

## RESOLUTION NO. 24-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA, MAKING THE REQUIRED FINDINGS AND APPROVING DESIGN REVIEW 23-05 AND CONDITIONAL USE PERMIT 23-03 TO CONSTRUCT AND OPERATE A DRIVE-THROUGH RESTAURANT (STARBUCKS COFFEE) WITH OUTDOOR MENU BOARDS AT 541 EAST WHITTIER BOULEVARD, AS PER THE APPROVED PLANS AND SUBJECT TO CONDITIONS, AND MAKING THE DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15303, CLASS 3: "NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES" OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES

THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY FINDS AND DECLARES AS FOLLOWS:

- A. The Applicant, the Royce Company, filed applications requesting approval of Design Review (DR) 23-05 and Conditional Use Permit (CUP) 23-03 to construct and operate a drive-through restaurant with outdoor menu boards at 541 East Whittier Boulevard (the "Project").
- B. On April 22, 2024, the Planning Commission held a duly noticed public hearing to consider the Applicant's request for Design Review 23-05 and Conditional Use Permit 23-03, at which time the Commission continued the public hearing to a date uncertain in order to allow the Applicant additional time to address public comments received.
- C. On August 26, 2024, the Planning Commission held a duly noticed public hearing to consider the Applicant's request for Design Review 23-05 and Conditional Use Permit 23-03.
- D. In making the various findings set forth in this Resolution, the Planning Commission has considered all of the evidence presented by staff, the Applicant, and the public, whether written or oral, and has considered the procedures and standards required by the La Habra Municipal Code.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LA HABRA, CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

**SECTION 1. CALIFORNIA ENVIRONMENTAL QUALITY ACT.** The Planning Commission finds and determines that the Project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3: "New Construction or Conversion of Small Structures" of the CEQA Guidelines. The Project involves the demolition of an approximately 5,700 square foot commercial building and the construction of a 1,200 square foot drive-through restaurant. The

proposed restaurant does not involve the use of significant amounts of hazardous substances and does not exceed 2,500 square feet in floor area.

The Project is not subject to any of the exceptions for exemption under Section 15300.2 of the CEQA Guidelines. The location of the Project is predominantly urban and not considered a sensitive environment; therefore, the Project will not result in any significant impacts that may otherwise occur in a sensitive environmental area. The cumulative impact of this Project, and the approval of other projects like it in the vicinity, is not expected to have any significant environmental impact. The Project is not located along any state designated scenic highway nor within any designated hazardous waste site. The City does not expect any significant impacts or unusual circumstances related to the approval and construction of this Project.

**SECTION 2. DESIGN REVIEW.** The Planning Commission finds and determines that the Applicant has succeeded in meeting its burden of providing evidence to support the granting of Design Review 23-05 and approves Design Review 23-05 based on the following findings required by Section 18.68.050 of the La Habra Municipal Code and subject to the conditions attached hereto as **Exhibit A**.

**A. The proposed project is consistent with the City's General Plan.**

The project site is designated by the General Plan for Highway Commercial land use which is characterized by commercial uses that are primarily related to and dependent on the City's main arterials for patronage and access. The development of this drive-through restaurant will cater to people traveling on Whittier Boulevard (State Route 39), which is considered a Primary Arterial Highway which functions to service non-local through traffic and provide limited local access.

The project is also consistent with Policy LU 4.1, which requires that "development is located and designed to assure compatibility among land uses, addressing such elements as building orientation and setbacks, buffering, visibility and privacy, automobile and truck access, impacts of noise and lighting, landscape quality, and aesthetics." The Applicant has agreed to construct a six-foot-six-inch high wall along the northern property line to provide a buffer between the new commercial building and adjacent residential units. The project also includes enhanced landscaping to provide additional privacy screening and noise attenuation. The new building has been designed to meet current setback standards, parking and landscaping requirements. Vehicle access and onsite circulation has also been analyzed via a vehicle queuing analysis to verify that the project's anticipated vehicle queues can be contained onsite. Therefore, the proposed project is consistent with the City's General Plan.

**B. The proposed project is consistent with the City's Zoning Ordinance.**

The project site is zoned C-2 (Commercial). The project, which includes the development of a new commercial building, has been designed in compliance with all of the C-2 zone development standards including building setbacks, building height, onsite parking, landscaping, and building floor area ratio. Thus, the proposed project is consistent with the Zoning Ordinance.

