

**RESOLUTION NO. 2025-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER CLASS 32 OF THE CEQA GUIDELINES SECTION 15332 (IN-FILL DEVELOPMENT PROJECTS) AND APPROVING A CONDITIONAL USE PERMIT FOR A DRIVE-THROUGH COFFEE SHOP (DUTCH BROS COFFEE) TO BE LOCATED AT 1838 SWEETWATER ROAD.**

**WHEREAS**, the Planning Commission of the City of National City considered the Conditional Use Permit application at a duly advertised public hearing held on October 20, 2025, at which time the Commission approved the Conditional Use Permit; and

**WHEREAS**, subsequent to the Planning Commission approval of the Conditional Use Permit, the Appellant, Heart Revolution Church, appealed the decision of the Planning Commission to the City Council; and

**WHEREAS**, the City Council of the City of National City considered the appeal of the Planning Commission's approval of the Conditional Use Permit at a duly advertised public hearing held on December 2, 2025, at which time oral and documentary evidence was presented; and

**WHEREAS**, at said public hearing the City Council considered the staff report contained in Case File No. 2025-29 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and

**WHEREAS**, this action is taken pursuant to all applicable procedures required by State law and City law; and

**WHEREAS**, the action hereby taken is found to be essential for the preservation of the public health, safety and general welfare.

**NOW, THEREFORE, THE CITY COUNCIL OF NATIONAL CITY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

**Section 1:** That the City Council hereby denies the appellant's appeal of and upholds the Planning Commission's decision to approve the Conditional Use Permit for a drive-through coffee shop (Dutch Bros) to be located at 1838 Sweetwater Road, based on the following findings:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code because drive-through businesses are identified as a conditionally-allowed use in the Major Mixed-Use District (MXD-2) zone, and the conditions of approval will assure the proposed drive-through aisles will meet all requirements as contained in NCMC §18.41 – Site Planning Standards.
2. The proposed use is consistent with the General Plan and any applicable specific plan, because the Land Use Code conditionally allows drive-through businesses in the MXD-2

zone; the Land Use Code is consistent with the General Plan. There are no Specific Plans affecting this location.

3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because the property will be developed based on the provisions outlined in the Land Use Code. In addition, the proposed drive-through aisle, subject to the conditions of approval, meets all requirements for such uses outlined in the Land Use Code.
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because a traffic impact analysis was conducted for the proposed use finding that the project is expected to generate approximately 756 net weekday daily trips and 544 weekend daily trips, which can be accommodated by the existing road network. Intersections in this location are currently operating at a Level of Service (LOS) of C or better (passing) and are calculated by the provided traffic impact analysis to continue to have a passing LOS after construction. The site is located within an urbanized area with access to all necessary utilities and services and the proposed restaurant replaces a similar existing building.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because noise issues related to drive-through businesses, which are usually related to vehicle queuing and ordering windows and speakers, will not be an issue given that the applicant will utilize person to person ordering in lieu of an amplified ordering system. A vehicle miles traveled (VMT) analysis was also conducted for the site and the project is presumed to have a less than significant impact on VMT. In addition, the new business will benefit the public interest by providing new jobs.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act and has been determined to be categorically exempt from environmental review pursuant to Class 32 of the CEQA Guidelines, Section 15332 (In-fill Development Projects), for which a Notice of Exemption will be filed subsequent to approval of this CUP. Class 32 consists of projects characterized as in-fill development that is consistent with applicable general plan and zoning designations, proposed on an urban site no more than five acres, has a site with no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality or water quality, and is adequately served by utilities and public services. The proposed use is consistent with this description and there is no potential for the project to cause either a direct or a reasonably foreseeable indirect physical change in the environment.

**Section 2:** That the City Council hereby approves the application for Conditional Use Permit subject to the following conditions:

#### General

1. This Conditional Use Permit authorizes a drive-through coffee shop at 1838 Sweetwater Road. Except as required by conditions of approval, all plans submitted for permits associated with the project shall conform to Exhibit A, Case File No. 2025-29 CUP, dated 9/29/2025.

2. Before this Conditional Use Permit shall become effective, the applicant and the property owner both shall sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the Conditional Use Permit. The applicant shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the Conditional Use Permit are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the City Manager or assign prior to recordation.
3. Within four (4) days of approval, pursuant to Fish and Game Code 711.4 and the California Code of Regulations, Title 14, Section 753.5, the applicant shall pay all necessary environmental filing fees for the San Diego County Clerk. Checks shall be made payable to the San Diego County Clerk and submitted to the National City Planning Department.
4. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
5. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
6. This Conditional Use Permit may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

#### Building

7. Building plans and permits shall be required to meet current California Building, Mechanical, Electrical, Plumbing, Accessibility, Green, Energy, and Fire Codes.
  - a. A soils report is required for all new construction.
  - b. Project requires Sweetwater Authority approval prior to permit issuance to determine the project has sufficient water supply.

