



City of Menifee
City Clerk

CITY OF MENIFEE
APPEAL APPLICATION

MAR 08 2024

Received

Decision to be appealed: _____

APPELLANT/REPRESENTATIVE John Minock

PHONE NO. 714 430 4022 LAST FIRST E-MAIL John.Minock@402@gmail.com
FAX NO. _____ MI. _____
ADDRESS 29740 Morning Breeze Dr, Menifee CA 92584
STREET CITY STATE ZIP

PROPERTY OWNER _____
(if different) LAST FIRST MI.

PHONE NO. _____ FAX NO. _____ E-MAIL _____

ADDRESS _____
STREET CITY STATE ZIP

Name of Project, APN/Address: Mister Carl Wash/Kinder Care (Shoppes at the Lake)

Appealing the decision of (Specify Community Development Director, Building and Safety Director City Manager, Planning Commission): Planning Commission

Action and Date: Major CUP (PLU220288) Major Plot Plan (PLU220289)

Explain specify what action or decision is being appealed: See Attached letter

Do you have additional evidence not already presented? Yes _____ No. If Yes, please attach.

What result do you want? Appeal to City Council and project be reviewed under CEQA.

Applicant's Signature _____ Date: 3-8-24

Owner Certification: I certify under the penalty of the laws of the State of California that I am the property owner of the property that is the subject matter of this appeal application. I am authorizing and hereby do consent to the filing of this application and acknowledge that the final approval by the City of Menifee, if any, may result in restrictions, limitations and construction obligations being imposed on this real property.

Owner's Signature: _____ Date: 3-8-24 N/A

Print Name: John H. Minock

Written authorization from the legal property owner is required. An authorized agent for the owner must attach a notarized letter of authorization from the legal property owner.

No application will be accepted until is complete and the fee paid.

Once complete, you will receive confirmation and a hearing date as well as additional appeal information. For questions, please contact the City Clerk at (951) 672-6777.

Attn: City Clerk

**Appeal of Planning Commission Approval of Project:
Mister Car Wash / Kinder Care (Shoppes at the Lakes)**

- Major Conditional Use Permit (PLN220288) and
- Major Plot Plan (PLN220289)

Date of Approval: February 28, 2024

Grounds for Appeal:

Planning Commission approved the above referenced Project on February 28, 2024 as a CEQA categorical exemption class 32 Infill Development Project. Although the Project may have met some of the criteria for an exempt infill project under this class, this project should have been excluded from using a categorical exemption based on the specific negative environmental impacts created by this Project. These impacts are identified in CEQA Guidelines §15300.2, which prohibits a categorical exemption where these impacts are created or otherwise exist.

SUMMARY OF ISSUES

The class 32 exemption may only be used if certain conditions are met, otherwise the project is prohibited from being approved as an exempted project. One such condition is that approval of the project would not result in any significant negative impacts relating to traffic, noise, air-quality, or water quality. It is clear from the Project Site Plan alone that significant negative impacts arising from noise, air pollution, and traffic will be created by this Project, which are made worse by the placement of two incompatible uses immediately adjacent to each other as this Project does. The City failed to consider these negative impacts in any way, as the City staff failed to require the applicant to study impacts for either noise or air-quality/GHGs, and the City staff's traffic analysis was limited to a flawed focused memo that was based on unreliable traffic data. These negative impacts create conditions that prohibit the Project from being classified as exempt and thus, the Project cannot be approved as an infill project under a class 32 exemption.

NOISE RELATED ISSUES

There is no question that the proposed carwash will create significant negative impacts relating to noise and that CEQA prohibits the approval of such projects as class 32 exemption projects. In general, one of the requirements for a CEQA class 32 exemption is that the project be consistent with the applicable General Plan designation and all applicable General Plan Policies. The Menifee General Plan Noise Element N-2 identifies certain uses that are particularly sensitive to noise and vibration, including schools where quiet environments are necessary for enjoyment, public health and safety. Daycare facilities fall under this sensitivity per the California health and safety code and are identified as a sensitive receptor. The Noise Element further states, "to

ensure that noise impacts do not negatively affect the community's quality of life, special attention must be paid to providing policy direction to enhance land use compatibility and support mitigation strategies that limit noise impacts, especially on sensitive uses."

