

DPR RESOLUTION NO. XX-XXX

**DECISION AND FINDINGS OF FACT BY THE DIRECTOR OF
DEVELOPMENT SERVICES OF THE CITY OF POMONA,
CALIFORNIA APPROVING DEVELOPMENT PLAN REVIEW 10697-
2018 TO REMODEL AN EXISTING DRIVE-THROUGH RESTAURANT
LOCATED AT 101 WEST FOOTHILL BOULEVARD (8302-023-009)**

WHEREAS, the applicant, Gabriela Marks, has filed an application on behalf of Marks Architects, for Development Plan Review (DPR 10697-2018) to remodel an existing drive-through restaurant (Jack-in-the-Box) on the 19,340 square foot parcel located at 101 West Foothill Boulevard (8302-023-009);

WHEREAS, the subject site is currently zoned “City Gateway Segment” of the Pomona Corridors Specific Plan (PCSP) and designated “Neighborhood Edge” in the City of Pomona General Plan;

WHEREAS, in accordance with Section 2.0.5.C.1(c) of the PCSP a Development Plan Review Hearing (DPR) is required for any exterior façade renovations that change the character of existing street facade located within the plan area;

WHEREAS, the Development Services Director of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on December 13, 2018, concerning Development Plan Review (DPR 10697-2018);

WHEREAS, the Development Services Director has carefully considered all pertinent testimony offered in the case as presented at the hearing;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Development Services Director of the City of Pomona, California:

SECTION 1. The Development Services Director exercising independent judgment has determined that, pursuant to the Guidelines for Implementation of the California Environmental Quality Act (CEQA), this action as defined is Categorically Exempt under Section 15301, Class 1 (Minor Alteration of Existing Facilities). The Development Services Director finds that the proposed project is consistent with the categorical exemption since the proposed project consists of an exterior and interior remodel to an existing structure with no expansion. Furthermore;

SECTION 2. If any part, provision, or section of this resolution is determined by a court or other legal authority with jurisdiction over the subject matter of this resolution to be unenforceable or invalid, the remainder of the entirety of this resolution shall not be affected and shall continue in full force and effect. To this end, the provisions of this resolution are severable.

SECTION 3. In accordance with Section 2.0.5.A.(4) of the PCSP, the Development

Services Director must make findings in order to approve Development Plan Review (DPR 10697-2018). Based on consideration of the whole record before it, including but not limited to, public testimony received at the public hearing on this matter, and evidence made part of the public record, the Director hereby finds as follows:

1. *The project is consistent with the City's General Plan and all applicable requirements of the City Code.*

The City of Pomona General Plan designates the subject site as a "Neighborhood Edge" place type. The "Neighborhood Edge" has several policies such as, "*encourage rehabilitation and façade improvements of existing commercial centers along corridors*" [Policy 6D.P8] and "*support renovation of existing commercial strip development,*" [Policy 6D.P7] in order to meet its General Plan goal to "*improve the physical character, economic vitality, and mobility function of the City's most visible and well-traveled corridors.*" [Goal 6A.G1] This commercial façade improvement and remodel is consistent with the City's General Plan because the renovation will enhance the visual appeal and value of the site located along the corridor. The project is consistent with the standards and design guidelines of the Pomona Zoning Ordinance (PZO) and PCSP in terms of setbacks, uses, building height, onsite parking, and overall architectural design.

The proposed project promotes the continued economic viability of the restaurant, which is consistent with the following goal of the Economic Development Element of the General Plan: "*Maximize property values throughout the City.*" [Goal #7B.G6] The façade improvement and remodel will increase the property value of the site.

2. *The project will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood.*

This commercial remodel project will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property and improvements in the neighborhood as the project will comply with all development and design standards of the City Gateway Segment of the PCSP. The business has been operating for decades in this location without conflicts with the surrounding uses. Since no expansion is proposed, the project is not anticipated to generate additional noise, traffic, and lighting impacts detrimental to residents, occupants, and properties within the surrounding area and will remain consistent with the subject property's zoning.

