

## RESOLUTION NO. PC 24-\_\_\_\_\_

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MENIFEE, CALIFORNIA APPROVING MAJOR PLOT PLAN NO. PLN23-0126, CONDITIONAL USE PERMIT NO. PLN23-0127, VARIANCE NO. PLN23-0214, AND MINOR EXCEPTION NO. PLN24-0030 FOR A NEW BURGER KING RESTAURANT GENERALLY LOCATED AT THE NORTHEAST CORNER OF MCCALL BOULEVARD AND BRADLEY ROAD (APN: 335-202-001)**

**WHEREAS**, on July 26, 2023, the applicant, Gabriela Marks, on behalf of Marks Architects, filed a formal application with the City of Menifee for a Major Plot Plan (PP) No. PLN23-0126 for construction of a new 2,158 square-foot quick-serve restaurant (Burger King) and full site improvements including site landscaping and parking lot, Conditional Use Permit (CUP) No. PLN23-0127 to allow for a quick-serve restaurant with associated drive-thru facilities within the Economic Development Corridor – McCall Boulevard (EDC-MB), Variance (VAR) No. PLN23-0214 for the elimination of the 5-foot perimeter landscape strip requirement adjacent to parking and drive-thru and reducing the distance requirement from the driveway right-of-way property line to the first parking space from 30 feet to 18 feet along Bradley Road, and Minor Exception (ME) No. PLN24-0030 for the reduction of the total parking required from 19 to 17 parking spaces; and

**WHEREAS**, the proposed Project was reviewed and has been determined to be Categorically Exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15303 (“New Construction or Conversion of Small Structures”); and

**WHEREAS**, on March 13, 2024, the Planning Commission of the City of Menifee held the public hearing on the Project considered all public testimony as well as all materials in the staff report and accompanying documents for the Project, which hearing was publicly noticed by a publication in *The Press Enterprise*, a newspaper of general circulation, an agenda posting, and notice to property owners within 300 feet of the Project boundaries, and to persons requesting public notice and on-site posting.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Menifee makes the following Findings:

**Section 1:** The City of Menifee’s Planning Commission hereby makes the following findings for PP No. PLN23-0126 in accordance with Title 9, Article 2, Chapter 9.80.070 “Findings for Approval” of the City of Menifee Development Code:

**Findings 1:** *The proposed project is consistent with the adopted General Plan and any applicable specific plan.*

### Consistency with General Plan

The proposed Project site zoning classification and General Plan Land Use designation is Economic Development Corridor – McCall Boulevard (EDC-MB). The McCall Boulevard subarea is intended for neighborhood-oriented commercial, and medical office uses that support residential communities and development in the vicinity of this major traffic corridor. The quick-service restaurant will serve the adjacent residential communities and local businesses. The Project is consistent with the General Plan Land Use designation and is compatible with surrounding General Plan land uses.

- *LU-1.1: Concentrate growth in strategic locations to help preserve rural areas, create place and identity, provide infrastructure efficiently, and foster the use of transit options.*

The proposed Project is located at one of the major intersections within the City. Commercial developments can be found on each corner of the intersection. The Project site is designated for commercial development by the General Plan and therefore, the Project site is considered to be a strategic location. Much of the infrastructure is currently in place given the location and transit options are available with Riverside Transit Agency bus stops being located near the vicinity off Bradley Road and Cherry Hills Boulevard

- *LU-2.1: Promote infill development that complements existing neighborhoods and surrounding areas. Infill development and future growth in Menifee is strongly encouraged to locate within EDC areas to preserve the rural character of rural, estate, and small estate residential uses.*

The proposed restaurant is proposed in an infill parcel that accommodates this type of development and it complements the surrounding areas.

- *CD-3.5 Design parking lots and structures to be functionally and visually integrated and connected; off-street parking lots should not dominate the street scene.*

Perimeter landscaping has been provided both on-site and off-site to visually screen the parking lot from surrounding roadways.