**C. The proposed project is in the best interests of the public health, safety, and welfare of the community.**

The Zoning Ordinance and General Plan are tools used to ensure that all projects achieve the goals that promote public health, safety and welfare of the community. Included are zoning regulations related to building setbacks, onsite parking and landscape improvements. The project must also comply with Building and Safety, Public Works and Fire requirements during the construction phase. The proposed project as conditioned is in compliance with all of the required development standards. In addition, the project has been reviewed by the Traffic Manager to verify vehicle queuing and onsite vehicle circulation. A Traffic Management Plan will be implemented during peak periods to manage additional vehicle queuing in an effort to keep vehicles onsite which is in the best interest and welfare of the community. Therefore, the proposed project is in the best interests of the public health, safety and welfare of the community.

**D. The nature of the proposed land use and the design is appropriate for the proposed location and is compatible to the surrounding land uses and improvements.**

The proposed drive-through restaurant specializes in the preparation of coffee drinks and sale of prepackaged and/or ready-made food items, not involving any cooking onsite. The proposed use is compatible with the existing commercial uses along Whittier Boulevard. The operation of a drive-through restaurant will add to the mix of restaurants within the vicinity. The design of the new building complies with the Zoning Ordinance. Therefore, the nature of the proposed land uses and the design are appropriate for the proposed location and compatible with the surrounding land uses and improvements.

**E. The project complies with all requirements of the California Environmental Quality Act or has been found to be exempt.**

The project was reviewed pursuant to the guidelines of the California Environmental Quality Act (CEQA) and determined to be categorically exempt pursuant to Section 15303, Class 3: "New Construction or Conversion of Small Structures" of the California Environmental Quality Act Guidelines. The Project involves the demolition of an approximately 5,700 square foot commercial building and the construction of a 1,200 square foot drive-through restaurant. The proposed restaurant does not involve the use of significant amounts of hazardous substances and does not exceed 2,500 square feet in floor area.

The Project is not subject to any of the exceptions for exemption under Section 15300.2 of the CEQA Guidelines. The location of the Project is predominantly urban and not considered a sensitive environment; therefore, the Project will not result in any significant impacts that may otherwise occur in a sensitive environmental area. The cumulative impact of this Project, and the approval of other projects like it in the vicinity, is not expected to have any significant environmental impact. The Project is not located along any state designated scenic highway nor within any designated hazardous waste site. The City does not expect any significant impacts or unusual circumstances related to the approval and construction of this Project.

**SECTION 4. CONDITIONAL USE PERMIT 23-03.** The Planning Commission finds and determines that the Applicant has succeeded in meeting its burden of providing evidence to support the granting of Conditional Use Permit 23-03 for the operation of a drive-through restaurant and approves Conditional Use Permit 23-03 based on the following findings required by Section 18.66.070.C of the La Habra Municipal Code and subject to the conditions attached hereto as **Exhibit B**.

**A. The granting of such Conditional Use Permit will not be detrimental to the public welfare and will not unreasonably interfere with the use, possession, and enjoyment of surrounding and adjacent properties and will not impair the character of the zone in which it is to be located.**

The proposed project is located in the C-2 Commercial zone, which allows for the operation of commercial uses including a drive-through restaurant with a CUP. The proposed project was reviewed to ensure sufficient onsite vehicle queuing and circulation. The proposed project was analyzed by evaluating trip generation, drive through queuing, and Vehicles Miles Traveled (VMT). The data contained within the analysis supports the project's drive-through design including the queuing areas and onsite vehicle circulation. Therefore, the granting of such CUP will not be detrimental to the public welfare or unreasonably interfere with the use,

possession or enjoyment of surrounding and adjacent properties or impair the character of the C-2 zone.

**B. The subject site is physically suitable for the type of land use being proposed.**

The proposed drive-through restaurant is only 1,200 square feet and located on a commercially zoned property. The design of the vehicle queuing area is such that all traffic can be contained onsite. The project area will be completely improved in compliance with current development standards. Therefore, the site is physically suitable for the type of land use being proposed.

**C. The use is conditionally permitted within the subject zone and complies with the intent of all applicable provisions of this title.**

Pursuant to LHMC Table 18.06.040.A, drive-through restaurants located within the C-2 Commercial zone are allowed with the approval of a CUP. The project plans associated with the CUP have been reviewed for compliance with all applicable development standards. Therefore, the proposed use is conditionally permitted within the C-2 zone and complies with the intent of all applicable provisions of Title 18 of the LHMC.

