



Community & Economic Development Department

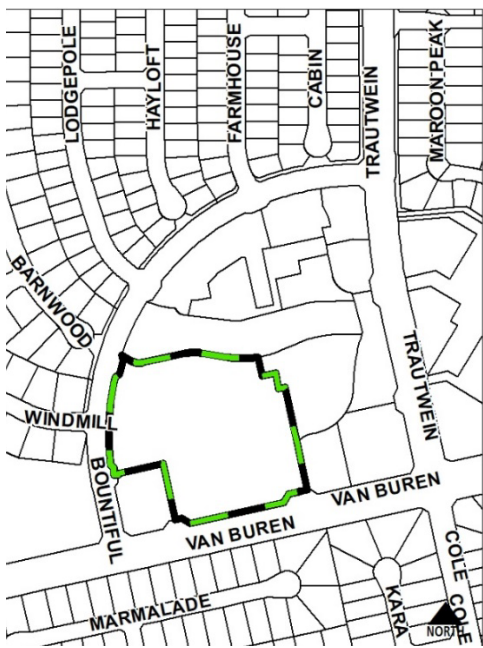
Planning Division

3900 Main Street, Riverside, CA 92522 | Phone: (951) 826-5371 | RiversideCA.gov

PLANNING COMMISSION HEARING DATE: JULY 14, 2022

AGENDA ITEM NO.: 2

PROPOSED PROJECT

Case Number	PR-2021-000897 (Modification of Conditions, Conditional Use Permit, Parcel Map and Design Review)		
Request	<p>To reconsider the June 23, 2022 approval of Planning Case PR-2021-000897 for the following entitlements for the construction of a 3,740 square-foot restaurant (Panera Bread) with dual drive thru lanes, because the public was not able to virtually provide comments on the item due to technical difficulties, and rehear the application for such entitlements:</p> <ol style="list-style-type: none">1. Modification of Conditions to modify a condition of Parcel Map 30369 prohibiting drive-thru businesses;2. Conditional Use Permit to permit a drive-thru restaurant;3. Parcel Map (PM-38289) to subdivide a 7.72-acre parcel developed with a commercial building into two parcels; and4. Design Review of project plans for site plan and building elevations.		
Applicant	Costanzo Investments, LLC		
Project Location	19260 Van Buren Boulevard, on the north side of Van Buren Boulevard between Trautwein Road and Bountiful Street		
APN	284-020-011		
Project Area	7.72-acre		
Ward	4		
Neighborhood	Orangecrest		
General Plan Designation	C – Commercial		
Zoning Designation	CR-SP – Commercial Retail – Specific Plan (Orangecrest) Overlay Zones		
Staff Planner	Brian Norton, Senior Planner (951) 826-2308 bnorton@riversideca.gov		

RECOMMENDATIONS

Staff recommends that the Planning Commission:

1. **MAKE AND VOTE ON A MOTION** to reconsider the approval of Planning Case PR-2021-000897 from June 23, 2022 (Motion by Member that voted in favor of the Project) (2/3 vote required); and

If the motion passes:

2. **DETERMINE** that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15303 (New Construction or Conversion of Structures) and 15315 (Minor Land Divisions) of the CEQA Guidelines, as the proposed project will not have a significant effect on the environment; and
3. **APPROVE** Planning Case PR-2021-000897 (Modification of Conditions, Conditional Use Permit, Parcel Map, and Design Review) based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions (Exhibits 1 & 2).

PROJECT BACKGROUND

The project site consists of a 7.72-acre parcel developed with an 89,652 square-foot retail building (Kohl's) and surface parking lot, approved by City Council under Planning Cases PM-30369 (Parcel Map) and DR-078-012 (Design Review) on December 4, 2001 (Exhibit 3). The project site is part of a larger 25-acre commercial shopping center known as the Orangecrest Towne Center. Surrounding land uses include a riparian wetland and commercial uses to the north, single-family residential to the south (across Van Buren Boulevard), commercial development to the east (across Trautwein Road), and single family residential and commercial to the west (across Bountiful Street) (Exhibit 4).

The subject parcel was established as Parcel 1 under PM- 30369, which subdivided a vacant 25-acre parcel into 9 parcels. A covenant and agreement establishing easements for ingress, egress, parking and utilities was recorded concurrently with the Parcel Map for the shopping center to operate as a unified development.

