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July 18, 2025

File No. PAT02-3000

Via Email Only

City of Moreno Valley
c/o Mayor Ulises Cabrera
ulisc@moval.org

City of Moreno Valley
c/o Elena Baca-Santa Cruz, Council Member
elenab@moval.org

City of Moreno Valley
c/o Ed A. Delgado, Council Member
edd@moval.org

City of Moreno Valley
c/o Erlan Gonzalez, Council Member
erlang@moval.org

City of Moreno Valley
c/o Cheylynda Barnard, Council Member
cheylyndab@moval.org

City of Moreno Valley
Angelica Frausto-Lupo, Community
Development Director
angelicaf@moval.org

City Council
contactus@moval.org
cityclerk@moval.org
dept_cityclerk@moval.org

Re: Appeal to the City Council of Planning Commission Approval – Dutch Bros Project (CUP No. PEN24-0013) at 25040 Alessandro Blvd., Moreno Valley, CA 92553 Planning Commission Hearing Date: July 10, 2025

Honorable Mayor and Members of the City Council:

We respectfully submit this formal appeal pursuant to the Moreno Valley Municipal Code (MVMC) § 9.02.240, to appeal the City of Moreno Valley's (the "City") Planning Commission's approval of Conditional Use Permit PEN24-0013 for the Dutch Bros. Project at 25010 Alessandro Blvd., Moreno Valley, CA 92553 (the "Dutch Bros. Project"), as adopted in Resolution No. 2025-10 following the Planning Commission Hearing on July 10, 2025 (the "Hearing"). This appeal is submitted on behalf of our client, Shivah, Inc., a California corporation, the owner of the Sinclair gas station, directly adjacent to the Dutch Bros. Project located at 25020 Alessandro Blvd., Moreno Valley, CA 92553.

Pursuant to MVMC § 9.02.240, this Appeal must be filed within ten (10) consecutive calendar days following the Hearing and a \$750.00 appeal filing fee is to be paid. As this Appeal is timely, we respectfully request that the appeal be considered by the City Council, and an appeal hearing be



scheduled in accordance with the MVMC. On or about July 17, 2025, Associate Planner Espino-Salcedo informed this office that upon receipt of the Appeal, the City Staff will generate an invoice for online payment of the filing fee. *See Exhibit A.* Thus, any delays by City Staff to generate an invoice should have no impact on the City's consideration, timely review of this appeal, or scheduling of the hearing on this appeal. Due to concerns related to the City's clandestine actions thus far, we will attempt to hand deliver a check for the filing fees today.

The City's approval of the Dutch Bros. Project was both procedurally improper and substantively flawed. In previous communications between this office and the City, this office requested that all notices of hearings and proceedings related to the Dutch Bros. Project be provided to us, consistent with MVMC § 9.02.200. As the Dutch Bros. Project is directly adjacent to our client's business, our client clearly falls within the 600 foot notification radius as prescribed by the MVMC, and as such, notice was required to be provided. Neither our office nor our client, however, received notice of the Hearing, or any hearing related to the Dutch Bros. Project. Instead, the City proceeded to approve the Dutch Bros. Project without providing our client or our office as legal representatives, despite written requests for such, with notice or a meaningful opportunity to be heard on the matter, despite various concerns and objects being presented months before the approval. This failure to provide notice or an opportunity to be heard violates both the City's mandatory noticing requirements under the MVMC and the fundamental principles of procedural due process.

As will be evidenced at the hearing on this appeal, the City's approval of the Dutch Bros. Project is:

- Inconsistent with the goals, objectives, policies and programs of the General Plan;
- Not in compliance with all applicable zoning and other regulations;
- Detrimental to public health, safety or welfare or materially injurious to properties or improvements in the vicinity; and
- Incompatible in location, design and operation with existing and planned land uses in the vicinity.

The City's proposed conditions of approval also fail to adequately protect neighboring uses, owners, nearby properties, and the general health, welfare, safety of the properties or improvements within the vicinity of the project.

Since at least as early as January 2025, our office provided detailed written objections, advising that:

- Our client did not and would not consent to the Dutch Bros. Project;
- The purported consent form obtained by the developer was defective and improperly executed; and
- We raised serious concerns regarding encroachment, circulation, traffic, parking, and operational impacts to neighboring businesses.



Attached hereto as **Exhibit B** are true and correct copies of email exchanges between this office and City officials regarding our client's objection to the Dutch Bros. Project. Attached hereto as **Exhibit C** are true and correct copies of email exchanges between this office and developer, Chris Nikchevich regarding our client's objection to the Dutch Bros. Project.

Prior to the City's approval of the Dutch Bros. Project, our office directly communicated with the City's developer and identified several specific issues that remain unresolved and unaddressed. Critically, the Staff Report and Hearing record remain silent on these issues:

1. Encroachment and Property Rights: The proposed landscape area appears to extend into our client's property, constituting unauthorized encroachment. The proposed trash enclosure and servicing operations appears to require access, construction, and use of our client's property (including a concrete apron and regular servicing), without any easement or consent.

Despite repeated requests, the City failed to evaluate or mitigate potential conflicts with adjacent uses, such our client's business, or require clear boundaries and coordination between the properties before approval, resulting in the unauthorized encroachment on our client's property.

