

EXHIBIT P
Conditions of Approval

2600 Fresno Street, Room 3043
 Fresno, California 93721-3604
 (559) 621-8277
 www.fresno.gov

Jennifer K. Clark, AICP, HDFP
 Director

January 18, 2023

Sam T. Bogdanovich
 Commercial Retail Associates, Inc
sbogdanovich@retailassociates.com
 (Sent via email only)

Please Reply to:
 Steven Martinez
Steven.Martinez@fresno.gov

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P22-02534 FOR PROPERTY LOCATED AT 2840 TULARE STREET, FRESNO, CA 93721 (APN: 468-071-31)

The Planning and Development Director has approved Conditional Use Permit Application P22-02534 for iT Architecture and Commercial Retail Associates, Inc on behalf of Starbucks Coffee Company to construct a ± 2,406 square foot Starbucks shell building with a ± 840 square foot patio, a drive-through with capacity for seventeen (17) vehicles, and make full improvements to the site with a new parking lot and landscaping. The project was determined to be exempt under Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines. The approval of this project is subject to compliance with the following Conditions of Approval.

CONDITIONS OF APPROVAL

<u>Planner to check box when completed:</u>	
<input type="checkbox"/>	<p>1. Development shall take place in accordance with Plan Exhibits O; A-1, A-2; E; F; and L-1 through L-4 dated October 14, 2022. Transfer <u>all</u> red line notes, comments, conditions, etc. to the corrected plan exhibits and submit to planner Steven Martinez.</p> <p><input type="checkbox"/> <u>Exhibits A-1 & A-2:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Provide Legal Description <input type="checkbox"/> Fix APN Format - 468-071-31 <input type="checkbox"/> Add to note 8, "Enclosure walls, gates and solar cover will be painted to match main structure." <input type="checkbox"/> Add to notes 28 & 29 menu board signs shall not exceed 20 sq.ft. <input type="checkbox"/> Pursuant to FMC Section 15-1504(K)(2)(A), provide a min 12-foot sidewalk which adheres to all standards outlined in section A. <input type="checkbox"/> Pursuant to the FMC Section 15-2728(D): <ul style="list-style-type: none"> - Each drive-through aisle shall be screened with a combination of decorative walls and landscape to a minimum height of 30 inches to prevent headlight glare and direct visibility of vehicles from adjacent streets, parking lots, and the public right-of-way. - Provide a minimum 30-inch decorative wall along the exterior sides of the drive-through lane. The walls shall be architecturally consistent with the main structure. - Revise site plan and add label. <input type="checkbox"/> In conjunction with installation of drive-through wall, remove narrow landscape strip and revise compact stalls to have length of 16'-6".

-] Add walkway from compact parking stalls to sidewalk.
-] Pursuant to the Parking Manual, Case 1 parking stalls require a length of 19'. Revise the identified stalls.
-] Pursuant to the FMC Section 15-2421(B)(1) & COF Parking Manual: Landscaped areas which serve as vehicle overhand shall have a minimum two-foot clearance of low-growing, ground cover plants. Alternatively, the 2-foot buffer may be paved. Revise as needed.
-] Install "Yield to Pedestrians" signs and paint "YIELD" on pavement. See redlines.
-] Pursuant to FMC Sections 15-2015 and 15-2420:
Parking areas designed to accommodate four or more vehicles shall be provided with light over the parking surface as follows:
 - A. Lighting design shall be coordinated with the landscape plan to ensure that vegetation growth will not substantially impair the intended illumination.
 - B. Parking lot lighting shall, to the maximum extent feasible, be designed and installed so that light and glare is not directed onto residential use areas or adjacent public rights-of-way, consistent with Article 25, Performance Standards. Such parking lot illumination shall be no less than 0.5 foot-candles.

Provide a photometric plan showing compliance. Provide description and/or depiction of lighting fixture. The height of the fixture shall not exceed 20'-0".

Exhibit E:

-] Add Note: Business identification signage to be permitted under separate permit application.
-] Add Note: Glazing shall be clear glass and without reflective glass frosting or dark tinting (to the maximum extent permitted by Title 24 and other energy efficiency regulations) and provide views into work areas, display areas, sales areas, lobbies, or similar active spaces, or into window displays that are at least two feet deep.
-] Pursuant to the FMC Section 15-2728(D):
 - Each drive-through aisle shall be screened with a combination of decorative walls and landscape to a minimum height of 30 inches to prevent headlight glare and direct visibility of vehicles from adjacent streets, parking lots, and the public right-of-way.
 - Provide a minimum 30-inch decorative wall along the exterior sides of the drive-through lane.
The walls shall be architecturally consistent with the main structure.
 - Provide sample elevation of drive-through wall.
-] For pedestrian safety, it is recommended there be a barrier around the patio (with the exception of the entrances and exits).
Barriers may be up to four feet in height.
-] Fully dimension elevations, see redlines.

