



# Staff Report

Agenda Item No.

D-1

**To:** City of Imperial Planning Commission

**From:** Othon Mora, Community Development Director

**Date:** July 9, 2021

**Subject: Conditional Use Permit Request #21.04  
Fast Food-Drive-Through  
802 N Imperial Avenue, Imperial, CA 92251**

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## Summary:

<b>Applicant:</b>	Chris Peto
<b>Project Location:</b>	802 N. Imperial Avenue; Imperial, CA 92251
<b>Zoning:</b>	C-2 Commercial General
<b>General Plan:</b>	Commercial
<b>Environmental:</b>	Categorically Exempt under Section 15303
<b>Recommendation:</b>	Approve Conditional Use Permit

## Background

The applicant is requesting a Conditional Use Permit (CUP) to construct a fast food drive-through at 802 N. Imperial Avenue. At this time the developer is proposing a Starbucks, a multinational chain of coffeehouses. The project site is part of the ongoing new development that includes a USPS and a McDonalds. The proposed location is ideal for the facility. To the west of the project site there is a convenience store, and to the west there is Frank Wright middle school and an apartment complex is located directly to the south of the proposed project. (An aerial photo of the project site is shown below.) The item was continued by the Planning Commissions on June 23, 2021 at the request of the property owner. After further discussions with the developer updated resolution and recommended conditions of approval are attached to the staff report.



### Discussion/Analysis

The subject site at 802 N Imperial Avenue is currently zoned C-2 Commercial General. This Zoning designation is intended as an area for the location of highway-oriented retail service and wholesale commercial activities such as; restaurant, theatre, health clubs, and for neighborhood shopping centers which provide retail business service and office facilities for the convenience of residents of the neighborhood. Section 24.05.120.B.20.d of the Imperial Zoning Ordinance lists drive-through restaurants as a use subject to a Conditional Use Permit.

A restaurant is permitted by right in commercial zones, but potential traffic issues related to drive-through services require a conditional use permit.

### Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in ***bold italics***, followed by an evaluation.

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within C-2 Commercial General. Starbucks will not interfere or conflict with the purposes of the zone.

- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.**

The proposed location is ideal for the facility. To the west of the project site there is a convenience store, and to the west there is Frank Wright middle school. The project will be compatible with the adjacent land uses and will not adversely affect residents.

- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.**

The project is very limited in nature, and as such, will not be detrimental to the public health, safety, or welfare. Cars waiting at drive through locations can sometimes cause traffic issues within parking lots and roadways. The proposed project is required to mitigate for excessive queues.

- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.**

The proposed Starbucks will comply with all provisions of the Zoning Ordinance.

### **Environmental Compliance**

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

### **Recommendation**

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends approval of **Resolution No. PC2016-08** approving a conditional use permit for a Starbucks drive-through located at 802 N Imperial Avenue subject to the following conditions on Exhibit A Conditions of Approval.

Respectfully Submitted

Othon Mora, MCM, CBO  
Community Development Director

**Attachments:** Resolution No. PC2021-08 with Conditions of Approval  
Project Site Plan

## RESOLUTION PC2021-08

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT (CUP 21-04) FOR A FAST FOOD DRIVE-THROUGH AT 802 N. IMPERIAL AVENUE

**WHEREAS**, 5<sup>th</sup> Street Development Imperial submitted a Conditional Use Permit application to operate a, Fast Food-drive-through at 802 N. Imperial Avenue; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission June 24<sup>th</sup> and July 14<sup>th</sup> 2021; and

**WHEREAS**, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Section 15303 of the California Environmental Quality Act; and
- E) That the drive-through coffee shop is consistent with those uses allowed in the C-2 Commercial General Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit #21-04 for a Fast Food-drive-through at 802 N. Imperial Avenue subject to the conditions of approval outlined in Exhibit A and based on the following findings:
  - 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.
  - 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

**PASSED, ADOPTED AND APPROVED** by the Planning Commission of the City of Imperial, this 14<sup>th</sup> day of July.

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Planning Commission Chairman

ATTEST:

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City Clerk

**EXHIBIT A  
RESOLUTION PC2021-08**

**CONDITIONS OF APPROVAL**

For

**Conditional Use Permit #21-04**

**Fast Food-Drive Through  
802 N Imperial Avenue  
Imperial, CA 92251**

1. This Conditional Use Permit is granted for a drive-through restaurant/coffee shop at 802 N. Imperial Ave, Imperial, CA 92251.
2. This conditional use permit shall be null and void if a building permit is not obtained within a year.
3. The parking lot shall be paved and must be ADA compliant with the State of California American Disabilities Act Standards.
4. To mitigate the potential for excessive queues and to maximize productivity the Tenant shall modify business operations to include curbside pick-up, to relieve drive-through queuing pressures.

In the event that the developer's facility operations result in excessive queues, including queues extending into 15<sup>th</sup> street right-of-way, blocking traffic and creating potential for safety concerns, even on an intermittent basis, the Tenant shall close the 15<sup>th</sup> street driveway temporarily by using cones.

An internal striping plan shall be reviewed and approved by the Community Development Department during the Building Permit Process. The striping plan shall include wording such as "Do Not Block" at the entrances on 15<sup>th</sup> street and Imperial Ave., for the referenced parcel.

A signage plan shall be reviewed and approved by the Community Development Department during the Building Permit Process. The signs will denote route to drive through.

5. Proprietor/owner shall maintain a paved walking path at all times.
6. Internal Fire Hydrants may be required for the project and that determination will be made during the Building Permit Process.
7. A Drainage Plan shall be reviewed and approved by the Community Development Department during the Building Permit Process.
8. Landscaping in the form of trees, hedges, and low-laying vegetation shall be installed along the street frontage; Plant Palette to mirror the Development Standards and suggested features outline in the City of Imperials Downtown Redevelopment Plan.
9. Decorative architectural treatments shall be provided on all sides of the building, as shown on the proposed elevations.

10. Prior to issuance of a Certificate of Occupancy there shall be a reciprocal driveway access agreement or Declaration between APN 064-040-038 (subject site) and APN 063-040-039 (adjacent parcel to the north).
11. The developer shall be responsible for the installation of one (1) master sign displaying all lessees at the location. The sign shall conform to zoning code 24.16.
12. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use Permit is only valid for 802 N Imperial Avenue.
13. Decorative architectural treatments shall be provided on all sides of the building; features, enhancements and structures as shown on the proposed elevations
14. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
15. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
16. Hours of operation will be 24/7. Delivery trucks (arrivals and departures) are limited to 6:00am to 11:00pm and no storage containers or materials inside the facility shall be moved outside of these hours.
17. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
18. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
19. Applicant must implement sound maintenance and housekeeping procedures.
20. The Applicant shall pay all impact and capacity fees as required by the city.
21. All applicable Conditions of Approval shall be completed prior to opening for business.
22. Colors should visually relate building elements to each other, and also individual facades to each other. The colors chosen for a building façade should relate, but not replicate, neighboring facades. No more than three colors should be used on any given façade. This includes any "natural" colors such as unpainted brick or stone. The three colors constitute the:
  - Primary Base Color. The color of the top, upper portion of the wall façade and the bottom storefront piers is defined as the primary base color. The larger and plainer the building, the more subtle the base color should be.
  - Secondary Color. A secondary color can be used to give additional emphasis to architectural features such as building bases, pilasters, cornices, and bands.
  - Minor Trim Color. If a minor trim is a third color, it should strengthen the color scheme already established by the base and secondary colors. In most

cases, when two colors are used on the trim, the minor trim should be darker than the major trim color.

23. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
24. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
25. Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.