3. *The project will not adversely affect the Circulation Plan of the Corridors Specific Plan.*

The subject parcel is located with frontage along Foothill Boulevard and Garey Avenue. The City of Pomona Public Works Department has reviewed both off-site and on-site circulation patterns and have not expressed concern with the project's overall proposed vehicular mobility.

4. *The project complies with the applicable provisions of the Pomona Corridors Specific Plan and other applicable regulations.*

The commercial façade improvement and remodel has been thoroughly reviewed and meets all applicable provisions, such as the architectural guidelines of the PCSP, and other applicable regulations.

SECTION 4. Based upon the above findings, the Development Services Director hereby approves Development Plan Review (DPR 10697-2018) subject to compliance with all applicable laws and ordinances of the City as well as the addition of the following conditions, violations of which (or failure to complete any of which) shall constitute grounds for revocation of the Development Plan Review or any portion thereof:

Planning

General Conditions

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the Development Services Director on December 13, 2018, and as illustrated in the stamped approved plans dated [December 13, 2018]. Any major modifications to the approved project plans shall be reviewed and approved by the Planning Division as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.
2. The applicant shall make reductions of all approved resolutions related to the project, which shall be placed on the title sheet of construction plans prior to the Plan Check submittal.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule,

regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.

4. This approval shall lapse and become void if construction has not commenced under a valid building permit, within one (1) year from the date of this approval (December 13, 2019), in accordance with PCSP Section 2.0.5.A(6). The Planning Division may extend this period for a maximum of two, one (1) year extensions upon receipt of an application for a Time Extension request submitted by the applicant at least thirty (30) days before the expiration date of this approval, consistent with PCSP Section 2.0.5(A)6.
5. The applicant shall include all conditions of approval from Development Plan Review (DPR 10697-2018) related to the project which shall be placed on the title sheet of construction plans prior to plan check submittal.
6. The applicant shall submit construction drawings for plan check to all required City of Pomona departments. Plans shall be consistent with all required development standards outlined in the PCSP Section 2.1.9 City Gateway Segment outlined in Section 2.1.9.A Development Standards Chart.
7. The property owner shall remove any graffiti on the project site within 24 hours of discovery. The paint utilized to cover the graffiti must substantially match the existing structure. In the event that the paint finish of the abated area is noticeably distinguishable from the rest of the structure, the property owner shall paint additional portions of the building to minimize the disparity, subject to the approval of the Planning Manager.
8. All temporary signs on the premises shall be prohibited. This shall include no placement of temporary signs within any landscaped and walkway areas or affixed to any light standards. Window signs shall be limited to no more than 25% coverage of the glass window area along each building frontage.
9. The applicant shall submit plans and an application for a Sign Permit, to the Planning Division, for the installation of any permanent signage. Final design and location to be approved by the Development Services Manager or designee.
10. The property shall be maintained free of weeds and debris prior, during and after the construction period.

BUILDING AND SAFETY DIVISION

11. The undergrounding of utility facilities is required. (PMC 62-31)
12. The design must be reviewed and stamped by an architect or engineer licensed in the State

of California – (Business and Professions code Sections 5537, 5538, and 6737.1).

13. A building permit shall be obtained for the proposed construction and site development. The design of the building shall comply with the 2016 California Building Codes.
14. All proposed work shall comply with the 2016 California Energy Code and all other relevant laws, ordinances, and resolutions governing Energy conservation as adopted by the City of Pomona.
15. The proposed project shall comply with the 2016 California Green Building Standards Code and all other relevant laws, ordinances, and resolutions governing sustainable design as adopted by the City of Pomona.
16. Building Department comments and conditions are subject to plan check. Comments are based on information provided.

WATER AND SEWER

17. This site is within the Golden State Water Company (GSWC) and is not a City of Pomona water customer. Please follow up with GSWC regarding their requirements.
18. The City provides sewer conveyance for this site. There will not be any significant increases to wastewater discharge.

