

RESOLUTION NO. PC2024-09

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING CONDITIONAL USE PERMIT 24-06 FOR THE OPERATION OF A
DRIVE-THRU AT A COFFEE SHOP LOCATED AT 431 W. ATEN ROAD
(APN 064-351-026)**

WHEREAS, Jerry Tucker submitted an application to operate a drive-thru at a coffee shop located at 431 W. Aten Road; and

WHEREAS, the subject site is located within the Neighborhood Commercial (C-1) Zone where the inclusion of a drive-thru at a restaurant is a conditionally allowed use within that zone; and

WHEREAS, a duly notified public hearing was published on September 12, 2024, in a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning Conditional Use Permit 24-06, and said notice was mailed to each property owner within a 300-foot radius of the project site; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on September 25, 2024, to hear testimony for and against the proposed Conditional Use Permit;

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

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(c)-New Construction of Small Structures, of the California Environmental Quality Act and is exempt from further environmental review requirements; and
- E) That allowing the operation of a drive-thru coffee shop at the project site is consistent with the land uses allowed within the Neighborhood Commercial (C-1) Zone; and

F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit 24-06**, subject to the requirements per section 24.19.340 of the Imperial Zoning Ordinance, 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.**

The subject site is within the Neighborhood Commercial (C-1) Zone, intended as community-serving commercial uses compatible with residential environments. The proposed coffee shop will provide patrons of the surrounding commercial businesses and residents in proximity of the project site an enjoyable meeting place and a quick place to stop for a treat. Its operation is consistent with the objectives of the Neighborhood Commercial Zone and the City's development goals.

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 location is idyllic for a drive-thru coffee shop. The use would be consistent with the General Plan and would provide an additional eating establishment for the neighboring communities. The coffee shop does not present to be detrimental to adjacent uses, residents, or buildings. Hours of operation will be primarily daytime hours, very similar to existing surrounding retail shops' hours of operation currently are.

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.**

With the established Conditions of Approval and traffic mitigation measures, the proposed project will not negatively impact public health, safety, or welfare, or materially injurious to properties in the vicinity.

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 project complies with all applicable provisions of the City of Imperial's Zoning Ordinance. There are no variances requested or required for this project, and all zoning regulations and requirements will be fully adhered to. By meeting these conditions, the project ensures alignment with the City's zoning standards and regulations.

- G) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 25th day of September, 2024.

Ruben Rivera
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk

EXHIBIT A
CONDITIONS OF APPROVAL
Conditional Use Permit 24-06 - Jerry Tucker/Coffee Shop
431 W. Aten Road (APN 064-351-026)

1. This Conditional Use Permit is granted for a coffee shop drive-through at 431 W. Aten Road, Imperial, CA 92251.
2. The 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 the proposed building must be ADA compliant with the State of California American Disabilities Act Standards.
4. In the event that the coffee shop's operations result in excessive queues, including queues extending into Aten Road's right of way, blocking traffic and creating potential for safety concerns by blocking traffic, even on an intermittent basis, the Aten Road traffic shall be routed to the Myrtle Road entrance. The installation of traffic control devices, such as cones, directional signage, or other approved traffic management measures, shall be implemented at the owner's expense, subject to City approval. The monitoring and execution of the above traffic mitigation measures will be handled administratively and collaboratively between the coffee shop's owner(s) and the City of Imperial.
5. To mitigate the potential for excessive drive-through queues, the owner shall place one or more employees with a headset outside the store to expedite orders, add equipment, and shift employees to the store to maximize productivity, and modify business operations to include curbside pick-up to relieve drive-through queuing pressures, at the owner's discretion. The monitoring and execution of the above traffic mitigation measures will be handled collaboratively and at the discretion of the coffee shop's owner(s) and the City of Imperial.
6. Directional signage and directional arrows and striping are to be provided for access to the coffee shop parking lot and drive-through. Directional signage for "Drive-Thru Entrance Only" shall be installed.
7. The 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.
8. The Applicant shall pay all applicable permit and development impact fees.
9. 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.

10. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
11. The provisions of the 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.
12. 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 conditional use permit, 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 conditional use permit, then the matter shall be referred to the Planning Commission for a permit modification, suspension, or termination, or to the appropriate enforcement authority.
13. 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.
14. 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 re-located business.
15. A Knox Box entry system as approved by the Imperial County Fire Department shall be installed.
16. A pre-incident plan shall be developed and approved by the Imperial County Fire/OES Department in a format and using a platform determined by the Imperial County Fire Department.
17. The project shall comply with all applicable fire codes, including the California Fire Code Chapter 3 (General Requirements), Chapter 5 (Fire Service Features), Chapter 9 (Fire Protection and Life Safety Systems), Chapter 10 (Means of Egress), NFPA standards and any other regulations that pertain to the project.