As a matter of information, the entitlements approved in 2001 included a condition of approval related to future uses as follows:

- Condition of Approval #2.a.: *"The applicant shall record a covenant prohibiting automobile-oriented uses, including drive-thru restaurants, automobile services or repair, stereo installation or other similar uses, on those properties currently shown as parcels 1, 4, 5, 8, and 9 of the Map. Any changes to the covenant necessary to reflect future lot line adjustments will be subject to administrative approval. If a non-automotive use is proposed on these parcels that requires a drive-thru (i.e., a pharmacy), the drive-thru should be designed to be screened from public view".*

In 2004, the Planning Commission approved a Modification of Condition (P04-0601) to PM-30369 to allow for the development of a drive-thru bank (Chase Bank) and drive-thru restaurant (Wendy's) on Parcels 8 and 9.

On June 23, 2022, the Planning Commission approved PR-2021-000897 by a vote of 7 Ayes and 0 Nos. Due to technical issues, the public was not able to virtually provide comments on the item. According to the Brown Act (CA Government Code 54953(e)(2)(D)):

"In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members

of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1."

Specifically, a member of the public notified the City immediately after the June 23, 2022 Planning Commission meeting of the technical difficulties. Michael Alti, Esq., from Community Legal Advisors Inc., indicated that he had called into the meeting on his cell phone and joined by Zoom on his computer, and was never allowed to provide public comment. He could not hear any of the staff members or any of the Planning Commissioners and tried to write in the chat box to explain this situation, but the chat was disabled in the Zoom. Mr. Alti requested that the Planning Commission vacate its decision and "provide a meaningful and legally compliant opportunity for public comment."

Immediately after receiving this email, staff inquired with the City's technical staff to determine what had happened. The City's technical staff confirmed that there was a disruption that precluded virtual public comment. According to the City's technical staff, it appears the converter which takes the audio and converts it to the Zoom meeting did not operate correctly. When the City's technical staff is setting up for the meetings, they go through and test all the systems. For the June 23, 2022, Planning Commission meeting, staff did verify that all was set properly and functioning prior to the meeting start. For some unknown reason, that converter went offline at some point and by default Zoom switched over to an internal laptop ambient mic. Staff is continuing to test the system to determine the root cause of this disruption to ensure that it does not happen again.

Article X, "Reconsideration", of the Planning Commission's "Rules for the Transaction of Business and the Conduct of Hearings," dated March 17, 2022, provides the following:

"A motion to reconsider any action of the Commission can be made not later than the next succeeding official regular meeting of the Commission. Such a motion can only be made by a member who voted on the prevailing side. It can be seconded by any member. A two-thirds vote of the members present and voting is necessary to adopt the motion. No question shall be twice reconsidered except by unanimous consent of the Commission."

Here, the July 7, 2022, meeting of the Planning Commission has been cancelled due to lack of items to consider. Because of the noticing requirements for public hearings, City staff was not able to properly notice the public hearing for the July 7, 2022 Planning Commission meeting, and instead noticed the hearing for a special meeting on July 14, 2022, per Article III of the "Rules for the Transaction of Business and the Conduct of Hearings," dated June 10, 2021. Before the hearing can proceed, the Planning Commission needs to vote to reconsider its previous action and then hold a public hearing on the matter.

To ensure that the public has an opportunity to comment on the project, the public hearing has been rescheduled for Planning Commission consideration.

PROPOSAL

The applicant is requesting approval of a Modification of Condition, Conditional Use Permit, Parcel Map, and Design Review to facilitate construction of a drive-thru restaurant (Panera Bread). This project would modify Condition #2.a. of PM-30369 to read as follows:

The applicant shall revise and record a covenant prohibiting automobile-oriented uses, including drive-thru restaurants, automobile services or repair, stereo installation or other similar uses, on those properties currently shown as Parcels 7, 4,

5, 8, and 9 **of PM-30369 and Parcel 1 of PM-38289.** Any changes to the covenant necessary to reflect future lot line adjustments will be subject to administrative approval. If a non-automotive use is proposed on these parcels that requires a drive-thru (i.e., a pharmacy), the drive-thru should be designed to be screened from public view.

The proposed project entails subdividing the existing 7.72-acre project site (Parent Parcel 1 of PM-30369) into two parcels and developing the newly created 0.78-acre parcel (Parcel 2 of PM-38289), adjacent to Van Buren Boulevard, with a 3,740 square foot drive thru restaurant. The northern portion of the parcel map will be a 6.94-acre parcel (Parcel 1 of PM-38289) and will contain the existing Kohl's department store. No improvements are proposed on Parcel 1 of PM-38289.

The proposed restaurant consists of a one-story building with interior and exterior dining areas and dual drive-thru lanes. The proposed drive-thru lanes wrap around the east and north sides of the restaurant and has a combined length of 289-feet; designed to accommodate queuing for 14 vehicles. Access to the restaurant and drive-thru lanes will be provided through the shopping centers internal drive-aisles. Existing vehicular access points to the shopping center along Van Buren Boulevard, Trautwein Road and Bountiful Street will not change under this proposal.

