition, vehicle queuing at the driveway is not anticipated to exceed two vehicles, and vehicles queuing in the drive-through lane will have adequate space to queue within the project and will not spill over onto Bristol Street nor Segerstrom Avenue.

The drive-through operation is also designed to generate minimal noise impacts as the speaker boards are proposed to be located under the canopies that will act as a buffer to any speaker noise. Any potential noise generated from the idling of vehicles or the drive-through speakers is not anticipated to impact the closest residential uses as those residential uses are approximately 115 feet away to the west and south and are separated from the project site by an existing block wall and carports.

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 window service will not adversely affect the economic stability or future economic development of properties in the surrounding area. Instead the new 7 Leaves Café 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 of the SAMC for such use.

The proposed use complies with the regulations and conditions of Chapter 41 of the SAMC 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 an Urban Neighborhood (UN-30) General Plan land use designation which allows for the development of well-connected neighborhoods and shopping centers. Additionally, this designation allows a mix of uses including low density residential, high density residential, and neighborhood serving commercial uses. The granting of CUP No, 2023-10 supports several policies contained in the General Plan. Goal 2 of the Land Use Element (“LU”) encourages a balance of land uses that meet Santa Ana’s diverse needs. Policy 2.2 of the LU encourage a range of commercial uses to capture a greater share of local spending and offer a range of employment opportunities. Policy 2.7 of the LU supports land use decisions that encourage the creation, development, and retention of business in Santa Ana. Goal 3 encourages the preservation and improvement of the character and integrity of the existing neighborhoods and districts. Policy 3.1 supports development which provides a net community benefit and contributes to the neighborhood character and identity. Goal 4 supports a sustainable Santa Ana through improvements to the built environment. Lastly, Policy 4.1 of the LU promotes complete neighborhoods by encouraging a mix of complementary uses, community services, and people places.

**Section 2.** In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is categorically exempt from further review per Section 15303 (Class 3 – Existing Facilities) of the CEQA Guidelines. Class 3 exemption applies to the construction of new small structures or conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The project proposes to allow the operation of a drive-through window service at an existing developed site. As such, a Notice of Exemption, Environmental Review No. 2022-93, 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. 2023-10, as conditioned in Exhibit A, attached hereto and incorporated herein, for the operation of a drive-through window service at 3000 South Bristol Street. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated May 8, 2023, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 8<sup>th</sup> day of May, 2023.

AYES: Commissioners: BENNINGER, ESCAMILLA, LEO, OLIVA, PHAM,  
RAMOS, WOO (7)  
NOES: Commissioners:  
ABSENT: Commissioners:  
ABSTENTIONS: Commissioners:

  
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Bao Pham  
Chairperson

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

By:   
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John M. Funk  
Chief Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, NUVIA OCAMPO, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2023-09 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on May 8, 2023.

Date: 5/8/2023

*Nuvia Ocampo*  
Nuvia Ocampo  
Recording Secretary  
City of Santa Ana

## EXHIBIT A

### Conditions of Approval for Conditional Use Permit No. 2023-10

Conditional Use Permit (“CUP”) No. 2023-10 allowing the operation of a drive-through window service is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations.

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by this CUP.

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

1. All proposed site improvements must conform to Development Project Review (DP No. 2022-27) and the staff report exhibits.
2. Any amendment to this CUP must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the CUP must be amended.
3. Prior to the issuance of a building permit, the Applicant shall submit a full landscape and irrigation plan to the Planning Division for review and approval. The landscape plan shall conform to the commercial landscape standards, Citywide Design Guidelines, and the City’s Water Efficient Landscape Ordinance, and shall note that all vines along the perimeter walls are to be repaired, as needed, to improve the aesthetics of the wall, minimize blank surfaces, and assist with deterring graffiti.
4. 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, and/or queuing onto Bristol Street and Segerstrom Avenue. A stacking plan illustrating vehicle stacking management in parking areas shall be posted and maintained onsite.
5. The business owner shall maintain and adhere to a “Good Neighbor Policy,” implementing measures to ensure patrons comply with applicable noise, parking, and outdoor smoking regulations, and removing litter and preventing loitering in the areas in the immediate vicinity of the business.
6. The applicant shall maintain the site as necessary, including but not limited to: the repair and upkeep of the property; cleanup of trash and debris; repair and upkeep of any damaged and/or weathered components of the building; repair and upkeep of

exterior paint; parking striping, lighting and irrigation fixtures; landscaping and related landscape, furnishing, and hardscape improvements.

7. Prior to the issuance of a Certificate of Occupancy, a Property Maintenance Agreement must be recorded against the property. The agreement will be subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained. Developer/Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a Maintenance Agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The Maintenance Agreement shall contain covenants, conditions and restrictions relating to the following:
  - a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation; adherence to approved project phasing etc.), if applicable;
  - b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses) if applicable;
  - c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
  - d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about and immediately adjacent to the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable;
  - e. If Developer/Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the Maintenance Agreement and both shall be jointly and severally liable for compliance with its terms;

- f. The Maintenance Agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties, obligations and responsibilities set forth under the Maintenance Agreement;
- 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.