**D. The granting of this Conditional Use Permit is consistent with the comprehensive General Plan.**

The development of a drive-through restaurant is consistent with La Habra's General Plan Policy LU 3.2, which encourages uses that meet daily needs such as grocery stores, local-serving restaurants, and other businesses and activities within walking distance of residences to reduce the frequency and length of vehicle trips, and General Plan Policy LU 2.2, which encourages the development of a broad range of uses in La Habra's commercial centers and corridors that reduce the need to travel to adjoining communities, and which subsequently capture a greater share of local spending. The proposed restaurant is mainly designed as a drive-through, which enhances the restaurant options available within the vicinity. The restaurant will feature a walk-up order window and a small outdoor seating area to cater to walk-up orders. Therefore, granting the CUP is consistent with the General Plan.

**SECTION 5. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.**

The Applicant's proposal has been reviewed pursuant to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Permit, the Local Implementation Plan (LIP), and the Model Water Quality Management Plan (WQMP),

Section 7.2. Since the proposed project will constitute the disturbance of more than 5,000 square feet of soil, a Priority WQMP is required. A Preliminary Priority WQMP has been reviewed and approved. The Final WQMP will be required prior to the issuance of a building permit final.

**SECTION 6. APPEAL.** The approvals granted by this Resolution may be appealed within 10 working days from adoption of this Resolution. All appeals must be in writing and filed with the City Clerk within this time period with the appropriate fee. Failure to file a timely written appeal will constitute a waiver of any right of appeal.

**SECTION 7. RECORD.** Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. All summaries of information in the findings which precede this section are based on the entire record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 8. EFFECTIVE DATE.** This Resolution shall take effect immediately.

**SECTION 9. CERTIFICATION.** The Secretary shall certify the passage of this Resolution.

PASSED, APPROVED, AND ADOPTED this 26th day of August, 2024.

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Jason Manley, Chair

I, Veronica Lopez, Secretary to the Planning Commission of the City of La Habra, do hereby certify that the foregoing Resolution No. \_\_\_\_\_ was adopted at a regular meeting of the City of La Habra Planning Commission held on August 26, 2024 by the following vote:

AYES:            COMMISSIONERS:  
NOES:            COMMISSIONERS:  
ABSTAIN:        COMMISSIONERS:  
ABSENT:         COMMISSIONERS:

\_\_\_\_\_  
Veronica Lopez, Secretary

## **EXHIBIT A**

### **DESIGN REVIEW 23-05 CONDITIONS OF APPROVAL**

#### **GENERAL CONDITIONS:**

**Standard Condition 1.1                      CODE COMPLIANCE**

The applicant/developer shall comply with the City of La Habra Municipal Code and all applicable ordinances.

**Standard Condition 1.2                      BUILDING PERMITS**

The applicant/developer shall comply with all the applicable California/La Habra Building Code requirements and obtain all required permits from the Building Official. Construction shall comply with the California/La Habra Building Code (or Residential Code), California/La Habra Plumbing Code, California/La Habra Mechanical Code, California/La Habra Electrical Code, California/La Habra Energy Code, and California/La Habra Green Building Standards Code, as applicable.

**Standard Condition 1.3                      GRAFFITI ABATEMENT**

The applicant/developer/successor in interest shall maintain the property in a clean and orderly condition at all times and remove any graffiti from the site within forty-eight (48) hours of its discovery in matching colors to the existing improvements.

**Standard Condition 1.4                      LA COUNTY FIRE DEPARTMENT**

The applicant/developer shall comply with the Los Angeles County/La Habra Fire Code and Fire Department requirements, as applicable.

**Standard Condition 1.5                      MINOR MODIFICATIONS**

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative Adjustment process to the conditions of approval and the project plans so long as the intent of the Planning Commission or City Council is maintained.

**Standard Condition 1.6                      PLANS**

This approval is for those plans reviewed and approved by the City of La Habra Planning Commission at its meeting of August 26, 2024. A copy of said plans shall be maintained in the files of the City of La Habra Planning Division. The project shall be developed and

maintained in substantial conformance with said plans, except as otherwise specified in these conditions of approval.

Standard Condition 1.8 VIOLATION

In the event that the applicant/developer/successor in interest violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City will refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

Standard Condition 1.9 LANDSCAPE MAINTENANCE

The applicant/developer/successor in interest shall maintain landscaping in a healthy and well-kept manner at all times. Dead or damaged landscape material/vegetation shall be replaced immediately per the approved landscape plan. The irrigation system shall be maintained at all times. Trees shall be permitted to grow to their maximum height.