The restaurant and drive-thru lanes will operate seven days a week from 6:00 a.m. to 10:00 p.m. Monday through Saturday and 7:00 a.m. to 9:00 p.m. on Sundays. The restaurant expects to employ 12 to 15 employees per shift, with a total of 60 to 70 employees.

SUMMARY OF ENTITLEMENTS

Implementation of this proposed project will require the following entitlements:

- *Modification of Conditions:* To modify Condition 2a of PM-30369 to allow a drive-thru facility on Parcel 1.
- *Conditional Use Permit:* To permit a 3,740 square foot, drive-thru, restaurant (Panera Bread).
- *Parcel Map (PM-38289):* To subdivide a 7.72-acre parcel into two parcels.
- *Design Review:* Project plans for site plan design and building elevations.

PROJECT ANALYSIS

Authorization and Compliance Summary

	Consistent	Inconsistent
<p>General Plan 2025</p> <p>The proposed project is consistent with the underlying General Plan 2025 Land Use designation of C-Commercial, which provides for retail, sales, service and office uses that serve multiple neighborhoods within the City (Exhibit 5). The proposed project is consistent with General Plan 2025 Land Use and Urban Design Element policies and objectives for the Orangecrest Neighborhood:</p> <ul style="list-style-type: none"> • <u>LU-75</u> – Manage continued growth of the Orangecrest neighborhood in a manner consistent with the Orangecrest Specific Plan, providing needed infrastructure as land develops. • <u>LU-75.3</u> - Encourages local-serving retail development to 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Consistent	Inconsistent
provide nearby shopping opportunities within the neighborhood.		
Orangecrest Specific Plan (OSP) <p>The proposed project is consistent with the development standards and design guidelines of the Orangecrest Specific Plan (Exhibit 6). The proposed project site is located within Planning Area 2E of the Orangecrest Specific Plan, which is intended for retail businesses. The proposed project plans show compliance with the development standards adopted in the Specific Plan.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zoning Code Land Use Consistency (Title 19) <p>The proposed project site is zoned CR-SP – Commercial Retail – Specific Plan (Orangecrest) Overlay Zones, which is intended for a broad range of indoor oriented retail sales and service, and office uses as either stand-alone businesses or as part of commercial centers or office developments (Exhibit 7).</p> <p>The proposed project is permitted in the CR-SP Zone subject to the granting of a Conditional Use Permit. The proposed project meets the objectives and development standards of the Zoning Code (Title 19).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Subdivision Code (Title 18) <p>The project proposes a Parcel Map (Parcel Map No. 38289) to subdivide a 7.72-acre parcel developed with a commercial building into two parcels. As proposed, the Parcel Map meets the minimum standards of the Subdivision Code and lot standards of the CR-Commercial Retail Zones in Title 19 (Zoning Code).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Orangecrest Towne Center Design Guidelines and Citywide Design & Sign Guidelines <p>The Orangecrest Towne Center Design Guidelines were established to provide a cohesive and uniform look throughout the center. The proposed building displays design influences consistent with the design concept of the Orangecrest Towne Center. Architectural elements include storefront windows, varied rooflines including tower elements, and flat metal awnings. Materials utilized for the exterior include stone veneer, wood cladding, and fiberglass paneling. The proposed color scheme features earth tones with a green accent. Building elevations have been designed to reflect an enhanced façade through the incorporation of multiple materials, building plane changes, colors, and recessed entries. Architectural details, such as canopies are used at key points along the building's façade to create visual interest and provide human scale.</p> <p>The conceptual landscape plan depicts a variety of plant materials including shade and accent trees, screening and ornamental shrubs, and flowering accent plants used to soften and buffer hard edges. The proposed project design demonstrates sensitivity to and compatibility with the surrounding single-family residential uses through careful consideration to building siting and orientation,</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Consistent	Inconsistent
mass and scale. Staff supports the proposal, as the architecture is consistent with the Orangecrest Towne Center Design Guidelines and the Citywide Design Guidelines.		
Riverside Airport Land Use Compatibility Plan The proposed project is located within Compatibility Zone D of the Riverside County Airport Land Use Compatibility Plan for March Air Reserve Base. Compatibility Zone D does not restrict nonresidential intensities; therefore, the proposed project is consistent with the land use compatibility criteria for Zone D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