- *CD-3.9 Utilize Crime Prevention through Environmental Design (CPTED) techniques and defensible space design concepts to enhance community safety.*

The proposed Project site has been designed to limit concealed areas to allow for greater visibility and security.

- *CD-3.10 Employ design strategies and building materials that evoke a sense of quality and permanence.*

The proposed Project includes quality architectural features, including exterior porcelain tile, exterior finish stone, decorative lighting, brick, metal coping, and vertical and horizontal wall and plane changes.

- *CD-3.14 Provide variations in color, texture, materials, articulation, and architectural treatments. Avoid long expanses of blank, monotonous walls or fences.*

The architecture of the proposed Project incorporates varied colors, recesses, material changes, varied roof lines, wall plane changes,

accent materials, and other architectural treatments that break up wall areas to avoid any long expanses of blank, monotonous walls.

- *CD-6.4 Require that lighting and fixtures be integrated with the design and layout of a project and that they provide a desirable level of security and illumination.*

The proposed Project includes a photometric study that indicates adequate onsite lighting will be provided for security and visibility.

- *CD-6.5 Limit light leakage and spillage that may interfere with the operations of the Palomar Observatory.*

The proposed Project has been conditioned for all lighting fixtures to comply with Menifee Municipal Code Chapter 6.01, "Dark Sky Ordinance", which will have the effect of limiting leakage and spillage of light. All lighting is to be down-shielded as described above.

- *ED-2.1 Promote retail development by locating needed goods and services in proximity to where residents live to improve quality of life, retain taxable spending by Menifee residents and attract residents from outside the City to shop in Menifee.*
  - *Locate businesses providing convenience goods and services in retail centers that are on arterials adjacent to neighborhoods and communities throughout the City but not in rural residential areas.*
  - *Encourage comparison goods businesses to locate in larger retail centers located on major arterials near freeway interchanges, because businesses that provide comparison goods tend to draw customers from larger areas.*

The proposed Project would provide additional retail options and greater convenience to residential uses to the north and west of the site. The proposed Project locates retail business along a major four-way road lane (McCall Boulevard).

#### Consistency with Multiple Species Habitat Conservation Plan (MSHCP)

The City of Menifee has two active conservation plans; the Western Riverside County MSHCP, and the Stephens' Kangaroo Rat Habitat Conservation Plan (SKR-HCP). The Project site is subject to both conservation plans. The Project site is located inside the Stephen's Kangaroo Rat (SKR) (*Dipodomys stephensi*) Fee Area. While the Project is inside the boundaries of the MSHCP, the Project is not located within a Criteria Cell or Cell Group. The Project will be subject to the payment of fees for a commercial project consistent with Riverside County Ordinance Nos. 663 and 810.2 as adopted by the City of Menifee. Therefore, the Project will not conflict with the provisions of the adopted SKR-HCP, the MSHCP, or other approved local, regional, or State conservation plan.

**Findings 2:** *Consistency with the Development Code. The Plot Plan meets all applicable standards for development and provisions of the Development Code:*

The Project site Zoning classification and General Plan Land Use designation is EDC-MB. As previously stated, the McCall Boulevard Subarea is intended for neighborhood-oriented commercial, and office uses that support residential communities and development in the vicinity of this major traffic corridor. A quick-serve restaurant with drive-thru facilities may be permitted within the EDC-MB Subarea with the approval of a CUP. The General Plan Land Use designation and Zoning classification of the Economic Development Corridor are consistent and compatible with one another.

The proposed Project meets all applicable standards of development and operation of the City's Zoning Code, including any applicable specific use regulations with approval of the VAR and ME. The Project meets all the Development Code standards of Title 9, including but not limited to, parking requirements, setbacks, landscape coverage, floor area ratio (FAR) and height requirements of the EDC-MB zone.

The proposed Project is compatible with the surrounding land uses, General Plan Land Use designations, and Zoning classifications subject to Planning Commission approval. The Project incorporates architecture and landscaping which will enhance the area.