2. Traffic, Access, and Flow: The proposed "selective striping updates" raised significant concerns about traffic flow, site access, circulation impacts on our client's property, and the removal of 25 shared parking spaces. These design modifications were made without our client's input and without consideration on the impact of adjacent businesses, namely our client. We requested, but never received, a detailed explanation or analysis of these changes and their traffic impacts. No traffic report or traffic study was included or referenced in the Staff Report nor the public record, because no traffic study was conducted prior to the approval of the Dutch Bros. Project.

Instead, the City has made it a condition of approval that an "approved traffic control plan" be obtained prior to permit issuance. This approach is particularly concerning given the well-documented traffic congestion and parking issues commonly associated with Dutch Bros. locations nationwide, which are notorious for excessive drive-through queues that overflow into public streets and shared lots, creating circulation hazards, reduce steady traffic flow, and blocks access to other business, namely our client. Approving the Dutch Bros. Project while knowing of the traffic congestion and parking issues such a project provides is inconsistent with the City's General Plan to improve traffic circulation, congestion management, and a circulation system that fosters traffic safety and efficient movement of motor vehicles. A traffic control plan should have been required before approval, allowing for public review and mitigation of potential impacts.

Although City staff indicated that a traffic study was recently conducted, the omission of a traffic study prior to the hearing is particularly concerning given the traffic-related concerns



raised in our prior communications and the documented traffic issues that come with Dutch Bros. locations in other jurisdictions, including the existing Dutch Bros. in Moreno Valley, CA. The failure to analyze or require that a traffic study prior to the Hearing deprived the public and our client of the opportunity to meaningfully evaluate and respond to the project's foreseeable impacts on traffic, circulation, and pedestrian safety and health. These impacts include but are not limited to: traffic backups into public rights-of-way and neighboring parking lots; circulation and pedestrian safety hazards; noise and vehicle emissions from long idling in drive-thru queues; and negative economic impacts to adjacent businesses due to blocked access and reduced visibility.

Dutch Bros. locations across the country are known to frequently generate significant traffic congestion, and public safety concerns thereby and the Dutch Bros. Project is no exception. The approval of this project is inconsistent with the City's General Plan, which aims to promote walking and bicycling and the health and well-being of the community. The increased vehicle traffic associated with the project threatens vehicle circulation and pedestrian and cyclists' safety. The project will increase the vehicle traffic in the surrounding area, which creates conflict points with added interactions among drivers, pedestrians, and cyclists. This increased interaction risks accidents and reduced visibility, especially in high traffic areas where long queues of cars may obstruct views of crosswalks and intersections. Traffic congestion often lead to illegal or unsafe vehicle maneuvers, which adds to the safety concerns. Further, the long queues of cars will increase emissions from idling vehicles in drive-thru lines, which conflicts with the City's efforts to reduce mobile emissions and increase traffic-related noise in the area. In addition to the traffic, access, and flow concerns, the Dutch Bros. Project raises various public health, safety and welfare concerns as outlined above. The City has provided no evidence or documentation, and the Staff Report is silent on how the City plans to overcome or mitigate these issues.

Despite these foreseeable and documented issues, the City failed to meaningfully consider the project's traffic and circulation impacts. Instead, the City proceeded to approve the project and concluded that it qualified for a categorical exemption under the California Environmental Quality Act (CEQA), even when the project has potentially significant traffic, air quality, or noise impacts. None of these impacts were studied or considered prior to the approval of the Dutch Bros. Project in direct contravention of the City's goal to protect public health, safety, or welfare.

3. City Approvals and Required Documentation: The developer asserted that a notarized Right of Entry Access Agreement was required but no such agreement, permit, or approval appeared on file with the City's building and safety records at that time. Our office requested all documentation filed with the City related to the Dutch Bros. Project, for our office's review, but to date our office has not received any such documentation. The City's failure, or outright refusal, to provide the requested documents combined with the lack of notice of the Hearing, deprived our client a meaningful opportunity to object to the project prior to the



City's approval. This lack of access to relevant information prevented our client from fully evaluating or responding to the project and its potential impacts prior to its approval. This raises serious procedural concerns, as notice and access to information are fundamental requirements for meaningful public participation at the public hearings.

4. Misrepresentation of Purpose: The agreement the developer sought was described as a request for "temporary access" to complete work on their own property. However, the submitted plans lacked clarity and reflected permanent alterations, rather than temporary access, that would impact our client's property. These impacts were neither properly disclosed nor consented to by our client.
5. Insufficient Information on the Site Plan: The site plan provided did not adequately depict property lines, streets, other relevant site details, or details which would otherwise help evaluate potential impacts on our client's property, operations, and rights. The site plans failed to show an assessment of access, traffic flow, parking modifications, and encroachment on property boundaries, namely our client's property. The insufficient documentation prevented meaningful review and raises concerns about whether a thorough and fair evaluation of the foreseeable impact of the Dutch Bros. Project prior to the City's approval.

Communications with the City will show that we specifically requested documentation and information to fully understand and evaluate the Dutch Bros. Project's potential impacts and to address these concerns. Documents and information requested include, but is not limited to:

- Clear delineation of property lines and setbacks;
- Descriptions of selective striping work and traffic impacts;
- A complete traffic report;
- Details of the trash enclosure, concrete apron, and servicing arrangements;
- Landscaping updates and their location;
- Confirmation of all required City approvals, permits, and entitlements;
- Documentation of any work proposed on or impacting our client's property; and
- Any applicable title reports, easements, and CC&Rs.