PUBLIC WORKS DEPARTMENT

Land development requirements

19. Property Owner shall submit a **Lot Merger** application for the consolidation of Lot 2 of Parcel Map No. 1442 recorded in Book 22 Page 76 of Maps, County of Los Angeles and a portion of Lot 1 in SW 1/4 of Section 5, T 1S R 8W, associated with Assessor Parcel Numbers 8302-023-009 and -018, into one lot; the application shall be submitted to the Public Works Department for review and approval and shall be recorded prior to the issuance of the building permits.

Improvement plans requirements

20. Prior to the issuance of the building permits, Applicant/Developer shall submit for review and approval a **Revised Site Plan** to include the following items and shall be responsible for the construction thereof:
 - a) One (1) new driveway approach in conformity with City standards and ADA mandates, to replace the existing Garey Avenue non-ADA apron. Unobstructed visibility shall be ensured at all intersections and driveways along the project boundaries.

Property Owner shall dedicate the necessary real property associated with the required reconstruction of the Garey Avenue driveway approach, in compliance

with the City standards and the ADA continuous path of travel mandates

- b) To address public safety and in compliance with the current City standards, the following modifications shall be made to street lights:
 - i) Refurbish one (1) City street light luminaire along the Garey Avenue frontage with an LED luminaire.
 - c) It is the owner's and the contractor's responsibility to repair all damage to the existing public improvements due to the proposed construction activities and to address all repairs requested by the Public Works Inspector based on the inspector's review of the current condition of the said public improvements and a note to this effect shall be added to the public street improvement plan.
- 21. The demolition or relocation of all public improvements (street lights, signs, trees, vaults, catch basins, hydrants, etc.) due to the proposed project construction must be coordinated and agreed upon by the appropriate City departments, shall be designed per City standards and applicable ADA requirements, and must be reviewed and approved by the Engineering Division of the Public Works Department.
- 22. Applicant/Developer shall identify the existence of all City utilities that may be in conflict with the development and submit protection measures to the City Engineer for those City utilities.
- 23. If future placement of permanent structures conflicts with location of existing public utilities (water, sewer and storm drain), then improvement plans proposing the relocation or abandonment of identified utilities must be submitted, reviewed and accepted by the Public Works Department. No public utility infrastructure shall be removed or modified as part of the onsite demolition plan approved by the Building and Safety Department.
- 24. Applicant/Developer shall implement **stormwater** Good Housekeeping Best Management Practices (BMPs) for the site to ensure that pollutants are not discharged to the municipal storm drain system during construction and throughout occupancy.
- 25. Prior to the issuance of the building permits Property Owner is responsible for the compliance with any special annual levy assessment derived from the current inclusion of the project site into the City's **Street Lighting and Landscaping Maintenance District**. The Developer shall disclose to any future buyers that the property is within the City of Pomona Lighting and Landscaping District and is subject to annual special taxes.

The plans shall be submitted on 24" x 36" sheet size, and must correctly identify the property owner, address, legal description, property lines, street centerline, curb-lines, existing and proposed utilities (water, sewer, and storm drain), utility easements, and the public right-of-way areas with dimensions.

Public Works Improvements Permit

All work in the public right-of-way and City easements is subject to review, approval, and permitting requirements of Public Works Department.

26. Prior to the issuance of the building permits, Applicant/Developer shall post surety bonds for the proposed public improvements, including but not limited to: driveway approach and street light.
27. Permittee shall procure and maintain throughout the period of the Permit the following policies of insurance:
 - a. Commercial General Liability;
 - b. Automobile Liability;
 - c. Worker's Compensation as required by the State of California;

Note: The Commercial General Liability and the Automobile Liability policies shall include the City of Pomona as additional insured.
28. Permittee shall pay fees associated with and possess the City of Pomona Business License.
29. Changes and additions to the proposed work, including but not limited to detail plans for street improvement work, water plans and/or other work associated with this project and due to developer's or City's request shall require additional conditions to be completed by the applicant.

APPROVED AND ADOPTED THIS 13th DAY OF DECEMBER, 2018

APPROVED BY:

Mario Suarez, AICP, CNU-A
Development Services Director

Date