Standard Condition 1.10 BUILDING REPAINTING

The applicant/developer/successor in interest shall maintain the buildings in good condition at all times and shall repaint the approved buildings and accouterments every eight (8) years at a minimum, starting from the date of a permit final for the project. The Director of Community and Economic Development or designee may require more frequent painting if the improvements are not maintained in good condition.

Standard Condition 1.11 PAVEMENT RESURFACING

The applicant/developer/successor in interest shall re-slurry and re-stripe the parking areas every five (5) years at a minimum starting from the date of a permit final for the project. The Director of Community and Economic Development or designee may require more frequent slurry and re-striping if the parking areas are not maintained in good condition.

Standard Condition 1.12 SIGN MAINTENANCE

The applicant/developer/successor in interest shall maintain the signs in good condition at all times and shall repaint the freestanding signs that are proposed to advertise the business every eight (8) years at a minimum starting from the date of a permit final for the project. The Director of Community and Economic Development may require more frequent painting if the improvements are not maintained in good condition.

Standard Condition 1.14                      RESOLUTION ON HAND

The property owner/business operator shall at all times maintain a copy of the approved resolution containing all the conditions of approval on site. Said resolution shall be provided for review upon request by any law enforcement officer or code enforcement inspector.

Standard Condition 1.15                      OUTDOOR VENDING MACHINES

The property owner/business operator shall not operate or allow any outdoor vending machines on the site at any time.

Standard Condition 1.17                      PUBLIC PAY PHONES

The property owner/business operator shall, at all times, prohibit the installation and use of exterior public pay telephones.

Standard Condition 1.39                      TRAFFIC CONTROL MEASURES

The applicant/developer shall provide a traffic control measure plan or documentation prior to any demolition, grading, or construction activities to ensure that traffic impacts are minimized on any adjacent public street, to the satisfaction of the Director of Public Works. Failure by the developer to maintain adequate traffic control measures whereby the City of La Habra has to provide traffic control shall result in all costs being borne by the applicant/developer as determined by the Chief of Police and the Director of Public Works.

Standard Condition 1.41                      INDEMNIFICATION

To the maximum extent permitted by law, the applicant and any successor in interest shall defend, indemnify and hold harmless the City of La Habra and its elected and appointed officials, officers, agents and employees from and against any and all actions, claims, damages, liabilities and/or proceedings (collectively referred to as "action") arising out of or in any way relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, any action to attack, challenge, set aside, void, or otherwise modify or annul the approval of any entitlement or permit relating to the project or the environmental review of any entitlement relating to the project. The indemnification and hold harmless shall include, but not be limited to, any and all costs incurred by the City in defense of any action arising out of or relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, payment of all court costs and attorneys' fees, costs of any judgements or awards against the City (including any award of attorneys' fees), damages, and/or settlement costs. The City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for such costs incurred by the City.

**PRIOR TO THE ISSUANCE OF PRELIMINARY OR PRECISE GRADING PERMITS:**

Standard Condition 3.1                      EROSION CONTROL PLAN

The applicant/developer shall submit Erosion Control Plans to be reviewed and approved by the Building Official.

Standard Condition 3.4                      SOILS REPORT

The applicant/developer shall provide a geotechnical investigation report prepared by a qualified engineer to the satisfaction of the Building Official.

Standard Condition 3.11                      GRADING

The applicant/developer shall grade the subject property in accordance with the Grading Ordinance and to the satisfaction of the Building Official. A grading plan shall be submitted by the property owner/business operator for review and approval. Grading shall be in substantial conformance to the project plans approved by the Planning Commission. Grading permit security shall be posted to the satisfaction of the Building Official and the City Attorney guaranteeing completion of grading in accordance with the project plans.

**PRIOR TO THE ISSUANCE OF BUILDING PERMITS:**

Standard Condition 4.1                      CONDITIONS ON CONSTRUCTION PLANS

The applicant/developer shall include the conditions of approval of this resolution on the construction plans.

Standard Condition 4.3                      FINAL PRIORITY PROJECT WATER QUALITY  
MANAGEMENT PLAN

The applicant/developer shall submit a Final Priority Project WQMP to the City for review and approval by the City Engineer or designee. This plan shall be in conformance with all current NPDES requirements.