City and developer initially represented that there was no encroachment onto our client's property. It was only after our office made the City aware of these issues that they were acknowledged, however, it appears that the apparent resolution to these issues were done behind closed doors without notice or involvement with our office and our client. Furthermore, Associate Planner Espino-Salcedo informed us that a traffic study was performed, but there is no record in of any such traffic study nor does the Staff Report include any exhibits regarding the traffic study. A traffic study was also not discussed in the Hearing, nor did the City refer to a traffic study in response to numerous traffic concerns that had been raised.



Despite efforts by our office and our client to raise these concerns with the City, they were never directly addressed with either our office or our client prior to the Hearing. According to Associate Planner Espino-Salcedo, these concerns were instead resolved “directly with the developer” outside of the formal hearing process, and without notifying our client or this office. Associate Planner Espino-Salcedo also indicated that no improvements would occur on our client’s property except for ADA-required curb modifications along Alessandro Blvd., and that trash enclosure doors would face the Dutch Bros property and be serviced from the shared driveway, with future revision of CC&Rs to formalize this arrangement, but this did not appear to be the case.

Furthermore, it appeared that members of the City Council had predetermined their support for the Dutch Bros. Project even before the hearing began. During the hearing, Council members made remarks, including requests for Dutch Bros. stickers and product samples. These comments, made in the midst of a quasi-judicial proceeding reflect a clear bias and undue favoritism toward the Dutch Bros. Project. Such behavior is troubling to witness in light of the serious concerns raised by members of the public both at the Hearing and by our client through communications exchanged with City personnel. This conduct calls into question the impartiality of the review process and undermines the public’s trust in the fairness and integrity of the City’s decision-making.

Based on the foregoing reasons and with a reservation of rights to add additional grounds having not been provided a full administrative record and purposefully left in the dark, the City’ approval of the Dutch Bros. Project is both procedurally and substantively flawed. Our client has been denied due process, and the record is incomplete and misleading. Our client respectfully requests a thorough and transparent reconsideration of the project before it proceeds and a meaningful opportunity to be heard on the matter.

Given these issues, our client submits this appeal of the Planning Commission’s approval of the Dutch Bros. Project and respectfully requests that the City Council:

1. Revoke or vacate the approval of CUP No. PEN24-0013 and Resolution No. 2025-10;
2. Require a full public hearing with proper notice to adjacent property owners and all properties within 600 feet of the project, as required under the MVMC;
3. Require full disclosure of all documents and communications related to the Dutch Bros. Project, including, but not limited to the full administrative record related to the Dutch Bros. Project, a traffic study, agreements, and revised site plans and documentation reflecting how and when the developer’s plans were changed
4. Direct staff to conduct a proper CEQA review, including traffic impact analysis and mitigation measures; and
5. Ensure that this appeal be considered before the project is allowed to proceed.

Prior to the hearing on the appeal, we hereby demand that the City provide a full and accurate copy of the administrative record to include, but not be limited to all reports, studies, and all correspondences (whether written or electronic, i.e., emails, text messages, direct messages, or



similar forms of communications), by and between the City and the developer related to the Dutch Bros. Project.

Our client appreciates the City Council's attention and consideration of the appeal and the important issues and concerns raised herein to ensure all appropriate action is taken for a lawful, transparent, and thorough process. We kindly request that you confirm receipt of this appeal and provide the invoice so we may submit the appeal fee without delay.

BLAKE & AYAZ

F. Michael Ayaz

EXHIBIT A

From: Grace Espino-Salcedo <gracee@moval.org>
Sent: Thursday, July 17, 2025 12:53 PM
To: Sean Refahiat
Cc: Angelica Frausto-Lupo; Danielle Harper-Scott; Stacy Dunning; Brandi Barron; Grace Espino-Salcedo; Miguel Del Rio
Subject: RE: Commission Hearing (CUP) Appeals Process

Good Afternoon, Mr. Refahiat:

Thank you for your email.

Appeals shall be addressed to the appellate body in a letter submitted to the Community Development Director and shall be accompanied by the required fee (\$750). The appellant shall state the specific reasons for the appeal. Appeals shall be filed with the Community Development Director within 10 consecutive calendar days following the date of action for which an appeal is made. (MC 9.02.240)

Should you choose to file an appeal, your written request must be received by end of business day on Monday, July 21, 2025. Staff will create the record and provide an invoice for online payment.

If appealed, the item will be agendized for a public hearing before the City Council.

Kindly,

Grace Espino-Salcedo

Grace Espino-Salcedo
Associate Planner
Community Development
City of Moreno Valley

p: 951.413.3451 | e: gracee@moval.org | w: www.moval.org
14177 Frederick St., Moreno Valley, CA, 92553



From: Sean Refahiat <sean@blakeandayaz.com>
Sent: Thursday, July 17, 2025 11:35 AM
To: CDD Admin_DG - [HR/Payroll USE ONLY!] <cddadmin@moval.org>
Subject: Commission Hearing (CUP) Appeals Process

Some people who received this message don't often get email from sean@blakeandayaz.com. [Learn why this is important](#)

Dear sir or madam,

My office represents a property owner that will likely need to file an appeal to a recent Commission Hearing decision on a CUP. Please provide detailed information on the appeals process at your earliest possible convenience as this is a time sensitive matter. An email response and/or telephone response would be great. Thank you.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation
2107 N. Broadway, Suite 106
Santa Ana, California 92706
P: 714-667-7171
F: 714-667-0477
E: sean@blakeandayaz.com