Tentative Parcel Map No. 38389 Chapter 19.110 - Commercial and Office Zones					
	Standard	Parcel 1 Proposed Kohl's Parcel	Parcel 2 Proposed Panera Bread Parcel	Consistent	Inconsistent
Min. Lot Area	20,000 square-feet	336,342 square feet	33,866 square feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Min. Lot Width	60-feet	672 feet	191 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Min. Lot Depth	100-feet	610 feet	183 feet-4 inches	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Chapter 19.110.030 Commercial Development Standards for the CR-Commercial Retail Zone Panera Bread Drive-Thru Restaurant					
	Standard		Proposed	Consistent	Inconsistent
Floor Area Ratio	0.50		0.11	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Building Height	75 feet		19 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yard Setbacks	Front (south)	0 feet	15 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Sides	east west	0 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Rear (north)	0 feet	92 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Landscape Setback	15 feet		Van Buren Boulevard: 15 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Chapter 19.580 – Parking and Loading Development Standards						
Use	Standard		Required	Provided	Consistent	Inconsistent
Proposed Restaurant (Panera Bread)	1 space / 100 square feet	3,740 square feet	37 spaces	621 spaces		
Restaurant (Coco's) – 8845 Trautwein Road	1 space / 100 square feet	5,730 square feet	57 spaces			
Retail (Walgreens) – 8917 Trautwein Road	1 space / 250 square feet	14,560 square feet	58 spaces			
Vehicle Fueling Station (Chevron) – 19220 Van Buren Boulevard	Retail: 1 space / 250 square feet	2,945 square feet	13 spaces			
	Carwash: 1 space / 2 employees					
Retail (Kohl's) – 19260 Van Buren Boulevard	1 space / 250 square feet	89,320 square feet	359 spaces			
Restaurant (Carl's Jr.)- 19360 Van Buren Boulevard	1 space / 100 square feet	3,913 square feet	39 spaces			
Restaurant (Mr. You Chinese Food)- 19348 Van Buren Boulevard, Suite 101	1 space / 100 square feet	2,244 square feet	22 spaces			
Personal Services (Brilliant Eyebrows) – 19348 Van Buren Boulevard, Suite 103	1 space / 250 square feet	1,231 square feet	5 spaces			
Restaurant (Golden Spoon Yogurt) - 19348 Van Buren Boulevard, Suite 104	1 space / 100 square feet	1,274 square feet	13 spaces			
Retail (Studio 4) - 19348 Van Buren Boulevard, Suite 109 & 111	1 space / 250 square feet	3,100 square feet	12 spaces			
Recreational Facilities (Dance Studio) - 19348 Van Buren Boulevard, Suite 113	1 space / 250 square feet	1,100 square feet	4 spaces			
Personal Services (Loann's Nails) – 19348 Van Buren Boulevard, Suite 115	1 space / 250 square feet	1,201 square feet	5 spaces			
Medical Office (Dentist) - 19348 Van Buren Boulevard, Suite 117	1 space / 180 square feet	1,201 square feet	7 spaces			

Banks and Financial Service (Provident Bank) - 19348 Van Buren Boulevard, Suite 119	1 space / 180 square feet	2,505 square feet	14 spaces			
Total Parking			645 spaces	621 spaces		
Mixed-Use Parking Credit¹ (15 percent reduction)			548 spaces	621 spaces	<input checked="" type="checkbox"/>	<input type="checkbox"/>
¹ 19.580.060(2)(b) - The Community & Economic Development Director or his/her designee may grant a mixed-use parking credit to reduce the total number of required spaces by up to 15 percent, provided the following: b) A shared parking analysis specifying the proposed mix of uses and the operating characteristics of each use type, including hours of operation, typical capacity and parking demand generation rates, is provided demonstrating adequate justification for granting the credit.						

MODIFICATION OF CONDITIONS

The applicant is requesting approval to modify condition of approval #2.a. of PM-30369 prohibiting automobile-oriented uses on Parcels 1, 4, 5, 8, and 9, as Parcel 1 is proposed to be subdivided into two parcels to allow a drive thru restaurant, along the Van Buren Boulevard frontage, on the south side of the project site. The restriction on automobile-oriented uses was put in place to ensure compatibility of development on Parcels 1, 8, and 9 with the single-family residential neighborhood across Bountiful Street, located west of the project site; and reduce potential traffic impacts generated from automotive uses on Parcels 4 and 5.

The project site was originally identified as Parcel 1 of PM-30369, which is 7.72 acres in size and constitutes the largest parcel in the commercial center. The Parcel is unique in that it has frontage on both Bountiful Street, a 66-foot local street, and Van Buren Boulevard, a 120-foot arterial street. With the proposed subdivision (PM-38289), the drive thru restaurant will be located on the south side of the site facing Van Buren Boulevard.