Standard Condition 4.10                      SITE LIGHTING PLAN

The applicant/developer shall submit a site lighting plan in conformance with City standards for review and approval by the Building Official and the Director of Community and Economic Development or designee prior to the issuance of building permits. The plan shall ensure that all exterior lighting (i.e., parking areas, building areas, and entries) shall employ illumination in a manner that meets the approval of the Building Official and the Director of Community and Economic Development or designee before building

permits are issued. All light fixtures shall be designed and located in a manner that does not allow spill-over onto adjacent properties.

Standard Condition 4.15                      SERVICE TRUCK ACCESS

The applicant/developer shall provide access for service trucks across prepared surfaces suitable for continuous heavy truck usage, as determined by the City Engineer.

Standard Condition 4.17                      UNDERGROUND UTILITIES

The applicant/developer shall provide an approved utility company plan to the City Engineer showing that all on-site utilities within the project will be installed underground in accordance with current utility practices prior to the issuance of building permits. Should aboveground equipment boxes be utilized, they shall be aesthetically enhanced to match the surrounding development as approved by the Director of Community and Economic Development in accordance with the requirements of the utility company. All on-site utilities shall be installed prior to Certificate of Occupancy and before final on-site paving and parkway improvements. All existing aerial utilities shall be removed and/or placed underground including street light wires and other overhead wires. The City Engineer shall have the right to comment, modify, approve or disapprove the utility plan for each utility. The applicant/developer shall be responsible for contacting the utility providers to determine undergrounding procedures.

Standard Condition 4.18                      WATER AND/OR SEWER SERVICE

The applicant/developer shall submit development plans for the property to the Public Works Department so that the Utility Authority can establish the Terms and Conditions for Water and/or Sewer Service. The sewer and water facility will be maintained by the applicant/developer.

Standard Condition 4.22                      LANDSCAPE PLANS

The applicant/developer shall submit for review and approval detailed landscape and irrigation plans prepared by a licensed landscape architect to the Director of Community and Economic Development or designee and the Director of Public Works. The plans shall include the use of a separate connection, backflow preventer and connection for future reclaimed water service. At a minimum, tree size shall be 24-inch box and shrubs shall be 5-gallon size.

Standard Condition 4.24                      SECURITY AND CAMERA PLANS

The applicant/developer shall submit a security camera system design plan for each new building with the locations to the Planning Division to forward to the Chief of Police or designee for approval. All recordings shall be kept on file for a minimum of 30 days and

be available to the City upon request. Additionally, the property owner/business operator shall place signage in the parking lot indicating that security cameras are in use.

Standard Condition 4.25 TRASH ENCLOSURE

The applicant/developer shall provide plans for review by the City Engineer to install an enclosed, six-foot tall masonry block trash enclosure with enough area to contain a three-yard refuse bin and a ninety-six gallon recycling cart, finished to match the main building. Said trash enclosure shall include provisions for a solid roof cover, hose bib, and an area drain connected to the sanitary sewer system. The design and location is subject to approval by the City Engineer and Director of Community and Economic Development or designee.

Standard Condition 4.27 PRE-CONSTRUCTION MEETING

The applicant/developer shall have a pre-construction meeting with City staff prior to any construction activity occurring, to the satisfaction of the Director of Community and Economic Development.

Standard Condition 4.29 RECYCLING PLAN

The applicant/developer shall prepare construction and demolition waste recycling plans for review and approval by the Director of Public Works.

Standard Condition 4.33 TRAFFIC IMPROVEMENT FEES

The applicant/developer shall, prior to the issuance of a building permit, pay a fee of \$1,962.00 related to the requirements of the Citywide Traffic Improvement Fee. The applicant shall also pay the Traffic Administration Fee per the Master Schedule of Fees at the time of submission prior to issuance of a building permit.

Standard Condition 4.34 FAIR SHARE TRAFFIC IMPACT FEES

The applicant/developer shall pay for all fees related to the requirements of the Fair Share Traffic Impact Fee.

**PRIOR TO AUTHORIZATION TO USE, OCCUPY AND/OR OPERATE:**

Standard Condition 5.7 LANDSCAPE INSTALLATION

The applicant/developer shall install all required landscaping and irrigation systems as per the approved plans to the satisfaction of the Director of Community and Economic Development or designee. Upon final inspection, staff will verify quantity, size, placement,

and health of all plant material, at which time staff may require replacement or addition of landscaping material to ensure a high-quality planting.