In this case, the Project proposes the use of a drive-thru car wash immediately adjacent to a daycare center, which, as noted above is a sensitive receptor with heightened restrictions and requirements. The daycare consists of a building and large play area, and both are less than approximately 100 feet from the carwash. A carwash by design has blowers at the end of the carwash tunnel and these blowers create excessive noise. The traffic flow of the proposed carwash project is designed so that the cars exit towards the daycare center, meaning that the blowers will be creating excessive noise immediately adjacent to the daycare center building and the daycare play yard, as both are located adjacent to the exit of the tunnel. In short, allowing such incompatible uses that result in significant negative noise impacts is not consistent with the Noise Element of the General Plan, prohibits the Project from being classified as exempt and thus, the Project cannot be approved as an infill project under a class 32 exemption based on this condition alone.

AIR QUALITY RELATED ISSUES

Air quality concerns arise when sources of air pollutants and sensitive receptors are located near one another. CEQA provides exceptions to categorical exemptions, stating that "a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." Both Air Quality/GHGs and Noise fall under this category.

The carwash is laid out so that not only is the exit immediately adjacent to the daycare center building and play area, but the entrance is as well. The carwash entrance includes three lanes for queuing and each lane will accommodate several vehicles, allowing approximately 18 cars to be queued up at any one time. Cars sitting and idling in the carwash que will create mobile air pollution source. This air pollution is being created immediately adjacent to sensitive receptors, the children in the daycare center play area and will subject them to such pollution. In other words, the Project creates a scenario where there is a reasonable possibility that the operation of the Project will have a significant effect on the air quality to which sensitive receptors are subjected and, at a minimum the Project requires the study of this condition. Air Quality was not studied for this use immediately adjacent to a sensitive receptor. It must be otherwise this Project falls into an exception and cannot be approved as a categorically exempt project.

TRAFFIC RELATED ISSUES

There are several issues with the traffic study. The City staff issued a memo relying on a "focused traffic study" based on a study from 2014, which study was based on carwashes located in Anaheim. The focus study solely looked at trip generation and

concluded that, since the proposed uses of the Project would generate significantly fewer trips than analyzed in the 2014 original study for the Center, no new study needs to be done. The first problem is that to arrive at this conclusion the Focused study relied on a national standard. Setting aside the incompatible and significant negative environmental impacts caused by putting such uses side by side, the reliance on a national standard only makes sense where all other factors are equal. It fails to consider local factors and in this case that means it fails to account for the recent explosion in additional housing, commercial and industrial growth. The second problem is that, not only was the data collection for the trip generations taken at another county, the data was collected in 2021, which was during the tail end of the COVID pandemic, and are not reliable. Of course the trip count was low. Lastly, even if it were possible to avoid a traffic study by means of some technicality, this would be grossly irresponsible for the City to do so. Traffic at this location is horrible. It must be studied and studied in a way that makes sense, taking into account the current dynamics of the area, the tremendous growth, and be based on similar local uses to be reliable.



City of Menifee
Front Counter

03/08/2024 02:07 PM ASHLBY A
004246-0026 29844 Haun Road
Menifee, CA 92586
951-672-6777

MISC RECEIPTS

Payment Tran Code:
Miscellaneous Revenue
(miscrev)
Description: PLANNING
APPEAL JOHN MINOCK
Miscellaneous Revenue
(miscrev)
2024 Item: miscrev
Miscellaneous Revenue
(miscrev) \$0.00

\$3,771.00

Subtotal \$3,771.00
Total \$3,771.00

CHECK \$3,771.00
Check Number 1914

Change due \$0.00

Paid by: JOHN MINOCK ENT

Thank you for your payment

City of Menifee COPY
DUPLICATE RECEIPT