#### Engineering

8. Storm Water Requirements
  - a. A Hydrology study (100 year flood) is required for the new project. The study should consider the proposed project area to the closest municipal storm drain collection point. The study should consider the adequacy of the existing storm drain system to convey any additional run off. All Hydrology study findings and recommendations are part of Engineering Department requirements.
  - b. The completed Storm Water BMP Requirements Applicability Form I-1 and I-2 checklist is required to be submitted to the Engineering Department along with the grading plan submittal.
  - c. The Best Management Practices (BMPs) for the maintenance of the proposed construction shall be undertaken in accordance with the National Pollutant Discharge Elimination System (NPDES) regulations which may require a Storm Water Pollution Prevention Plan (SWPPP) for the project. An approved SWPPP will be required prior to issuing of a construction permit.

- d. All surface run-off shall be treated with an approved Standard Urban Runoff Mitigation Plan (SUSMP) Best Management Practice (BMP) for all Priority SUSMP projects. No runoff will be permitted to flow over the sidewalk. Adjacent properties shall be protected from surface run-off resulting from this development.
- e. All existing and proposed curb inlet on property shall be provided with a “No Dumping” signage in accordance with the NPDES program.
- f. A hydromodification plan or a letter sealed and signed by the Engineer of Work explaining why the project is exempt from hydromodification requirements shall be submitted.

#### 9. Engineering Land Development Requirements

- a. The Property is in the Federal Flood Plain area. Flood hazard permit shall be obtained from the Engineering Department.
- b. A grading and drainage plan shall be submitted showing all of the proposed and existing on-site and off-site improvements. The plan shall be prepared in accordance with the City’s standard requirements by a Registered Civil Engineer. All necessary measures for prevention of storm water pollution and hazardous material run-off to the public storm drain system from the proposed parking lot or development shall be implemented with the design of the grading. This shall include the provision of such devices as storm drain interceptors, clarifiers, or filters. Best Management Practices for the maintenance of the parking lot, including sampling, monitoring, and cleaning of private catch basins and storm drains, shall be undertaken in accordance with the National Pollution Discharge Elimination System (NPDES) regulations. A private storm water treatment maintenance agreement shall be signed and recorded. A check list for preparation of the grading plan/drainage plan is available at the Engineering Department.
- c. The method of sewage collection and disposal shall be shown on the grading/drainage plan. Any new sewer lateral in the City right-of-way shall be 6 inch in size with a clean out. A sewer stamp “S” shall be provided on the curb to mark the location of the lateral.
- d. Separate street and sewer plans prepared by Registered Civil Engineer, shall be submitted showing all of the existing and proposed improvements. The plans shall be in accordance with City requirements.
- e. A soils engineering report shall be submitted for the Engineering Department’s review, after Planning Commission approval. The report shall address the stability of all of the existing and proposed slopes on the property. It shall also address the adequacy of the building pads, the criteria for any new retaining wall design, the maximum allowable soil bearing pressure and the required pavement structural sections for the proposed streets, the parking areas, and the driveways. As a minimum, the parking lot pavement sections shall be 2 inch A.C. over 4 inch Class II aggregate base. The street pavement sections shall be in accordance with National City modified Standard Drawing G-34. All soils report findings and recommendations shall be part of the Engineering Department requirements.
- f. A title report shall be submitted to the Engineering Department, after the Planning Commission approval, for review of all existing easements and the ownership at the property.
- g. A limited traffic study is required for the proposed development.

- h. A cost estimate for all of the proposed grading, drainage, street improvements, landscaping and retaining wall work shall be submitted with the plans. A performance bond equal to the approved cost estimate shall be posted. Three percent (3%) of the estimated cost shall also be deposited with the City as an initial cost for plan checking and inspection services at the time the plans are submitted. The deposit is subject to adjustment according to actual worked hours and consultant services