Standard Condition 5.10                      FINAL WATER QUALITY MANAGEMENT PLAN  
BEST MANAGEMENT PRACTICES

The applicant/developer shall demonstrate the following related to the WQMP to the satisfaction of the City Engineer or designee:

- a. All structural BMPs described in the Priority Project WQMP/Non-Priority Project Water Quality Plan (WQP) have been constructed and installed in conformance with approved plans and specifications.
- b. The applicant/developer is prepared to implement all non-structural BMPs described in the WQMP.
- c. An adequate number of copies of the approved WQMP are available on-site and for the future occupiers.
- d. A mechanism or agreement acceptable to the City has been executed for the long-term funding and performance of BMP operations, maintenance, repair, and/or replacement.

Standard Condition 5.15                      BICYCLE FACILITIES

The applicant/developer/successor in interest shall install and maintain an artistic bicycle rack on-site in a convenient location prior to issuance of Certificate of Occupancy, to the satisfaction of the Director of Community and Economic Development.

Standard Condition 5.17                      UP LIGHTING

The applicant/developer shall provide up lighting on all trees within the front landscape area prior to the issuance of a Certificate of Occupancy to the satisfaction of the Director of Community and Economic Development and City Engineer.

**PROJECT SPECIFIC CONDITIONS:**

1. The applicant/developer shall provide a copy of the asbestos report for the existing Elks Lodge building prior to the issuance of building permits.
2. The applicant/developer shall provide a written notice to property owners within a 300-foot radius of the project site informing them of the demolition and construction

schedule to the satisfaction of the Director of Community and Economic Development prior to the issuance of building permits and prior to commencing any on-site construction activity.

3. The applicant/developer shall relocate existing traffic and parking signs as necessary.
4. The applicant/developer shall grind raised sidewalk over ¼ inch in height along Whittier Blvd. frontage.
5. The applicant/developer shall restripe any existing striping affected by the proposed construction.
6. The applicant/developer shall provide an on-site traffic striping and traffic signing plan to the satisfaction of the City Engineer. All plans shall be approved prior to the issuance of a building permit.
7. The applicant/developer shall install a break-away flange in existing fire hydrant in front of the property.
8. The applicant/developer shall construct two (2) tree wells in existing full width sidewalk along Whittier Blvd. The applicant/developer shall plant two (2) 24-inch box street trees with root barriers. The developer shall construct two (2) wells in the new sidewalk to be constructed on the west side of Chestnut Street. The applicant/developer shall plant two (2) 24-inch box street trees with root barriers. The applicant/developer shall follow APWA Standard Plans. City's Parks Division to determine street tree species.
9. The applicant/developer shall re-seal and re-stripe the portion of the southbound lane that is within the property owner's property lines and with the approval and the portion of the northbound lane of Chestnut Street that belongs to 601 E. Whittier Boulevard (with the consent of the property owner of 601 E. Whittier Boulevard) to the satisfaction of the Director of Community and Economic Development prior to the issuance of a Certificate of Occupancy.
10. Prior to the Applicant commencing the re-sealing and re-striping of Chestnut Street, the applicant shall provide coordination between the residents and the Applicant's subcontractor in the event that the resident's want to use the Applicant's subcontractor to address maintenance of the residents' portion of the private street.
11. The applicant/developer/successor in interest shall water and maintain street trees from six (6) months to one (1) year, until the street trees get established.
12. The applicant/developer shall provide a grading and drainage plan prepared by a registered civil engineer. The applicant/developer shall not block cross-lot drainage

from adjacent properties. All drainage to be detained or infiltrated on-site and/or drain to the street.