Staff supports the proposed modification of condition 2.a. for these reasons:

- As proposed the project site would be located along the southern edge of newly created Parcel 1 (PM-38289), adjacent to Van Buren Boulevard and approximately 570 feet away from the closest residential property on the north side of Bountiful Street;
- The project has been designed to incorporate multiple design elements to limit visibility of the drive-thru lane from the public right-of-way and any surrounding residences by orienting the drive-thru lane along the east side of the restaurant building, and interior to the site adjacent to the main drive aisle off Van Buren Boulevard;
- Landscaping has been designed to incorporate tiered plant materials along the Van Buren Boulevard frontage to adequately screen the drive thru lanes from public view; and
- Visibility of the drive thru lanes has been minimized by utilizing the existing site topography to set the building pad and drive-thru lane 4 to 6 feet below the existing grade of Van Buren Boulevard.

The request to modify the previously approved condition to allow a drive-thru building along the Van Buren Boulevard frontage is consistent with existing development patterns, including other drive thru restaurants, along Van Buren Boulevard.

FINDINGS SUMMARY

Conditional Use Permit/Drive Thru Businesses

The proposed drive-thru restaurant is a compatible use along Van Buren Boulevard, as it will provide additional food options for residents of the Orangecrest neighborhood and will not be

materially detrimental to surrounding uses. Site design is consistent with surrounding development and provides adequate vehicular access and internal circulation. Screening of the drive-thru lane from Van Buren Boulevard is proposed through site design, use of the existing topography and thru landscaping methods. The proposed drive-thru project is consistent with the applicable development standards of the Orangecrest Specific Plan, and the Commercial Retail Zone of the Zoning Code.

ENVIRONMENTAL REVIEW

This proposed project is exempt from California Environmental Quality Act (CEQA) review pursuant to Sections 15303 (New Construction or Conversion of Structures) and 15315 (Minor Land Divisions) of the CEQA Guidelines, as the proposed project will not have a significant effect on the environment.

PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 300 feet of the site. As of the writing of this report, three comment letters from representatives of the Orangecrest Hills Commercial Owners Association were received in opposition to the proposed project. The letters included with concerns pertaining to the Orangecrest Towne Center Covenant and Agreement (Establishing Easements for Ingress, Egress, Parking and Utilities) and the Operation and Easement Agreement (OEA).

In response to comments regarding the Covenant and Agreement:

- Covenants Running with the Land - A Condition of Approval has been added requiring the recordation of a Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities for the newly created parcels. A condition of approval is recommended requiring PM-38289 for the two new parcels to include a note specifying Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities, dated May 17, 2002, applies to the parcel map.
- Common Area – Once constructed the proposed Panera Bread restaurant building would not be part of the defined common area. The area surrounding the Panera Bread, including the parking areas and drive-aisles would remain common area as defined in the Covenant. The placement of the proposed restaurant would not impede or impair free movement through the common areas, including drive-aisles or parking spaces.
- Barrier - The placement of the proposed Panera Bread restaurant and drive-thru lanes will not create a barrier that would prevent circulation of vehicles, pedestrians or parking on Parcels 1-9 of PM-30369.
- Parking – The development meets the parking standards of the Zoning Code. The Code allows a mixed-use parking credit to be applied to reduce the total number of required spaces by up to 15 percent. A parking analysis was prepared which indicated the mix of uses, operating characteristics and the peak demand for parking during the week and weekend for the shopping center. The analysis concluded the shopping center meets the requirement of Section 19.580.060(2)(b) of the Zoning Code. No Variance has been requested and no variance is required for parking.

In response to comments regarding the OEA:

- The OEA is a private document between the shopping centers Association and property owners. The City is not a party to the agreement.

APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental findings, may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Division Public Information Section, 3rd Floor, City Hall.

EXHIBITS LIST

1. Staff Recommended Findings
2. Staff Recommended Conditions of Approval
3. Existing Site Photos
4. Location Map
5. General Plan Map
6. Specific Plan Map
7. Zoning Map
8. Project Plans (Site Plan, Grading Plan, Landscape Plan, Floor Plans, Elevations, and Color Material Board)
9. Parking Analysis Memorandum
10. Applicant Prepared Project Description
11. Public Comment Letters
12. Response to Comments

Prepared by: Brian Norton, Senior Planner

Approved by: Patricia Brenes, Principal Planner



EXHIBIT 1 – STAFF RECOMMENDED FINDINGS

PLANNING CASE: **PR-2021-000897** (Modification of Conditions, Conditional Use Permit, Parcel Map and Design Review)