## Fire

10. Plans are to be designed, fabricated and installed to code.
11. Project to be in compliance with the current editions of the National Fire Protection Association, California Fire Code 2022 Edition, Title 19 and local City of National City Municipal Codes.
12. California Fire Code Change (CFC) will occur beginning in 2026 with this Authority Having Jurisdiction (AHJ).
13. California fire code shall be considered if structure is to be outfitted with fire alarm and fire sprinklers.
14. A fire flow letter shall be requested from this AHJ early in the process if fire sprinklers will be installed.
15. Fire apparatus access roads shall comply with the requirements of this section (Section 5 CFC 2022) and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. This comment shall apply to new residential structures. The fire code official shall have the authority to require or permit modifications to the required access widths where they are inadequate for fire rescue operations or where necessary to meet the public safety objectives of the jurisdiction.
16. The required width of emergency fire apparatus access roads shall not be obstructed in any manner, including parking of vehicles. All access roads shall be no less than 20 feet wide, no less than 14 feet high and shall have an all weathered road with the ability to support 75 thousand pounds or greater. Where a fire hydrant is located on a fire apparatus road; the minimum road width shall be 26 feet. A 28 foot turning radius is required for fire department access through site. All fire department access roads shall be painted and signed to prevent parking in these required designated emergency areas.
17. Grade of fire apparatus road shall be within the limits established (15% Grade) by the fire code official based on fire department's apparatus.
18. Buildings or portions of buildings or facilities exceeding 30 feet in height measured vertically from the centerline of the street adjacent to the project above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus.
19. Overhead utility and power lines shall not be located over the aerial fire apparatus access road or between the aerial fire apparatus road and the building. Other obstructions shall be permitted to be placed with approval of the fire code official.
20. Aerial fire apparatus roads shall have a minimum unobstructed width of 26 feet, exclusive of shoulders, in the immediate vicinity of the building or portion thereof.

21. Fire hydrants to be located throughout the project as not to have a separation distance greater than 300 feet. Fire hydrants to be located within 400 feet of all locations which are roadway accessible. (Measurement starts from nearest existing fire hydrant to project).
22. The following items pertain to fire hydrants:
  - a. Size and location, including size and number of outlets and whether outlets are to be equipped with independent gate valves.
  - b. Fire hydrant to be of three outlet design
23. Provide calculation confirming flow availability to meet fire flow demands and supply large diameter hose (4 inch).
24. Fire hydrants to be marked by use of blue reflective marker in the roadway.
25. Upon submittal for an underground permit, the following shall be included:
  - a. Data sheet for Back-Flows
  - b. Data sheets for Private and Commercial Hydrants
  - c. Data sheets for Post Indicator Valves

*Information on required fire hydrants back-flow devices, etc.; can be acquired from Sweetwater Authority. All pipe and their appliances, shall meet industry/code standards for underground use*
26. An approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on the site.
27. Approved vehicle access for firefighting shall be provided to all construction and demolition sites. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.
28. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in a specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.
29. Should any plan corrections be required, contractor must correct the plan and re-submit to the Fire Department for approval once again prior to installation.

### Planning

30. A landscape and underground irrigation plan shall be submitted as part of the construction permitting process in compliance with Land Use Code Chapter 18.44. The landscaping and irrigation required by this approval shall be maintained for the life of the project.
31. Plans submitted for construction shall conform to minimum turning radius requirements for drive-through businesses unless the City Engineer approves a lesser radius. Building permit plans shall be fully dimensioned and include all proposed signage and striping for the drive-through aisles, driveways, and parking spaces.
32. Business operations shall comply with Municipal Code Title 12 (Noise) at all times. Plans submitted for construction shall reflect the use of sound-attenuating speakers that automatically reduce the volume of ordering speakers during periods of low ambient noise should an electronic ordering system be installed.

33. Plans submitted for construction shall conform to Land Use Code Chapter 18.46 (Outdoor Lighting).
34. Plans submitted for construction shall comply with the guidelines stated in Land Use Code Section 18.42.050 (Commercial and institutional building design standards).
35. The trash enclosure design shall be in compliance with Municipal Code Title 7, Section 7.10.080 (Enclosures required), including the use of flame retardant materials.
36. The trash enclosure shall be painted with graffiti-resistant coating to a height of six feet.
37. The business shall only be permitted to operate between the hours of 5:00 a.m. to 12:00 a.m. daily.
38. Directional signs are not to exceed three square-feet per sign.
39. No new pole signs or monument signs are permitted. The business shall co-locate on existing monument and pole signs within the shopping center.
40. The operator of the business shall maintain an active business license and ensure that the business license renewed annually.

Indemnification Agreement

The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicant of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform any settlement unless such settlement is approved by the Applicant.

**Section 3:** The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

**PASSED and ADOPTED this 2<sup>nd</sup> day of December, 2025.**

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Ron Morrison, Mayor

**ATTEST:**

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Shelley Chapel, MMC, City Clerk

**APPROVED AS TO FORM:**

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Barry J. Schultz, City Attorney