13. The applicant/developer shall protect any existing survey markers in the public right-of-way area. If existing survey markers are in the reconstruction area, applicant/developer shall engage registered land surveyor to tie out and reestablish survey markers. The developer shall provide a copy of recorded reestablishment of survey markers.
14. The applicant/developer shall repair any sidewalks, curb and gutter, and street pavement damaged during project construction to the satisfaction of the Director of Public Works.
15. The applicant/developer shall paint the street address on the curb in front of the property.
16. The applicant/developer shall permanently remove USA markings from pavement and sidewalks. Acceptable methods to permanently remove USA markings are pressure washing, wet sandblasting, and brushing. Painting over USA markings with black paint will not be permitted.
17. The applicant/developer shall obtain an encroachment permit from the Engineering Division and shall pay permit fees for all work in the City's right-of-way.
18. Review and approval by the County of Los Angeles Fire Department, Fire Prevention Engineering Section Building Plan Check Unit is required for this project prior to building permit issuance. The applicant/developer can contact the Fire Prevention Engineering Unit at (323) 890-4132 for additional Fire Department requirements and EPICLA submittal instructions.
19. The applicant/developer shall be required to provide a minimum six-foot-high solid masonry wall along the northern property line, except that such wall, from the front property line of the adjacent residential property to a depth of 15 feet, shall be three feet in height. The applicant/developer shall submit construction details of the wall to the satisfaction of the Director of Community and Economic Development prior to the issuance of building permits.
20. The applicant/developer shall install and maintain eight-foot high trees/hedges along the northern property line for the purpose of providing privacy screening and added sound attenuation between the project site and the adjacent residential property to the satisfaction of the Director of Community and Economic Development prior to finalization of building permits.

21. The applicant/developer shall install a “Do Not Enter; Private Property” sign at the northeast corner of the project site to the satisfaction of the Director of Community and Economic Development prior to the finalization of building permits.
  
22. The applicant/developer shall request consent from the owner of the property located at 601 East Whittier Boulevard to install a “Do Not Enter, Private Property” sign on the northwest corner of their property. If the applicant/developer obtains the property owner’s consent to install a “Do Not Enter, Private Property” sign, the applicant/developer shall install such sign on the property to the satisfaction of the Director of Community and Economic Development prior to the finalization of building permits.

## **EXHIBIT B**

### **CONDITIONAL USE PERMIT 23-03 CONDITIONS OF APPROVAL**

#### **GENERAL CONDITIONS:**

Standard Condition 1.1                      **CODE COMPLIANCE**

The property owner/business operator shall comply with the City of La Habra Municipal Code and all applicable ordinances.

Standard Condition 1.4                      **LA COUNTY FIRE DEPARTMENT**

The property owner/business operator shall comply with the Los Angeles County/La Habra Fire Code and Fire Department requirements, as applicable.

Standard Condition 1.5                      **MINOR MODIFICATIONS**

The Director of Community and Economic Development or designee may approve minor modifications through the Administrative Adjustment process to the conditions of approval so long as the intent of the Planning Commission or City Council is maintained.

Standard Condition 1.7                      **COMPLIANCE**

The failure to comply with any of these conditions of approval by the property owner/business operator shall be grounds for rehearing and consideration by the Planning Commission for possible revocation of Conditional Use Permit 23-03.

Standard Condition 1.8                      **VIOLATION**

In the event that the property owner/business operator violates or fails to comply with any of the conditions of approval of this permit, the City may take measures to cure such violations, including but not limited to, administrative citation and full reimbursement of the City for its costs and expenses, including but not limited to, attorney's fees, in undertaking such corrective action. Reimbursement of enforcement costs shall constitute a civil debt and may be collected by any means permitted by law. In the event that violations of this permit occur, the City will refrain from issuing further permits, licenses or other approvals until such violations have been fully remedied.

Standard Condition 1.15                      **OUTDOOR VENDING MACHINES**

The property owner/business operator shall not operate or allow any outdoor vending machines on the site at any time.

Standard Condition 1.16                      OUTDOOR DISPLAY OF MERCHANDISE

The property owner/business operator shall not display any merchandise outside of the building at any time unless approved by the Director of Community and Economic Development or designee through a Special Event Permit.

Standard Condition 1.18                      LITTER

The property owner/business operator shall maintain the property in a clean and orderly condition at all times and remove all litter from the exterior areas around the premises, including the outdoor patio area and parking areas, no less frequently than once each day prior to the close of business.

Standard Condition 1.36                      HEALTH DEPARTMENT APPROVAL REQUIRED

The property owner/business operator shall obtain all necessary permits from the Orange County Health Care Agency if required.

Standard Condition 1.41                      INDEMNIFICATION

To the maximum extent permitted by law, the applicant and any successor in interest shall defend, indemnify and hold harmless the City of La Habra and its elected and appointed officials, officers, agents and employees from and against any and all actions, claims, damages, liabilities and/or proceedings (collectively referred to as "action") arising out of or in any way relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, any action to attack, challenge, set aside, void, or otherwise modify or annul the approval of any entitlement or permit relating to the project or the environmental review of any entitlement relating to the project. The indemnification and hold harmless shall include, but not be limited to, any and all costs incurred by the City in defense of any action arising out of or relating to the applicant's project or any approvals granted by the City related to the applicant's project, including, but not limited to, payment of all court costs and attorneys' fees, costs of any judgements or awards against the City (including any award of attorneys' fees), damages, and/or settlement costs. The City shall have the right to choose its own legal counsel to represent the City's interests, and applicant shall indemnify City for such costs incurred by the City.