**Findings 3:** *Surrounding Uses. The establishment, maintenance, or operation of the proposed Project will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such use or to the general welfare of the City.*

The Project is compatible with the surrounding land uses, General Plan Land Use designations, and Zoning classifications and is adequately designed and located to accommodate the proposed uses. As noted above in Findings 1 and 2, the Project includes uses that are compatible and serve surroundings residents and businesses.

The Project has been reviewed by a variety of Departments to ensure compliance with applicable regulations, including, but not limited to City of Menifee Community Development Department, Engineering and Public Works Department, Menifee Police Department, Office of the Fire Marshal and Riverside County Environmental Health Department. These Departments have also provided conditions of approval as appropriate to ensure compliance with applicable regulations.

Therefore, the proposed Project would not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible with other properties or land uses in the project vicinity. The proposed Project is consistent with the Zoning Code.

**Findings 4:** *Compliance with CEQA. Processing and approval of the permit application are in compliance with the requirements of CEQA.*

The proposed Project is determined to be Categorically Exempt under Section 15303, "New Construction or Conversion of Small Structures" under CEQA and CEQA Guidelines. This exemption is for the construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but not limited to, a store, motel, office, restaurant or similar commercial or institutional structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. The proposed structure does not exceed 2,500 square feet and the restaurant's use will not involve the use of significant amounts of hazardous substances nor is the proposed Project located within an environmentally sensitive area. Lastly, public services and facilities will be available to the proposed Project.

**Section 2:** The City of Menifee's Planning Commission hereby makes the following findings for the requested CUP No. PLN23-0127 in accordance with Title 9, Article 2, Chapter 9.40.070 "Findings for Approval" of the City of Menifee Development Code:

**Findings 1:** *Consistency with the General Plan. The proposed design and location of the conditional use is consistent with the adopted General Plan and any applicable specific plan:*

The Project site Zoning classification and General Plan Land Use designation is EDC-MB. The McCall Boulevard Subarea is intended for neighborhood-oriented commercial, and medical office uses that support residential communities and development in the vicinity of this major traffic corridor. The drive-through restaurant will serve the adjacent residential communities and local businesses. The Project is consistent with the General Plan Land Use designation and is compatible with surrounding General Plan land uses. See Finding 1 for the Plot Plan application for additional justification.

**Findings 2:** *The proposed design and location of the conditional use meet all applicable standards of development and operation of the City's Zoning Code, including any applicable specific use regulations.*

The Project site zoning classification and General Plan Land Use designation is EDC-MB. The purpose of the Economic Development Corridor is to establish business districts in the City that provide appropriate locations for commercial, office, industrial and economic development. The purpose of the McCall Road Subarea is to provide a buffer and transition

from the commercial corridor to the adjacent single-family residential neighborhoods.

The General Plan Land Use designation and Zoning classification of the Economic Development Corridor are consistent and compatible with one another. A quick-serve restaurant may be permitted within the EDC-MB Subarea with the approval of a CUP. The proposed Project meets all applicable standards of development and operation of the City's Zoning Code, including any applicable specific use regulations with approval of the VAR and ME applications. The Project meets all the Development Code standards of Title 9, including but not limited to, parking requirements, setbacks, landscape coverage, FAR, and height requirements of the EDC-MB zone. The Project is compatible with the surrounding land uses, General Plan Land Use designations, and Zoning classifications subject to Planning Commission approval.

**Findings 3:** *That the proposed site is adequate in size and shape to accommodate the conditional use in a manner that is compatible with existing and planned uses in the vicinity.*

As previously stated, the McCall Boulevard Subarea is intended for neighborhood-oriented commercial, office uses that support residential communities and development in the vicinity of this major traffic corridor. The small size and irregular shape of the property makes it a challenging site to develop, therefore the VAR and ME are needed to accommodate the use. The use is consistent with similar uses in the area and throughout the City. The use was analyzed and has been found to be consistent with other uses in the vicinity.

**Findings 4:** *That the proposed design and location of the conditional use will not be detrimental to the public health, safety or welfare, or materially injurious to uses, properties or improvements in the vicinity.*

The Project is compatible with the surrounding land uses, General Plan Land Use designations, and Zoning classifications and is designed and located to accommodate the proposed use. As noted above in Findings 1 and 2, the Project includes uses that are compatible and serve surroundings residents and businesses.