Exhibits E & F:

-] Pursuant to FMC Section 15-1505(F): Commercial establishments with an individual entry shall have a Loading Dock/Terrace or Shopfront entry.
Please review Table 15-1505(E)(2)(D) & (E)(2)(E) and revise frontage.
-] Pursuant to FMC Section 15-1505(G), development shall incorporate a minimum of two of the following Façade Elements shown in Table 15-1505-F into front and street-side building façades:
 - A.) Gallery
 - B.) Arcade
 - C.) Bay Window
 - D.) Balcony
 - E.) Awning, Canopy, Marquee, Sun Shade, Trellis

The current design only provides a Canopy.

At a minimum, provide one additional facade element.

- [] Pursuant to FMC Section 15-1505(A)(1): All building facades over 50 feet in length which face a street, public plaza, or park shall be designed with a minimum of two of the following facade articulation strategies:
- a. Material Articulation. Utilize different materials to divide building facades into vertical and/or horizontal increments.
 - b. Structural Expression. Express building bays, structural elements such as columns and/or beams, or underlying structural elements with pilasters and lintels that project several inches from the facade and/or are clad in a different material from the facade.
 - c. Horizontal Articulation. Setback a portion of the street-facing facade a minimum of two-feet for a minimum distance of 25 feet.
 - d. Architectural Projections. Append or project facade elements such as balconies, bay windows, cantilevered rooms, and/or awnings.
 - e. Architectural Recessions. Recess architectural elements or spaces—such as recessed porches, covered passages, recessed balconies, and windows—into the plane of the facade.

Current design only provides Material Articulation.

Redesign street-facing facade to incorporate a second articulation strategy.

- [] Pursuant to FMC Section 15-2011: All exterior mechanical and electrical equipment shall be screened or incorporated into the design of buildings so as not to be visible from major streets, highways, passenger railways, or abutting Residential Districts.

Roof access ladders shall be screened from Major Streets. Fire sprinkler risers should be designed for interior installation whenever possible where an exterior location would be visible from a Major Street. Where site conditions dictate an exterior location for the sprinkler riser, a three-foot clear space shall be provided between the screening materials and the riser. The alarm bell and fire department connection shall be installed so that they are visible from the street.

1.) Add notes to plans.

2.) Update plans to:

- A.) Depict access door for interior mechanical, electrical, fire sprinkler riser room.
- B.) Depict roof access ladder.

- [] Building glazing per FMC Section 15-1505(C)(2)(b): 60% required.
Glazing shall be located between 1.5 and 7 feet above the level of the sidewalk.
Frontage: Approx. 123'-6"
Minimum Required: 74'-0"
Proposed: 63'-6"
- 8'-0" front door
- 30'-4" windows
- 25'-2" patio

***Redesign street facing facade of building to include 10'-6" more glazing.**

Exhibit F:

- [] Relabel identified arrow as Project North, and add North Arrow.

Exhibits L-1 through L-4: Revise landscape plans as needed to match required conditions / modifications.