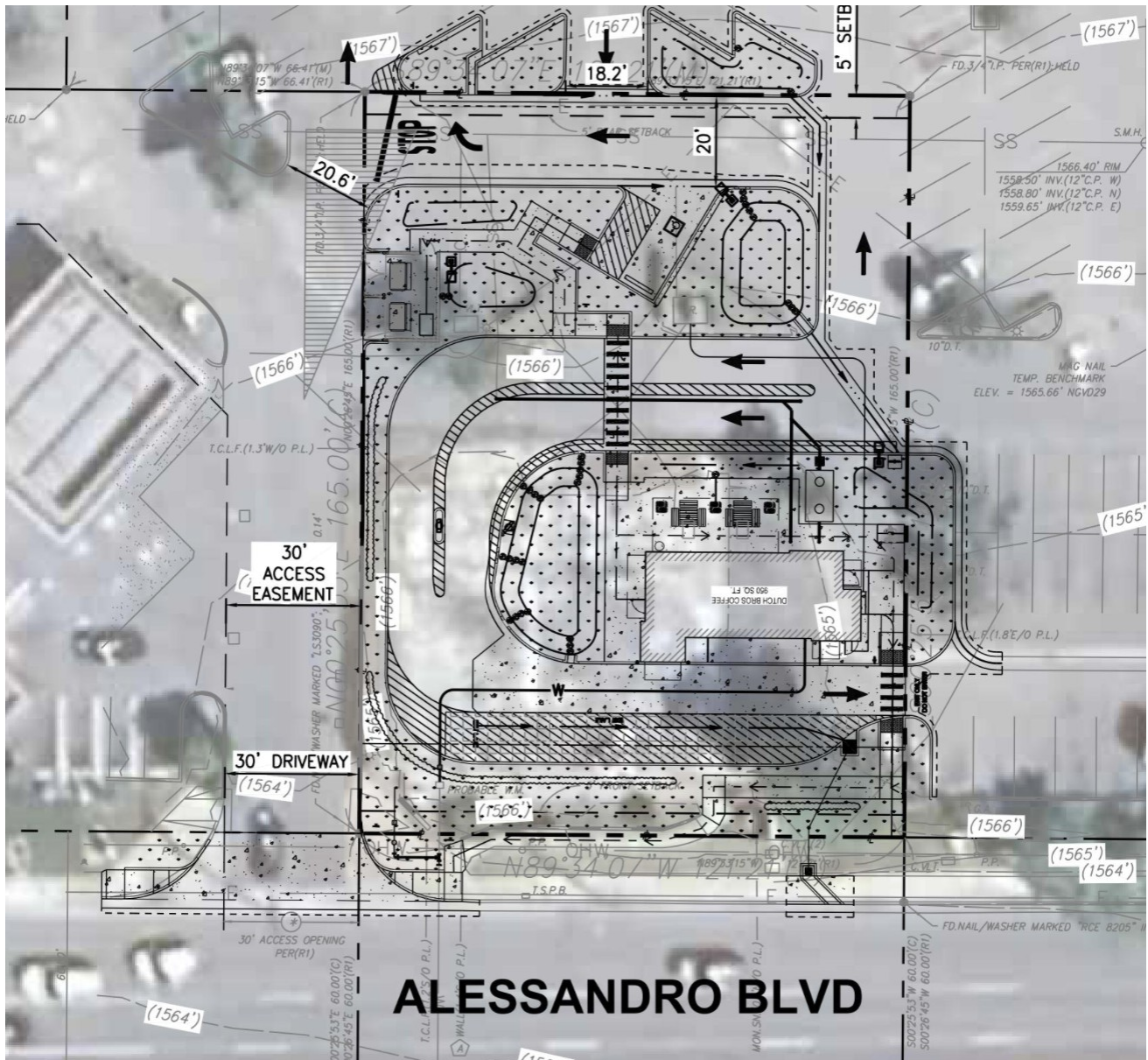
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EXHIBIT B

From: Grace Espino-Salcedo <gracee@moval.org>
Sent: Thursday, July 17, 2025 2:11 PM
To: Sean Refahiat; Mike Ayaz
Cc: Angelica Frausto-Lupo; Danielle Harper-Scott; Grace Espino-Salcedo
Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Mr. Reahiat, please see below.





Grace Espino-Salcedo

**Associate Planner
Community Development
City of Moreno Valley**

p: 951.413.3451 | e: gracee@moval.org | w: www.moval.org
14177 Frederick St., Moreno Valley, CA, 92553



From: Sean Refahiat <sean@blakeandayaz.com>

Sent: Thursday, July 17, 2025 12:48 PM

To: Grace Espino-Salcedo <gracee@moval.org>; Mike Ayaz <mike@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Hi Grace,

Thank for taking the time to speak with me today.