Conditional Use Permit Findings pursuant to Chapter 19.760.040

1. The proposed drive-thru restaurant is substantially compatible with other existing and proposed uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts;
2. The proposed drive-thru restaurant will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area; and
3. The proposed drive-thru restaurant will be consistent with the purpose of the Zoning Code and the application of any required development standards in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

Drive-Thru Business Findings pursuant to Chapter 19.475.050:

1. The proposed drive-thru restaurant will not substantially increase vehicular traffic on streets in a residential zone.
2. The proposed drive-thru restaurant will not substantially lessen the usability of adjacent or nearby commercially zoned property or commercial use by interfering with pedestrian traffic.
3. The proposed drive-thru restaurant will not create increased traffic hazards to pedestrians.
4. The project site will be adequate in size and shape to accommodate said use and to accommodate all yards, walls, parking, landscaping and other required improvements.
5. The proposed drive-thru restaurant will not substantially lessen the usability and suitability of adjacent or nearby residentially zoned property for residential use.



CITY OF RIVERSIDE

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

PLANNING DIVISION

EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

PLANNING CASES: **PR-2021-000897** (Modification of Conditions, Conditional Use Permit, Parcel Map and Design Review)

Planning Division

1. All applicable conditions of Planning Cases PM-30369 (Parcel Map) and DR-078-012 (Design Review) shall apply, except as modified by these conditions.
2. Condition 2a of Planning Case PM-30369 (Parcel Map) shall be modified as follows:
 - a. The applicant shall revise and record a covenant prohibiting automobile-oriented uses, including drive-thru restaurants, automobile services or repair, stereo installation or other similar uses, on those properties currently shown as Parcels 4, 5, 8, and 9 of PM-30369 and Parcel 1 of PM-38289.
 - b. Any changes to the covenant necessary to reflect future lot line adjustments will be subject to administrative approval.
 - c. If a non-automotive use is proposed on these parcels that requires a drive-thru (i.e., a pharmacy), the drive-thru should be designed to be screened from public view.
3. Plans shall conform to the exhibits attached to this report. Proposed modifications to the approved design shall be submitted to the Planning Division and shall include revised exhibits and a narrative description of the proposed modifications. The applicant is advised that an additional application and fee may be required.
4. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the project plans on file with this case except for any specific modifications that may be required by these conditions of approval.
5. **Advisory:** Signs shall be permitted in accordance with Chapter 19.620 of the Zoning Code. Any new signs shall be subject to separate review and assessment. A separate sign application, including fees and additional sets of plans, will be necessary prior to sign permit issuance.

Prior to Map Recordation:

6. The applicant shall prepare and record a Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities for the subdivided parcels, specifying that the Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities, dated May 17, 2002, applies to PM-38289.
7. The final map shall include the following: The Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities, dated May 17, 2002, applies to PM-38289.

Prior to Issuance of Grading Permit:

8. Parcel Map No. 38289 shall be recorded.
9. A 40-scale precise grading plan shall be submitted to Public Works and include the following:
10. Hours of construction and grading activity are limited to between 7:00 a.m. and 7:00 p.m. weekdays and 8:00 a.m. and 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or Federal Holidays;

- a. Compliance with City adopted interim erosion control measures;
- b. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems;
- c. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement; and
- d. Identification of location, exposed height, material, and finish of any proposed retaining walls.

During Grading and Construction Activities:

- 11. During all project site construction, the Construction Contractor shall limit all construction-related activities that would result in a noise disturbance to between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. No construction is permitted on Sundays or federal holidays.
- 12. To reduce construction related particulate matter air quality impacts of projects the following measures shall be required:
 - a. The generation of dust shall be controlled as required by the AQMD;
 - b. Trucks hauling soil, dirt or other emissive materials shall have their loads covered with a tarp or other protective cover as determined by the City Engineer;
 - c. The project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards;
 - d. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent paved public roads;
 - e. Trucks and other equipment leaving the site shall be washed off;
 - f. Disturbed/loose Soils shall be kept moist at all times.
 - g. All grading activities shall be suspended when wind speeds exceed 25 miles per hour; and
 - h. A 15 mile per hour speed limit shall be enforced on unpaved portions of the construction site.
- 13. The applicant shall be responsible for erosion and dust control during construction phases of the project.
- 14. To reduce diesel emissions associated with construction, construction contractors shall provide temporary electricity to the site to eliminate the need for diesel-powered electric generators or provide evidence that electrical hook ups at construction sites are not cost effective or feasible.