<input type="checkbox"/>	<p>2. Fire Department: Resubmit a complete set of drawings that have addressed all of the items listed. Also include a set of the original plans submitted and a detailed response letter clarifying how and where all items have been addressed in the resubmittal set. The nature, quantity and complexity of items to be addressed will require additional review and therefore cannot be completed during a back check appointment. All revisions to plans shall be called out with a cloud or delta. Upon resubmittal and review of this plan, additional requirements may be noted.</p> <p>All back checks are performed electronically through the Accela Program (FAASTER portal). You must submit the following documentation to the Building Department: 1) Provide copy of the original submittals (drawings, calculations, and supporting documents) including mark-ups from the plan reviewers who worked on your documents. 2) Provide a complete set of revised drawings, calculations, and supporting documents addressing plan check comments (all changes shall be clouded). 3) Provide a detailed typed response to each item listed in the plan check correction comments document. If you have additional questions regarding back check submittals, please contact the Building Department.</p> <p>All revisions to plans shall be called out with a cloud or delta.</p> <p>If there are questions regarding FFD Development Policies, you may access them at: https://www.fresno.gov/fire-training/manuals-and-forms/.</p> <p>Provide a copy of the approved stamped site plan from the Planning Division, including all fire department notes, to verify compliance with requirements. Site plans included with this plan submittal are subject to the conditions on the Planning Division approved set. The site plan included with this set shall match the approved stamped site plan from the Planning Division.</p> <p>Sheet A-0.1: Update Fire Note #5 to reflect the proper verbiage. Provide an exterior Knox box on the ground floor adjacent the main entrance at a height of 6 feet from grade. Knox boxes shall be provided for buildings where any of the following conditions exist: high-rise building, interior elevator (s), fire sprinkler system with interior riser(s), fire pump rooms, fire alarm system, unduly difficult access, and/or where required by the Fire Marshal (or designee). Keys placed in the Knox box shall be identified with a tag or label. Knox boxes may be ordered on line at https://www.knoxbox.com/store/departmentSearch.cfm.</p> <p>Sheet A-0.1: Update Fire Note #12 to reflect the current code cycle of 2019 and not 2016.</p> <p>This project was reviewed by the Fire Department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of DARM when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.</p>
	<p>3. Fresno County Environmental Health:</p> <ul style="list-style-type: none">• Prior to issuance of building permits, the food facility applicant will be required to submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. The applicant shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.

	<ul style="list-style-type: none"> • Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Your proposed business will handle hazardous materials and/or hazardous waste and will be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (http://cers.calepa.ca.gov/). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information. • The proposed project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to your City’s municipal code. • As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor. • Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.
<input type="checkbox"/>	<p>4. Department of Public Utilities Water Division Department of Public Utilities Planning and Engineering Department of Public Utilities Solid Waste Management DPU Memorandum dated November 14, 2022 enclosed.</p>
	<p>5. Department of Public Works Traffic Planning: See Public Works Traffic Planning conditions of approval and redlined exhibit, CP1 enclosed. For questions, please contact Andreina Aguilar at Andreina.Aguilar@fresno.gov or at 559-621-8674.</p>
	<p>6. Department of Public Works ROW Landscaping: Response enclosed. See letter dated December 8, 2022.</p>
	<p>7. Department of Public Works CFD: No Comment</p>
	<p>8. Department of Public Works Land Division and Engineering: See Development and Impact Fee Estimate dated October 28, 2022 enclosed.</p>
	<p>9. Building and Safety Division: No Response Within Timeframe.</p>
	<p>10. Long Range Planning: Property is located in an area with a recently adopted plan [Downtown Neighborhoods Community Plan] Please see www.fresno.gov/downtownplan for more information. Long Range Planning Letter dated December 15, 2022 enclosed.</p>
	<p>11. Fresno Police Department: No Comment.</p>
	<p>12. Council District Member: No Response Within Timeframe.</p>

	<p>13. Council District Committee: The Council District 3 Project Review Committee recommended approval of the project, 3 votes to 0.</p>
	<p>14. Fresno Area Express: No Comment.</p>
	<p>15. Fresno Unified School District: Response enclosed. See letter dated October 17, 2022.</p>
	<p>16. PG&E: No Impact Letter dated November 3, 2022 enclosed.</p>
	<p>17. Airports: No Comment.</p>
	<p>18. Historic Preservation: No Comment.</p>
	<p>19. United States Postal Service: No Response Within Timeframe.</p>
	<p>20. San Joaquin Valley Air Pollution Control District: Please review the letter from SJVAPCD dated November 7, 2022.</p>
	<p>21. Fresno Irrigation District: FID comment letter dated October 27, 2022 enclosed.</p>
<input type="checkbox"/>	<p>22. Fresno Metropolitan Flood Control District: See attached FMFCD Notice of Requirements (NOR). NOR Review fees are due. Please provide receipt of payment.</p>

