



## **Supplemental Report to City Council**

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**TO:** Mayor and City Council

**FROM:** Angelica Frasuto-Lupo, Community Development Director

**AGENDA DATE:** September 2, 2025

**TITLE:** CONTINUED APPEAL HEARING (PAA25-0002)  
APPEAL OF PLANNING COMMISSION APPROVAL OF  
CONDITIONAL USE PERMIT (PEN24-0013) (REPORT  
OF: COMMUNITY DEVELOPMENT) (DISTRICT 3)

**TITLE SUMMARY:** Appeal of the Planning Commission's Approval of a Conditional Use Permit for the Development of a 950-Square Foot Commercial Building (Dutch Bros Coffee) with a Drive-Through, Associated Parking and Landscape Improvements.

**DISTRICT:** District 3

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### **Recommendation(s)**

That the City Council:

1. DENY any further continuance of the Appeal Hearing that may be requested by Appellant and proceed with conducting the Appeal Hearing; and
2. ADOPT Resolution No. 2025-XX, attached hereto, DENYING Appeal (PAA25-0002), and upholding the Planning Commission's approval of Conditional Use Permit (PEN24-0013) without any modifications to the Proposed Project's Conditions of Approval.

### **SUMMARY**

This Appeal Hearing was initially scheduled for August 19, 2025, but was continued at the request of the Appellant with the concurrence of the City Attorney. Although Appellant requested more than a two-week continuance, the City Attorney does not recommend any further continuance since the Applicant has an interest in moving forward with developing the Proposed Project in a timely manner.

## **DISCUSSION**

The original Appeal Hearing, that was scheduled for August 19, 2025, was continued at the request of the Appellant, with the concurrence of the City Attorney. Notice of the Appeal Hearing was provided to Appellant and the Appellant's attorneys, Sean Refahiat of Blake & Ayaz, a Law Corporation at least ten days prior to the August 19, 2025, Appeal Hearing. Since the Appeal Hearing was continued to a date and time certain (September 2, 2025, at 6:00 p.m.) there was no legal requirement to provide any additional notice of the Continued Appeal Hearing. Incidentally, in the event Appellant argues that notice was not received, section 65094 of the California Government Code provides that failure to receive notice given is not grounds to invalidate actions for which notice was given. Moreover, the Appellant's attorneys were informed by the City Attorney that the Appeal Hearing was continued to September 2, 2025, at 6:00 pm at the Council Chamber, situated within Moreno Valley City Hall located at 14177 Frederick Street. In addition to the date, time and location of the continued Appeal Hearing, the City Attorney informed the Appellant's attorneys of the issues that would be considered at the Appeal Hearing. (See attached email to Appellant's attorney, attached hereto.) In the event Appellant purports that proper notice was not provided, the California Court of Appeal has held that actual notice of the issues to be considered cures any failure of notice to disclose the issues to be considered at a hearing. *Benson v California Coastal Comm'n* (2006) 139 CA4th 348, 353.

Finally, a copy of the Proposed Project's Transportation Impact Analysis was posted on the City's website at [TrafficImpactAnalysis.pdf](#) for public review and inspection, and a link to the Transportation Impact Analyst was sent to the Appellant's attorney, prior to the posting of the agenda.

## **PREPARATION OF SUPPLEMENTAL STAFF REPORT**

Prepared   Angelica Frausto-Lupo Community Development Director	By:  Steven B. Quintanilla City Attorney	Concurrence By:
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## Report Approval Details

Document Title:	STAFFREPORT_CDD_SUPPLEMENTAL_PAA25-0002_Appeal.docx
Attachments:	<ul style="list-style-type: none"><li>- Email to Appellant's Attorney, dated August 24, 2025.pdf</li><li>- STAFFREPORT_CC_PAA25-0002_Appeal of PEN24-0013_08192025.docx</li><li>- RESOLUTION_CC_PAA25-0002_APPEAL OF PEN24-0013.pdf</li><li>- RESOLUTION_CC_PAA25-0002_APPEAL_APPROVE.pdf</li><li>- Attachment A_Appeal Letter (PEN24-0013).pdf</li><li>- Attachment B_Non-Exclusive Perpetual Easements.pdf</li><li>- STAFFREPORT_PC_PEN24-0013.pdf</li><li>- RESOLUTION_PC_PEN24-0013.pdf</li><li>- Location Map.pdf</li><li>- Project Plans (3).pdf</li><li>- Zoning Map.pdf</li></ul>
Final Approval Date:	Aug 27, 2025

This report and all of its attachments were approved and signed as outlined below:

Angelica Frausto-Lupo

Sean Kelleher

Natalia Lopez

Dena Heald

Launa Jimenez

Brian Mohan

Patty Rodriguez