I want to confirm my understanding of the key points we discussed:

- We have 10 days from the date of the hearing to file an appeal, and the appeal letter should be sent to Community Development Director Angelica Frausto-Lupo via email. Upon receipt, the City will generate an invoice so that we can pay the \$750.00 appeal fee online, without needing to deliver a check in person.
 - **Please email your appeal letter to Community Development Director Angelica Frausto-Lupo. Additionally, please copy me and Danielle in the email. Staff will invoice for online payment.**
- Per your explanation, the updated plans reflect that no improvements will occur on my client's property — the adjacent Sinclair Gas Station — other than street/curb modifications for ADA compliance, as shown on the revised plans you provided.
 - **See attached site plan. Other than improvements to the 'concrete barrier curb', no improvements are proposed on your client's property.**
- You also explained that the trash enclosure doors will be relocated to face the Dutch Bros property and that trash service will occur from the commonly shared driveway, with a future revision to the CC&Rs to formalize this arrangement.
 - **The revised site plan shows that the trash enclosure was relocated/pushed further into the Dutch Bros property so that when the doors open, they do not encroach into the shared access easement. Trash service will occur from the shared access driveway. The project is conditioned to submit their CC&Rs to the City for staff review prior to building permit issuance.**

Please let me know if I have misunderstood any part of this summary. As we also discussed, I would appreciate it if you could provide the contact information for the developer so that we may follow up directly to address any remaining issues or concerns.

John Caglia, Director of Development & Construction for Dutch Bros can be reached at (714) 883-9092.

Thank you again for your time and assistance.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation
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From: Grace Espino-Salcedo <gracee@moval.org>

Sent: Wednesday, July 16, 2025 11:50 AM

To: Sean Refahiat <sean@blakeandayaz.com>; Mike Ayaz <mike@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>; Grace Espino-Salcedo <gracee@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Good Morning, Mr. Refahiat:

As mentioned previously, the Dutch Bros project was approved at last week's Planning Commission hearing. The 600-foot mailing, site posting, and newspaper notices are attached for your reference. A mailing postcard with project information was mailed to the property owner of the adjacent property.

Since our last conversation, the site plan was revised, removing any work previously proposed on the adjacent property.

Attached below is a screenshot of the revised site plan. There are no improvements proposed on the neighbor's property.

Thank you kindly.

p: 951.413.3451 | e: gracee@moval.org | w: www.moval.org
14177 Frederick St., Moreno Valley, CA, 92553



To: Sean Refahiat <sean@blakeandayaz.com>; Mike Ayaz <mike@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>; Grace Espino-Salcedo <gracee@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Good Afternoon, Mr. Refahiat:

Thank you for your email. The referenced project was approved at last week's Planning Commission hearing on Thursday, July 10th. The action by the Planning Commission is an appealable action and may be filed within 10 days of the action, in writing to the Community Development Director along with the appeal filing fee (\$750). If appealed, the item will be agendized for a public hearing before the City Council.

I will look into the remaining items and get back to you tomorrow.

Kindly,

Grace Espino-Salcedo

Grace Espino-Salcedo
Associate Planner
Community Development
City of Moreno Valley

p: 951.413.3451 | e: gracee@moval.org | w: www.moval.org
14177 Frederick St., Moreno Valley, CA, 92553

From: Sean Refahiat <sean@blakeandayaz.com>

Sent: Tuesday, July 15, 2025 2:30 PM

To: Grace Espino-Salcedo <gracee@moval.org>; Mike Ayaz <mike@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

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Dear Ms. Espino-Salcedo,

I hope this message finds you well. I am writing to follow up on my email dated January 23, 2025, regarding the proposed Dutch Bros. project at 25010 Alessandro Blvd., adjacent to our client's property, the Sinclair Gas Station (formerly 76 Gas Station).

We would appreciate any updates the City may have regarding this project, including the current status of the application or any developments since our last communication.

Additionally, I would like to reiterate the key points we raised previously for your reference:

1. No consent from the property owner:

Our client has not agreed to or consented to the proposed plans or the project generally. We respectfully request that the City not accept or rely upon any documents purporting to represent owner consent unless they are on the proper City forms and bear the appropriate signature of the property owner and are submitted directly by this office.

2. Request for notices:

Please provide our office with a copy of any legal notices related to this project. If any formal action is required on our client's part to effectuate this request, kindly advise us.

3. Owner-signed documents:

We request that any documents requiring our client's signature be provided directly to this office so we can coordinate appropriately with the developer and submit any executed documents on behalf of the property owner.

We remain committed to engaging constructively with the City and the developer to ensure transparency and proper representation of our client's interests.

Thank you again for your attention to this matter. Please let us know if you have any updates or if additional information is needed from our office.

Very Truly Yours,

Sean Refahiat, Esq.

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From: Grace Espino-Salcedo <gracee@moval.org>

Sent: Friday, January 24, 2025 4:44 PM

To: Mike Ayaz <mike@blakeandayaz.com>; Sean Refahiat <sean@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>; Grace Espino-Salcedo <gracee@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Good Afternoon, Mr. Ayaz:

Thank you for your email. Attached is the City's Property Owner Authorization and Indemnification Form as requested below (also provided to Sean Refahiat in a previous email). Legal notices are not available at this time as the project is still under review.

Please provide written communication from the legal property owner of the neighboring fueling station informing the City of your office's representation.