PART B – OTHER REQUIREMENTS

1) Planning / Zoning / Environmental Compliance Requirements

- a) Development shall take place in accordance with the policies of the Fresno General Plan, the Downtown Neighborhoods Community Plan, and in accordance with the DTN (Downtown Neighborhood / Activity Class B) zone district and all other applicable sections of the Fresno Municipal Code (FMC).
- b) Development shall comply with the following easements, covenants, and agreements:
 - i. Deed and Covenant (Reciprocal Easements) Recorded September 7, 1982 As Instrument No. 76728, In Book 7968, Page 741
 - ii. Cross Easement Covenant Recorded September 7, 1982 As Instrument No. 76729, In Book 7968, Page 741
 - iii. PG&E Easement Recorded October 22, 1982 as Instrument No. 90320.
 - iv. PG&E Easement Recorded January 7, 1983 as Instrument No. 83001708.
 - v. Mutual Common Ingress-Egress Access and Parking Easement Agreement Recorded March 20, 1985 As Instrument No. 85026551 of Official Records
- c) Development shall take place in accordance with the attached “General Notes and Requirements for Entitlement Applications” where applicable.

2) Miscellaneous Requirements

a) If not completed under previously approved conditional use permits, approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

- i) All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property; and
- ii) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
- iii) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

b) Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications.

c) The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

APPEALS

Please be advised that this project is subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans, ordinances and policies; those determined to be required through the interdepartmental/interagency review process; and those determined through the environmental assessment process as necessary to mitigate adverse effects on the health, safety and welfare of the community. The conditions of approval include requirements for development that would, on the whole, enhance the project and its relationship to the neighborhood and environment.

All conditions of approval based on adopted plans, codes, and regulations are mandatory. Conditions based on the FMC may only be modified by variance, provided the findings required by FMC [Section 15-5506](#) can be made.

Pursuant to FMC [Section 15-5017](#), this approval commences a 15-day appeal period. Discretionary conditions of approval may be appealed but will ultimately be deemed mandatory unless appealed in writing within 15 days. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal and signed by the person making the appeal including the accompanied appeal applicable fee.

If you wish to appeal the decision on this project, a written request shall be submitted directly to the email address - PublicCommentsPlanning@fresno.gov (cc Steven.Martinez@fresno.gov) by the end of business on **February 2, 2023**. **Please note, the fee for an appeal is \$930.66**. Once the 15-day appeal period has ended, and no appeals are received or filed, the approval will be final.

COMPLIANCE PROCESS

Please Note: To complete the compliance process, submit **an electronic copy** of the corrected site plan and corrected elevations to **Steven Martinez** in the Planning and Development Department for final review and approval at least 15 days prior to final sign off. These documents can be uploaded electronically to the citizen access portal at <https://lmsaca.fresno.gov/CitizenAccess/Default.aspx>.

It may be necessary to resubmit these “corrected exhibits” a second time if not all the conditions have been complied with or are not shown on the exhibits.

EXPIRATION DATES

1.) The exercise of rights granted by this special permit must be commenced by **January 18, 2026** (three years from the date of approval), pursuant to FMC [Section 15-5013](#). An extension of up to one additional year may be granted, provided that the findings required under FMC Section 15-5013-A.1 are made by the Director. All required improvements must be installed prior to the operation of the proposed use.

2.) Pursuant to Fresno Municipal Code [Section 15-5308](#), the Review Authority has determined this conditional use permit authorizes permanent physical property improvements. Therefore, this conditional use permit shall not have an expiration date of seven years from the date of approval.

If you have any questions regarding this letter, feel free to contact me at the email above.

Sincerely,



Steven Martinez - Planner
City of Fresno - Planning and Development Department

Enclosures:

- ❖ Plan Exhibits O; A-1, A-2; E; F; and L-1 through L-4 dated October 14 2022
- ❖ DPU Conditions of Approval for P22-02534 Starbucks dated November 14, 2022
- ❖ Public Works Traffic Planning Conditions of Approval dated November 8, 2022
- ❖ Public Works Traffic Planning Redlined Exhibit CP1
- ❖ DPW ROW Landscaping Letter dated December 8, 2022
- ❖ Department of Public Works Land Division and Engineering Development and Impact Fee Estimate dated October 28, 2022
- ❖ Long Range Planning Letter dated December 15, 2022
- ❖ Fresno Unified School District letter dated October 17, 2022
- ❖ PG&E No Impact Letter dated November 3, 2022
- ❖ Fresno Irrigation District Letter dated October 27, 2022
- ❖ Fresno Metropolitan Flood Control District notice of Requirements dated November 4, 2022
- ❖ San Joaquin Valley Air Pollution Control District letter dated November 7, 2022
- ❖ Council District 3 Project Review Committee Minutes for December 13, 2022
- ❖ City of Fresno General Notes and Requirements for Entitlement Applications