Prior to Issuance of Building Permit:

- 15. Landscaping and Irrigation plans shall be submitted to the Planning Division for review. Design modifications may be required as deemed necessary Separate applications and filing fees are required.
- 16. Staff Required Landscape and Irrigation Plans Conditions: Plans submitted to the Planning Division for review and approval shall incorporate the following:
 - a. Incorporate a tiered planting palette along the Van Buren Boulevard project frontage.
 - b. The back row of plant materials must incorporate a hedge shrub that grows a minimum of 3-feet in height.
- 17. Plans submitted for plan check review shall specify the location, design and color of all domestic water meters, backflow preventers and utility cabinets subject to the Planning and Public Utilities

review and approval. The visibility of such facilities shall be minimized to Planning Division review and approval through means including but not limited to relocation, berms, landscaping, and/or installation of a screen wall.

18. Photometric/Lighting Plan: A photometric study and manufacturer's cut sheets of all exterior lighting on the building, in the landscaped areas, parking lots and pedestrian paths shall be submitted for review and approval.
 - a. All on-site lighting shall provide a minimum intensity of one foot-candle and a maximum of ten foot-candles at ground level throughout the areas serving the public and used for parking, with a ratio of average light to minimum light of four to one (4:1);
 - b. The light sources shall be hooded and shielded to minimize off-site glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-ways;
 - c. If lights are proposed to be mounted on buildings, down-lights shall be utilized;
 - d. Light poles shall not exceed 25 feet in height, including the height of any concrete or other base material;
 - e. Light poles within 50 feet of residential zone or uses and adjacent to the wetland pond shall not exceed 14 feet in height, including the height of any concrete or other base material; and
 - f. For safety, all pedestrian paths shall be adequately lighted throughout the project.
19. Roof and building mounted equipment shall be fully screened from the public right-of-way. Screening material shall be integrated with the design of the building and be at least as high as the proposed roof mounted equipment.
20. Ground mounted equipment shall be fully screened from the public right-of-way.

During Construction:

21. The project shall comply with all existing State Water Quality Control Board and City storm water regulations, including compliance with NPDES requirements related to construction and operation measures to prevent erosion, siltation, transport or urban pollutants, and flooding.
22. If human remains are encountered, California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Riverside County Coroner has made the necessary findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Riverside County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then immediately identify the "most likely descendant(s)" of receiving notification of the discovery. The most likely descendants shall then make recommendations within 48 hours and engage in consultations concerning the treatment of the remains as provided in Public Resources Code 5097.98 and the Treatment Agreement described.

Prior to Release of Utilities and/or Occupancy:

23. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the Water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditor responsible for the project. Contact the Case Planner, at (951) 826-5371 to schedule the final inspection at least one week prior to needing the release of utilities.

Site Operation Standards:

24. All operations shall comply with Title 7 (Noise Control) of the Riverside Municipal Code.
25. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation
26. The applicant shall be responsible for maintaining free of litter, the area adjacent to the premises over which they have control.
27. The owner and/or occupant shall be liable for the cost of excessive police service or response in accordance with Chapter 9.60 of the Riverside Municipal Code.

Standard Conditions:

28. There is a 36-month time limit in which to satisfy the conditions and record this map. Six subsequent one-year time extensions may be granted by the Community & Economic Development Director upon request by the applicant. Application for a one-year time extension must be made prior to the expiration date of the map. No time extension may be granted for applications received after the expiration date of the map.
29. The Modification of Conditions, Conditional Use Permit, and Design Review may be granted time extensions by the Community & Economic Development Director, or their designee, up to a total of six years consistent with the limits of the map. At the exhaustion of Community & Economic Development Director approved extensions, the original Approving or Appeal Authority may grant one final permit extension of up to two years following a public hearing noticed pursuant to Section 19.670.030 (Notice of Hearing for Discretionary Actions Requiring a Public Hearing). A public hearing notification fee is required of the applicant in such case in addition to a time extension fee. Once a building permit has been issued, the development will be considered vested and time extensions are no longer needed.

PLEASE BE ADVISED THAT THE APPLICANT WILL NOT BE NOTIFIED BY THE PLANNING DIVISION ABOUT THE PENDING EXPIRATION OF THE SUBJECT ENTITLEMENT.

30. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim, action or proceeding and the City will cooperate in the defense of the proceeding.
31. The Conditional Use Permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
32. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation, or further legal action.
33. The applicant shall comply with all federal, state, and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material

violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.

34. This permit is issued based upon the plans and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
35. The Applicant of the business subject to this Conditional Use Permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The Applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
36. Failure to abide by all conditions of this Conditional Use Permit shall be cause for revocation.
37. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.