Kindly,

Grace Espino-Salcedo

Grace Espino-Salcedo
Associate Planner
Community Development
City of Moreno Valley

p: 951.413.3451 | e: gracee@moval.org w: www.moval.org
14177 Frederick St., Moreno Valley, CA, 92553



From: Mike Ayaz mike@blakeandayaz.com

Sent: Thursday, January 23, 2025 5:11 PM

To: Grace Espino-Salcedo <gracee@moval.org>; Sean Refahiat <sean@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Danielle Harper-Scott <danielleh@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

I am writing to provide additional comments and clarification following our recent conversation regarding the proposed Dutch Bros. project at 25010 Alessandro Blvd, adjacent to the impacted owner of the neighboring 76 Gas Station ("our Client")

First, we want to emphasize that our Client has not agreed to or consented any proposed plans or the project in general. Please be advised that any agreement offered to the City from the developer which is not notarized nor bares the appropriate property owner signature is invalid.

We are in communication with the Dutch Bros. developer to better understand the scope of the proposed project and its potential impacts. From our review so far, it appears that the plans may directly affect our client property. However, the details remain unclear, and we are seeking further clarification from the developer.

To ensure transparency and proper representation of the property owner's interests, we respectfully request the following:

1. **Notices:** Please provide our office with a copy of any legal notices related to this project. If the property owner has to file something specific to effectuate this request, please advise.
2. **Owner-Signed Documents:** We request that any documents requiring the signature of the adjacent property owner be provided directly to our office by the City. Our office will work with the developer to reach an agreement and will submit any signed documents directly to the City on behalf of the property owner. We ask that the City not accept documents purportedly signed by the property owner if they are submitted by anyone other than this office.

We appreciate your cooperation and attention to this matter. Please do not hesitate to reach out with any questions or to discuss the next steps. We look forward to working together to ensure clarity and mutual understanding.

Thank you for your time.

F. Michael Ayaz



2107 N. Broadway, Suite 106 | Santa Ana, California 92706

P: 714-667-7171 | F: 714-667-0477

E: mike@blakeandayaz.com | www.blakeandayaz.com

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From: Grace Espino-Salcedo <gracee@moval.org>

Sent: Wednesday, January 22, 2025 5:26 PM

To: Sean Refahiat <sean@blakeandayaz.com>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Mike Ayaz <mike@blakeandayaz.com>; Grace Espino-Salcedo <gracee@moval.org>; Danielle Harper-Scott <danielleh@moval.org>

Subject: RE: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Hello Sean:

As requested, the City's Property Owner Authorization and Indemnification Form is attached.

Kindly,

Grace Espino-Salcedo

Grace Espino-Salcedo

Associate Planner

Community Development

City of Moreno Valley

p: 951.413.3451 | e: gracee@moval.org w: www.moval.org

14177 Frederick St., Moreno Valley, CA, 92553



From: Sean Refahiat <sean@blakeandayaz.com>

Sent: Wednesday, January 22, 2025 4:55 PM

To: Grace Espino-Salcedo <gracee@moval.org>

Cc: Angelica Frausto-Lupo <angelicaf@moval.org>; Mike Ayaz <mike@blakeandayaz.com>

Subject: Neighboring Property Consent Form-Dutch Bros. 25010 Alessandro Blvd, Moreno Valley, 92553-

Some people who received this message don't often get email from sean@blakeandayaz.com. [Learn why this is important](#)

Hi Grace,

I am following up regarding our mutual conversation a few moments ago with Mike Ayaz concerning the proposed Dutch Bros Coffee Shop adjacent to our client's property, the gas station located at 25020 Alessandro Blvd.

Could you please provide us with a copy of the City Authorization Form we discussed, used to formalize consent/approval by adjacent or neighboring property owners.

Thank you.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation

2107 N. Broadway, Suite 106

Santa Ana, California 92706

P: 714-667-7171

F: 714-667-0477

E: sean@blakeandayaz.com

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EXHIBIT C

From: Chris Nikchevich <chris@tngres.com>
Sent: Tuesday, February 4, 2025 1:26 PM
To: Mike Ayaz
Cc: Sean Refahiat
Subject: Re: Comments to Agreement and Plans

Mike,

Please see the link below containing the entitlement submittals

[CA5209 Entitlements 2025-01-08](#)

Feel free to contact me if you have any questions.

Take care,

Chris Nikchevich
President
TNG Real Estate Services, Inc.
Direct: 818.703.1643 Ext. 203
Mobile: 818.983.7995
Email: chris@tngres.com
Web: www.tngres.com
CA Corp DRE 01520917
CA Broker DRE 01124825

On 01/23/2025 5:03 PM PST Mike Ayaz <mike@blakeandayaz.com> wrote:

Hi Chris,

I hope this message finds you well. I'm reaching out regarding the "Right of Entry Access Agreement" and related matters involving my client, Shiva Inc.

First, after careful consideration, our client, Shiva Inc., who is legal property owner has never agreed to anything, either verbally or in writing. In any event, any document signed by the individual, Mr. Patel, in his individual capacity, is hereby rescinded to include any prior agreements or documents that may have signed in connection with this matter. These were signed by the wrong legal party, without the benefit of legal counsel, and most critically, based on the representations, that we feel were, with all due respect, misleading. The agreement was represented not only to Mr. Patel but our office directly

(during our last call) to pertain solely to temporary **access** for construction activities related to the Dutch Bros Coffee Shop (“DB”) **on DB’s property**. However, it appears the requested actions involve permanent use of and construction on my client’s property, which was **never** their intent or understanding nor what was represented to our client when presented.