The Project has been reviewed by a variety of Departments to ensure compliance with applicable regulations, including, but not limited to City of Menifee Community Development Department, Engineering and Public Works Department, Menifee Police Department, Office of the Fire Marshal and Riverside County Environmental Health Department. These Departments have also provided conditions of approval as appropriate to ensure compliance with applicable regulations.

Therefore, the Project would not create conditions materially detrimental to the public health, safety and general welfare or injurious to or incompatible with other properties or land uses in the project vicinity. The Project is consistent with the Zoning Code.

**Findings 5:** *Compliance with CEQA. Processing and approval of the permit application are in compliance with the requirements of CEQA.*

The project is determined to be Categorically Exempt under Section 15303, "New Construction or Conversion of Small Structures" under the CEQA and CEQA Guidelines. This exemption is for the construction and location of limited numbers of new, small facilities or structures, installation of small new equipment and facilities in small structures, and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but not limited to, a store, motel, office, restaurant or similar commercial or institutional structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. The proposed structure does not exceed 2,500 square feet and the restaurant's use will not involve the use of significant amounts of hazardous substances nor is the project located within an environmentally sensitive area. Lastly, public services and facilities will be available to the proposed Project.

**Section 3:** The City of Menifee's Planning Commission hereby makes the following findings for the requested VAR PLN23-0214 in accordance with Title 9, Article 2, Chapter 9.110.070 "Findings for Approval" of the City of Menifee Development Code:

**Findings 1:** *Because of special circumstances applicable to the property (size, shape, topography, location or surroundings) or the intended use of the property, the strict application of the standards of this Title deprives the property of privileges enjoyed by other properties in the vicinity in the same zone.*

The EDC-MB zoning requires a 5-foot landscape buffer from the property lines and parking or drive aisle, as well as a 30-foot setback from the right-of-way line to the first parking space. However, due to the site's limitations, such as size and configuration (including but not limited to shape, adjacent development/streets, corner lot, and location of access points), it may not be feasible to meet these requirements. The General Plan Circulation Element requires an additional 12-foot dedication along Bradley Road, restricting the developable area of the parcel. The additional five feet of landscaping would make it extremely challenging to meet other development standards required by the Code. The additional dedication required is for the future widening/build-out condition. In the near term, existing street improvements would remain at the same location including the existing landscape setback along Bradley Road. The field condition would provide landscaping adjacent to the drive-aisle as required by Code, but it is not located five feet behind the property line because of the additional dedication required by the General Plan. The

30-foot setback from the right-of-way line to the first parking space at the rear/Bradley Road drive aisle is not met due to the same reasons listed above.

**Finding 2:** *Granting of the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the vicinity in the same zone.*

Other properties in the area have not been required to provide additional dedication resulting in a reduced developable area. Therefore, the granting of the VAR is necessary for this property to enjoy the same property rights of the adjacent properties. The adjustment of the setback still allows for off site landscaping and maintains a buffer of approximately 16 feet from the drive-thru and the sidewalk which will still be consistent with the surrounding area. The setback from the driveway to the nearest parking stall, will still maintain an adequate distance from vehicles entering and exiting the driveway.

**Finding 3:** *Granting of the Variance will not be materially detrimental to the public health, safety and/or welfare, or injurious to property or improvements.*

The granting of the VAR will not be materially detrimental to the public health, safety and/or welfare, or injurious to property or improvements. The Project has been reviewed by the different Departments to ensure compliance with applicable regulations, including, but not limited to City of Menifee Community Development Department, Engineering and Public Works Department, and Office of the Fire Marshal. These Departments have also provided conditions of approval as appropriate to ensure compliance with applicable regulations.

**Finding 4:** *Granting of the Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is located.*

As mentioned in Findings 1 and 2 above, the VAR is needed due to the lot site constraints that limit the area of development. The granting of this VAR will not constitute a special privilege since other properties in the vicinity are developed with similar conditions.

