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June 29, 2022

VIA EMAIL ONLY

Planning Commission
City of Riverside
c/o Brian Norton, Senior Planner
3900 Main Street
Riverside, CA 92522
BNorton@Riversideca.gov

RE: Case No. PR-2021-000897/Panera Bread/19260 Van Buren Boulevard

Dear Commissioners,

This firm represents Costanzo Investments, LLC ("Costanzo"), which is the Applicant for a proposed Panera Bread project located at 19260 Van Buren Boulevard. As you know, the matter was heard before the City Planning Commission on June 23, 2022 and received unanimous support. Due to technical issues that precluded participation by project opponents, a new hearing is scheduled for July 14, 2022. In the months leading to the June 23, 2022, CPC hearing, project opponents submitted various letters to City Staff in opposition of the project. A total of three opposition letters (dated March 8, 2022, March 21, 2022, and May 9, 2022) were submitted. The opposition letters focus primarily on a Covenant and Agreement Establishing Easements For Ingress, Egress, Parking and Utilities recorded May 17, 2002 as Document Number 2002-261304 (the "Existing Covenant"), attached for your convenience. The points raised in the March 8, 2022 and March 25, 2022 letters have been addressed either by this firm or by my co-counsel Todd Whitman. Both responses are also attached for your convenience. This letter addresses additional opposition points raised in the May 9, 2022 opposition letter (the "May 9 Letter").

First, the May 9 Letter challenges a Staff proposed Condition of Approval from a previous Planning Commission Memorandum requiring a revised Existing Covenant for the proposed project. This point is now moot because Staff prepared and released a Revised

Planning Commission Memorandum for the June 23, 2022 CPC hearing that did not include this Condition of Approval. After careful thought, Staff determined that a new Covenant and Agreement for the subdivided parcels would be required instead, one which would (i) specify that the Existing Covenant applies to new parcel map (PM-38289) and (ii) establish easements for ingress and egress, parking, and utilities between the subdivided parcels. Moreover, the Revised Planning Commission Memorandum also proposes a Condition of Approval requiring the final map (for PM-38289) to include the following language: "The Covenant and Agreement Establishing Easements for Ingress, Egress, Parking and Utilities Dated May 17, 2022 applies to PM-38289." Staff's currently proposed Conditions of Approval are consistent with applicable law, including, but not limited to (a) the Subdivision Map Act, (b) the City's subdivision ordinance and (c) the City's discretion permitted by applicable law. During the June 23, 2022 CPC hearing, Costanzo expressly consented to these Conditions of Approval. Accordingly, the opposition's concern that the project somehow interferes, impedes, or extinguishes the Existing Covenant is unfounded.

Second, the May 9 Letter asserts the City's use of the Mixed-Use Parking Credit (RMC Section 19.580.060(C)) for the project somehow amends the Existing Covenant. The opposition's assertion is incorrect and without merit. The Existing Covenant was imposed to satisfy Condition of Approval 2.b of PM 30369 (November 8, 2021), which required the then applicant to record a covenant "providing for mutual access, maintenance and parking across all parcels." The Existing Covenant does not dictate the number of parking spaces that must be maintained in connection with the overall shopping center. It also does not identity the location of any parking areas within the shopping center, let alone even reference an existing site plan for the shopping center. In fact, the Existing Covenant contemplates modification of parking areas by establishing "nonexclusive easements for parking, vehicular and pedestrian ingress and egress…over, along, under and across the Common Area of each Parcel of the Property (as said Parcel now exists or may hereafter be reconfigured), designated as driveway and parking areas on the plans for development of each Parcel of the Property as may be approved by the City, for the use and benefit of and as an easement appurtenant to the remaining Parcels (as said Parcels now exist or as hereinafter reconfigured)." (Existing Covenant Section 2(1) emphasis added). The Existing Covenant's plain language defeats the opposition's assertion. The City is not unilaterally attempting to amend the Existing Covenant because the language noted above (i) contemplates future development plans approved by the City; (ii) contemplates reconfiguration of the various parcels and thus the parking and common areas; and (iii) does not define the location of a single parking area because the easements are blanket in nature. For these reasons, the LSA Shared Parking Analysis (dated February 10, 2022) (the "Shared Parking Analysis") does not need to consider the blanket nature parking easement created by the Existing Covenant.

Third, the May 9 Letter suggests the City did not account for how the Mixed-Use Parking Credit would impact neighboring property owners. This assertion is patently false. RMC Section 19.580.060(C) authorizes an up to 15 percent parking reduction in two instances, one that does not apply here and the other with a shared parking analysis. Also, to be clear, even though the RMC allows a 15 percent reduction, the project requires only a 3.7 percent reduction in parking, or 24 spaces. After project implementation, a total of 621 spaces will be provided when 645 would be required by the RMC. The Shared Parking Analysis does precisely what the opposition contends the City has failed to do. The Shared Parking Analysis assesses the relationship of peak parking demand between the various uses (i.e., a bank's peak parking is different from a medical use, which is different from a restaurant, etc.). The Shared Parking Analysis assesses an up to 15 percent reduction comparing RMC required parking for each use (as independent stand-alone uses) to City Parking Code Rates and Urban Land Institute hourly utilization, the latter of which accounts for the relationship of peak parking demand. A 15 percent reduction would allow as few as 548 parking spaces. Using this framework, the Shared Parking Analysis concluded that peak weekday parking demand is 538 parking spaces, and peak weekend parking demand is 534 spaces. After project implementation 621 parking spaces will be provided (a surplus of 83 on weekdays and 87 on weekends). The Shared Parking analysis also goes a step further by conducting real world parking counts for the existing and proposed uses (relying on an existing Panera Bread in Hemet, California) to assess actual parking demand. These surveys took place on two separate typical weekdays and two separate typical weekends between 8AM and 9PM. Based on real world demand, the shopping center's peak weekday parking demand is 191 spaces and peak weekend parking demand is 279 spaces. As noted, after project implementation, 621 parking spaces would be provided (a surplus of 430 on weekdays and 342 on weekends). Moreover, as noted, the project is only taking a 3.7 percent reduction. Therefore, the Shared Parking analysis inherently assesses shared parking impacts on other property owners and overwhelmingly demonstrates that in all instances the shopping center with the project provides more than enough parking. Other than a conclusory statement, the opposition provides no evidence to support their assertions.

Finally, the 15 percent Mixed-Use Parking Credit is not a variance. RMC Section 15.580.060(C) authorizes the Mixed-Use Parking Credit. RMC Chapter 19.720 governs variances. As clearly set forth in the Revised Planning Commission Memorandum for the June 25, 2022 CPC hearing, Costanzo is not requesting a variance, nor is one necessary.

For these reasons and those stated in our earlier responses to the opposition's comments (attached), we urge this Planning Commission to approve the proposed project and disregard the opposition's assertions, which are without basis in law or fact and not supported by any evidence in the record.

Thank you,

Michael Gonzales
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cc: Chris Costanzo (ccostanzo@costanzoinv.com)

Attachments