While my client remains open to discussing potential solutions, it will not and does not agree to any use of their property without comprehensive documentation, necessary protections, clear explanations, and consideration. Outlined below some of the several critical concerns that need to be addressed:

1. Encroachment and Property Rights

The landscape area described in your plans appears to extend into my client’s property, constituting an unauthorized encroachment. Additionally, the proposed trash enclosure and service operations seem to rely on access and construction on my client’s property, including a concrete apron and regular servicing. My client has not authorized any easement or agreement that would restrict their property’s use, parking or access to benefit your client’s development. Moreover, the document provided does not discuss, access from our clients property to DB’s trash enclosure as it appears on the plan provided.

2. Traffic, Access, and Flow

The proposed “selective striping updates” raise significant concerns regarding traffic flow, access, and overall impact on my client’s property. To properly evaluate these changes, my client requires a detailed explanation of the proposed striping updates, their intended purpose, and any anticipated traffic impacts.

3. City Approvals and Required Documentation

You mentioned that the City required a “Right of Entry Access Agreement” and that the city required a notarized signature on the same. In our discussion with High Level city staff However, a review of public records shows no building permits, entitlements, or other approvals related to this project on file with the City’s building and safety department. We understand that you are in the preliminary stages with the City, including having file for entitlements. We would request a full copy of what has been filed with the City for review.

4. Misrepresentation of Purpose

My client’s understanding was that the agreement was for temporary access to complete work on DB’s property, not for permanent alterations or impacts on their own. Unfortunately, the plans provided lack clarity, including clearly delineated property

boundaries and specific details about the proposed work. This has further complicated the situation.

5. Insufficient Information on the Site Plan

The site plan provided does not include my client's property or depict streets or specific details about the proposed work and its potential impacts. For reference, I've attached the site plan you provided, annotated with comments indicating areas that require further clarification.

Requested Documentation

To move forward productively, my client requests detailed documentation addressing the following:

- A clear delineation of property lines and setbacks.
- Detailed descriptions of the selective striping work and its potential impact.
- A full traffic report and analysis.
- Clear descriptions of the trash enclosure, concrete apron, and associated servicing impacts.
- Details of the proposed landscaping updates and their location.
- Confirmation of all required City approvals, including permits and entitlements.
- Detailed descriptions of any other work planned on or impacting my client's property.
- A title report and/or details of any easements respective to all contiguous connected property.
- The declaration of restrictions and Grant of Easements recorded June 30, 1984, as instrument number 142230.

If your client intends to traverse or utilize any portion of my client's property, this will require a formal easement or other agreement if no such agreement or easement exist. Such an agreement would need to include provisions for indemnification, insurance coverage, and appropriate compensation depending on the scope of the proposed access. If you feel you have documentation that addresses or refutes our concerns, please send them over for review.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation

2107 N. Broadway, Suite 106

Santa Ana, California 92706

P: 714-667-7171

F: 714-667-0477

E: sean@blakeandayaz.com

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From: Sean Refahiat
Sent: Thursday, January 23, 2025 12:27 PM
To: Chris Nikchevich
Cc: Mike Ayaz
Subject: Re: Moreno Valley Dutch Bros.-Minesh

Hi Chris,

I spoke with Mike, he's putting out some fires (not literally) but will have a response to you today.

Sincerely,

Sean Refahiat, ESQ.

On Jan 23, 2025, at 11:00 AM, Chris Nikchevich <chris@tngres.com> wrote:

Sean/Mike,

Will the document be sent today?

Take care,

Chris Nikchevich
President
TNG Real Estate Services, Inc.
Direct: 818.703.1643 Ext. 203
Mobile: 818.983.7995
Email: chris@tngres.com
Web: www.tngres.com
CA Corp DRE 01520917
CA Broker DRE 01124825

On 01/22/2025 9:58 AM PST Sean Refahiat <sean@blakeandayaz.com>
wrote:

Hi Chris,

Sorry for the delayed response. Mike has been tied up the last couple days. We are looking at it now and should have our response to you today or early tomorrow.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation

2107 N. Broadway, Suite 106

Santa Ana, California 92706

P: 714-667-7171

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From: Chris Nikchevich <chris@tngres.com>
Sent: Tuesday, January 21, 2025 10:18 AM
To: Sean Refahiat <sean@blakeandayaz.com>
Cc: Mike Ayaz <mike@blakeandayaz.com>
Subject: Re: Moreno Valley Dutch Bros.-Minesh

Sean/Mike,

Any update on the review of the document?

Take care,

Chris Nikchevich

President

TNG Real Estate Services, Inc.

Direct: 818.703.1643 Ext. 203

Mobile: 818.983.7995

Email: chris@tngres.com

Web: www.tngres.com

CA Corp DRE 01520917

CA Broker DRE 01124825

On 01/16/2025 12:00 PM PST Sean Refahiat
<sean@blakeandayaz.com> wrote:

Hi Chris,

I understand you spoke with attorney Mike Ayaz this morning
relating to Minesh Patel and the consent documents.

Please provide the plans and any/all other relevant documents
so that we may review and discuss further. Thank you.

Sincerely,

Sean Refahiat, ESQ.

From: Mike Ayaz
Sent: Thursday, January 23, 2025 5:04 PM
To: Chris Nikchevich
Cc: Sean Refahiat
Subject: Comments to Agreement and Plans
Attachments: Plan Provided by DB with FMA comments.pdf

Hi Chris,

I hope this message finds you well. I'm reaching out regarding the "Right of Entry Access Agreement" and related matters involving my client, Shiva Inc.