**Finding 5:** *Granting of the Variance does not allow a use or activity which is prohibited by the zone in which the property is located.*

The requested VAR will be for the reduction of the 5-foot onsite landscape buffer after the dedication on Bradley Road and the adjustment of the onsite driveway entrance on Bradley having a set back of 18 feet instead of 30 feet. The establishment of a quick-serve restaurant is permitted use through a CUP in the EDC-MB Zoning/General Plan Land Use designation.

**Finding 6:** *Granting of the Variance will not be inconsistent with the goals and policies of the adopted General Plan or applicable specific plan.*



As mentioned in Finding 5 above, the establishment of a quick-serve restaurant is permitted through a CUP in the EDC-MB Zoning/General Plan Land Use designation. The Land Use designation is intended for neighborhood-oriented commercial, and medical office uses that support residential communities and development in the vicinity of this major traffic corridor.

The granting of the requested VAR will also be consistent with the General Plan Goals and Policies listed in Finding 1 of the PP application.

**Section 4:** The City of Menifee's Planning Commission hereby makes the following findings for the requested ME No. PLN23-0214 in accordance with Title 9, Article 2, Chapter 9.70.070 "Findings for Approval" of the City of Menifee Development Code:

**Finding 1:** *The proposed development is compatible with existing and proposed land uses in the surrounding area.*

As previously stated, the McCall Boulevard subarea is intended for neighborhood-oriented commercial, office uses that support residential communities and development in the vicinity of this major traffic corridor. The small size and irregular shape of the property makes it a challenging site to develop, therefore the VAR and ME are needed to accommodate the use. The use is consistent with similar uses in the area and throughout the city. The use was analyzed and has been found to be consistent with other uses in the vicinity.

**Finding 2:** *Any exceptions to or deviations from the requirements or development standards result in the creation of appropriate and necessary project design solutions that would not be available through adherence to otherwise required provision of this Title provisions.*

The ME is for the reduction of two parking spaces that allows the Project to meet other code requirements, as well as proposing a building that is consistent in size for that type of restaurant. Meeting the parking requirements would reduce the size of the already small building footprint, making it difficult to compete with other similar restaurants and provide the same amenities.

**Finding 3:** *Granting the minor exception will not adversely affect the interests of the public or the interests of residents and property owners in the vicinity of the project.*

As mentioned above, the granting of the minor exception is to reduce the number of parking spaces on-site. There is still adequate parking for customers and the request will not adversely impact surrounding properties.

**Finding 4:** *The proposed development is consistent with the purposes of the General Plan or any applicable specific plan or development agreement.*

The Project site Zoning classification and General Plan Land Use designation is EDC-MB. The McCall Boulevard Subarea is intended for neighborhood-oriented commercial, and medical office uses that support residential communities and development in the vicinity of this major traffic corridor. The drive-thru restaurant will serve the adjacent residential communities and local businesses. The Project is consistent with the General Plan Land Use designation and is compatible with surrounding General Plan land uses. See Finding 1 for the PP application for additional justification.

**BE IT FURTHER RESOLVED**, the Planning Commission of the City of Menifee hereby approves the following:

1. The Findings set out above are true and correct.
2. The environmental review has been completed for the Project in accordance with State and local laws, and CEQA guidelines.
3. The facts presented within the public record and within the resolution provide the basis to approve PP No. PLN23-0126, CUP No. PLN23-0127, VAR No. PLN23-0214, and ME No. PLN24-0030 and that the Planning Commission approve said entitlements.
4. The documents and materials that constitute the record of proceedings on which this resolution has been based are located at the Community Development Department – Planning Division, 29844 Haun Road, Menifee, CA 92586. This information is provided in compliance with Public Resources Code section 21081.6.

**PASSED, APPROVED AND ADOPTED** this 13th day of March 2024.

\_\_\_\_\_  
Jeff LaDue, Chairman

Attest:

\_\_\_\_\_  
Rachel Valencia, Administrative Assistant

Approved as to form:

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Thai Phan, Assistant City Attorney