Standard Condition 7.16                      NOISE/LOITERING PREVENTION

The property owner/business operator shall, at all times, display a sign of at least ten inches by ten inches at all exits and within the parking areas, requesting patrons to respect residents of adjacent residential neighborhoods by being quiet when leaving and by not loitering in the parking lot.

Standard Condition 7.18 CONTACT INFO FOR ON-SITE MANAGER

The property owner/business operator shall, at all times, post a sign in a clear and conspicuous location, listing a phone number at which a responsible on-site manager may be contacted during all hours which the business is open to address any complaints from the community. Said contact person's name and phone number shall be available through the staff at all times.

Standard Condition 7.19 DISORDERLY CONDUCT

The property owner/business operator shall not, at any time, permit loud, unruly or disorderly assemblages on the premises. The costs incurred by the City for multiple police responses to loud, unruly, or disorderly assemblages shall be the responsibility of the applicant, owner, and person in lawful custody of the premises.

Standard Condition 8.2 SANITARY SEWER SYSTEM PROTECTION

The property owner/business operator shall not, at any time, allow grease to run into public sanitary sewer systems.

Standard Condition 8.3 SMOKING REGULATIONS

The property owner/business operator shall, at all times, require all patrons to comply with the smoking regulations set forth by the State of California.

Standard Condition 8.5 BUILDING OCCUPANCY

The property owner/business operator shall ensure, at all times, that maximum building occupancy limits, as determined by the Building Official, not be exceeded.

Standard Condition 8.6 NUISANCE PROHIBITION

The property owner/business operator and employees of the facility shall not, at any time, allow circumstances to develop that will adversely interfere with adjacent uses, the community's economic welfare, nearby residential areas, or the operation of adjacent businesses, including, but not limited to, customer parking issues. Any such nuisance must be abated immediately upon notice by the City of La Habra.

**PRIOR TO THE ISSUANCE OF SIGN PERMITS:**

Standard Condition 4.31 ACKNOWLEDGEMENT OF SIGN CODE

The applicant/developer/successor in interest shall acknowledge receipt of the Sign Code, Banner Policies/Guidelines and approved sign program for the property and sign

an agreement to abide thereby. In addition, the property owner/business operator shall not utilize any human display signs.

Standard Condition 4.32                      MONUMENT SIGNS

The applicant/developer/successor in interest shall provide the precise location of new or relocated monument signs for final review and approval by the City Engineer, prior to issuance of the building permits.

**PROJECT SPECIFIC CONDITIONS:**

1. The drive-through restaurant shall operate in accordance with the following hours of operation: Monday to Sunday from 5:00 a.m. to 9:00 p.m., unless a modification to such hours is approved by the Director of Community and Economic Development.
2. The business operator shall install a sign (facing eastbound and westbound traffic) along Whittier Boulevard directing patrons to utilize the driveway on Whittier Boulevard.
3. Should the drive-through queue exceed 17 vehicles, the business operator shall have an employee positioned before the order board to take orders.
4. The business operator shall have an employee actively monitoring the drive-through lanes, and should the queue exceed 17 vehicles, the driveway on Chestnut Street shall temporarily become an exit only driveway (half width) by means of highly visible traffic cones, delineators or A-frame signs.
5. Should the drive-through queueing consistently exceed 17 vehicles, the property owner/business operator shall restrict ingress into the Chestnut Street driveway by means of highly visible traffic cones, delineators, or A-frame signs. The Chestnut Street driveway egress shall not be restricted.
6. If the above conditions have not been effective, the City will conduct a traffic queueing study no sooner than six months after opening day to determine if a permanent Chestnut Street driveway entry closure will need to be made. If the study reveals undue impacts to Chestnut Street, the business operator shall, upon written notice from the City, permanently close the Chestnut Street driveway entry to the public except as deemed necessary by the Traffic Engineer for City trash and/or utility truck service.
7. The applicant shall submit a final delivery schedule, subject to the approval of the Director of Community and Economic Development and the City Traffic Engineer within six months of the commencement of operation of the restaurant.