First, after careful consideration, our client, Shiva Inc., who is legal property owner has never agreed to anything, either verbally or in writing. In any event, any document signed by the individual, Mr. Patel, in his individual capacity, is hereby rescinded to include any prior agreements or documents that may have signed in connection with this matter. These were signed by the wrong legal party, without the benefit of legal counsel, and most critically, based on the representations, that we feel were, with all due respect, misleading. The agreement was represented not only to Mr. Patel but our office directly (during our last call) to pertain solely to temporary **access** for construction activities related to the Dutch Bros Coffee Shop ("DB") **on DB's property**. However, it appears the requested actions involve permanent use of and construction on my client's property, which was **never** their intent or understanding nor what was represented to our client when presented.

While my client remains open to discussing potential solutions, it will not and does not agree to any use of their property without comprehensive documentation, necessary protections, clear explanations, and consideration. Outlined below some of the several critical concerns that need to be addressed:

1. Encroachment and Property Rights

The landscape area described in your plans appears to extend into my client's property, constituting an unauthorized encroachment. Additionally, the proposed trash enclosure and service operations seem to rely on access and construction on my client's property, including a concrete apron and regular servicing. My client has not authorized any easement or agreement that would restrict their property's use, parking or access to benefit your client's development. Moreover, the document provided does not discuss, access from our clients property to DB's trash enclosure as it appears on the plan provided.

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3. City Approvals and Required Documentation

You mentioned that the City required a "Right of Entry Access Agreement" and that the city required a notarized signature on the same. In our discussion with High Level city staff However, a review of public records shows no building permits, entitlements, or other approvals related to this project on file with the City's building and safety department. We understand that you are in the preliminary stages with the City, including having file for entitlements. We would request a full copy of what has been filed with the City for review.

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The site plan provided does not include my client's property or depict streets or specific details about the proposed work and its potential impacts. For reference, I've attached the site plan you provided, annotated with comments indicating areas that require further clarification.

Requested Documentation

To move forward productively, my client requests detailed documentation addressing the following:

- A clear delineation of property lines and setbacks.
- Detailed descriptions of the selective striping work and its potential impact.
- A full traffic report and analysis.
- Clear descriptions of the trash enclosure, concrete apron, and associated servicing impacts.
- Details of the proposed landscaping updates and their location.
- Confirmation of all required City approvals, including permits and entitlements.
- Detailed descriptions of any other work planned on or impacting my client's property.
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If your client intends to traverse or utilize any portion of my client's property, this will require a formal easement or other agreement if no such agreement or easement exist. Such an agreement would need to include provisions for indemnification, insurance coverage, and appropriate compensation depending on the scope of the proposed access. If you feel you have documentation that addresses or refutes our concerns, please send them over for review.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation
2107 N. Broadway, Suite 106
Santa Ana, California 92706
P: 714-667-7171
F: 714-667-0477
E: sean@blakeandayaz.com

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From: Sean Refahiat
Sent: Wednesday, January 22, 2025 9:58 AM
To: Chris Nikchevich
Cc: Mike Ayaz
Subject: RE: Moreno Valley Dutch Bros.-Minesh

Hi Chris,

Sorry for the delayed response. Mike has been tied up the last couple days. We are looking at it now and should have our response to you today or early tomorrow.

Very Truly Yours,

Sean Refahiat, Esq.

Blake & Ayaz, A Law Corporation
2107 N. Broadway, Suite 106
Santa Ana, California 92706
P: 714-667-7171
F: 714-667-0477
E: sean@blakeandayaz.com

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From: Chris Nikchevich <chris@tngres.com>
Sent: Tuesday, January 21, 2025 10:18 AM
To: Sean Refahiat <sean@blakeandayaz.com>
Cc: Mike Ayaz <mike@blakeandayaz.com>
Subject: Re: Moreno Valley Dutch Bros.-Minesh

Sean/Mike,

Any update on the review of the document?

Take care,

Chris Nikchevich
President
TNG Real Estate Services, Inc.
Direct: 818.703.1643 Ext. 203
Mobile: 818.983.7995
Email: chris@tngres.com

Web: www.tngres.com

CA Corp DRE 01520917

CA Broker DRE 01124825

On 01/16/2025 12:00 PM PST Sean Refahiat <sean@blakeandayaz.com> wrote:

Hi Chris,

I understand you spoke with attorney Mike Ayaz this morning relating to Minesh Patel and the consent documents.

Please provide the plans and any/all other relevant documents so that we may review and discuss further. Thank you.

Sincerely,

Sean Refahiat, ESQ.

From: Chris Nikchevich <chris@tngres.com>
Sent: Thursday, January 16, 2025 1:29 PM
To: Sean Refahiat
Cc: Mike Ayaz
Subject: Re: Moreno Valley Dutch Bros.-Minesh
Attachments: Patel Parcel 7 25020 Alesandro Blvd.pdf

Sean,

Here you go! The exhibit is what was missing.

No construction or any change to your client's property. Additionally, the new construction does not change access to their parcel.

Feel free to contact me if you have any questions.

Take care,

Chris Nikchevich
President
TNG Real Estate Services, Inc.
Direct: 818.703.1643 Ext. 203
Mobile: 818.983.7995
Email: chris@tngres.com
Web: www.tngres.com
CA Corp DRE 01520917
CA Broker DRE 01124825

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Hi Chris,

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Sincerely,

Sean Refahiat, ESQ.