Fire Department

38. An automatic fire sprinkler system is required by City Ordinance 16.32.335. Under separate cover, submit plans for the automatic fire sprinkler system(s) and obtain approval from the Fire Department prior to installation. Systems exceeding 20 sprinkler heads shall be provided with supervisory service and shall be monitored by a UL Central Station (UUFx) and shall be UL, FM or ETL certificated for the life of the system. Post Indicator valves, Detector Check control valves and water flow switches are required to be supervised by an UL listed central station.
39. Have a UL, FM or ETL listed and licensed C10 fire alarm contractor submit plans and obtain approvals prior to installation. Alarm contractor shall provide a copy of a maintenance contract complying with N.F.P.A. 72.
40. Contact the Riverside Public Utilities Department at (951) 826-5285 for the requirements for the dedicated fire service and backflow requirements.
41. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
42. Construction plans shall be submitted and permitted prior to construction.
43. Provide for fire department access to the facility. "Knox" key devices are available for use in the city. Contact the Fire Department for applications and details.
44. Fire Department access shall be maintained during all phases of construction.
45. To comply with all applicable requirements per CFC, Chapter 33 (Fire Safety During Construction and Demolition)
46. Fire sprinkler, fire alarm, fixed extinguishing system, emergency radio systems, standpipes or any other type of fire protection systems that are required by the California Fire Code, California Building Code or City Ordinance, shall be submitted by a California Licensed contractor, under separate permit to Riverside Fire Department for approval and permit issuance prior to any work on such systems.

Public Utilities – Electric

47. Show proposed location of transformer, PJC, and electrical rooms. Developer is responsible for all costs associated with relocations of existing facilities.

48. Plot existing electrical distribution facilities on the original site plan.

Public Works – Land Development

Prior to Occupancy unless otherwise noted:

49. Storm Drain construction will be contingent on engineer's drainage study.
50. Installation of sewer laterals to serve this project to Public Works specifications.
51. On all plans, provide linear footage labels along all parcel lines; PROTECT IN PLACE existing street trees; trees determined by Tree Inspector to be in poor condition may have to be replaced with 24" box size trees to match existing; planting, staking irrigation, root barriers to Landscape & Forestry specifications.
52. Requires double trash enclosure(s) per City standards.
53. Trash enclosures required per public works specifications.
54. Prior to final inspection for the development project, the applicant shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of payment. If the project improvements include qualifying right-of-way dedications and/or street improvements to a TUMF regional arterial roadway as identified on the Regional System of Highways and Arterials, the developer may have the option to enter into a Credit/ Reimbursement Agreement with the City and Western Riverside Council of Governments (WRCOG) to recover costs for such work based on unit costs as determined by WRCOG.
55. The terms of the agreement shall be in accordance with the RMC Chapter 16.68 and the TUMF Administrative Plan requirements. Credit/reimbursement agreements must be fully executed prior to receiving any credit/reimbursement. An appraisal is required for credit/reimbursement of right of way dedications and credit/reimbursement of qualifying improvements requires the public bidding and payment of prevailing wages in accordance with State Law. For further assistance, please contact the Public Works Department.
56. Prior to issuance of a building or grading permit, the applicant shall submit to the City for review and approval, a project specific WQMP that:
 - a. Addresses Site Design BMP's such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;
 - b. Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;
 - c. Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;
 - d. Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and
 - e. Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.

Prior to issuance of any building or grading permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument acceptable to the City Attorney to inform future property owners of the requirement to implement the approved project-specific WQMP. Other alternative instruments for requiring implementation of the approved project-specific WQMP include: requiring the implementation of the project-specific WQMP in the Homeowners Association or Property Owners Association Conditions, Covenants and Restrictions (C,C&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or

Community Service Areas responsible for implementing the project-specific WQMP; or equivalent may also be considered. Alternative instruments must be approved by the City prior to the issuance of any building or grading permits.

57. If the project will cause land disturbance of one acre or more, it must comply with the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The project applicant shall cause the approved final project specific WQMP to be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
 - a. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:
 - b. Demonstrate that all structural BMP's described in the project specific WQMP have been constructed and installed in conformance with approved plans and specifications;
 - c. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project specific WQMP; and
 - d. Demonstrate that an adequate number of copies of the approved project specific WQMP are available for the future owners/ occupants.

Parks, Recreation & Community Services

Prior to Building Permit Issuance

58. Developer shall make payment of all applicable Park Development Impact Fees (local, aquatic, regional/reserve and trail fees) per RMC Chapters 16.60, 16.44 and 16.76.