

PLANNING COMMISSION RESOLUTION NO. 2892

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PALM DESERT, CALIFORNIA, ADOPTING A NOTICE OF EXEMPTION PURSUANT TO THE STATE OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND APPROVING A CONDITIONAL USE PERMIT (CUP) FOR THREE OUTDOOR DINING PATIO STRUCTURES SERVING MULTIPLE RESTAURANTS AT TWO EXISTING MULTITENANT COMMERCIAL BUILDINGS LOCATED AT 36901 COOK STREET AND 36891 COOK STREET
CASE NO. CUP25-0003

WHEREAS, Prest Vuksic Greenwood Architects ("Applicant"), submitted a CUP application to construct three outdoor patio structures for dining purposes at existing restaurants located within two multi-tenant commercial buildings at 36901 Cook Street and 36891 Cook Street (APN 694-190-049 and APN 694-190-050) within the University Village commercial center ("Project"); and

WHEREAS, the Project site is currently within the Regional Commercial Center (PC-3) zoning district, and is designated Neighborhood Center by the Palm Desert General Plan; and

WHEREAS, the proposed Project conforms to the General Plan land use designation of Neighborhood Center and development standards listed in the City's Zoning Ordinance for the PC-3 zoning district; and

WHEREAS, under Section 21067 of the Public Resources Code, Section 15367 of the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), and the City of Palm Desert's ("City's") Local CEQA Guidelines, the City is the lead agency for the Project; and

WHEREAS, the Project has complied with the requirements of the "2024 Local Guidelines for Implementing the California Environmental Quality Act for the City Palm Desert" Resolution No. 2024-035, in that the Director of Development Services has determined that the Project will not have a foreseeable significant impact on the environment and that the Project is eligible for an exemption pursuant to Article 19, Section 15301 Existing Facilities (Class 1) and Section 15303 New Construction or Conversion; therefore, no further environmental review is necessary at this time; and

WHEREAS, the Architectural Review Commission of the City of Palm Desert, California, did on the 13th day of May 2025, provide Design Review approval of said project, subject to conditions of approval which have been included in this Resolution; and

WHEREAS, the Planning Commission of the City of Palm Desert, California, did on the 3rd day of June 2025, hold a duly noticed public hearing to consider the request by the Applicant for approval of the above-noted Project request and the project was continued until the 17th day of June 2025; and

WHEREAS, the Planning Commission of the City of Palm Desert, California, did on the 17th day of June 2025, hold a duly noticed public hearing to consider the request by the Applicant for approval of the above-noted Project request and the project was continued until the 8th day of July 2025; and

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WHEREAS, the Planning Commission of the City of Palm Desert, California, did on the 8th day of July 2025, hold a duly noticed public hearing to consider the request by the Applicant for approval of the above-noted Project request; and

WHEREAS, at the said public hearing, upon hearing and considering all testimony and arguments, if any, of all interested persons desiring to be heard, the Planning Commission did find the following facts and reasons, which are outlined in the staff report, exist to justify approval of said request:

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Palm Desert, California, as follows:

SECTION 1. Recitals. The Planning Commission hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. Findings on Conditional Use Permit. Under PDMC Section 25.72.050(F), the findings for the CUP are the following:

1. The proposed location of the conditional use is in accord with the objectives of this title and the purpose of the district in which the site is located.

Project Compliance: Yes. Restaurants are permitted subject to a Conditional Use Permit (CUP) in many zoning districts within the City, and expansion of existing outdoor seating beyond a 12-seat capacity requires approval of a CUP. The proposed location is in the Regional Commercial Center (PC-3) zone and previously had a Freeway Commercial Overlay Zone (FCOZ). Professional offices and mixed-commercial, including restaurants, are the predominant uses in the existing area, and the Project is a continued operation of existing restaurants. The proposed location is based on the objectives of the Zoning Ordinance and the purpose of the district in which the site is located. The services conducted at the proposed site are compatible with the adjacent business hours and would have minimal impacts on parking.

2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.

Project Compliance: Yes. The outdoor dining for restaurant use complies with all applicable requirements of the Zoning Ordinance and all applicable building codes and will not be detrimental to general public health, safety, and welfare or materially injurious to the properties in the vicinity. Water, sanitation, public utilities, and services are constructed and readily available for the building.

3. The proposed conditional use will comply with each of the applicable provisions of this title, except for approved variances or adjustments.

Project Compliance: Yes. The Project site is developed, and the proposed use is consistent with the intent of the underlying zoning and General Plan designations.

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The facility would not interfere with business operations or generate parking deficiencies. Conditions have been placed on the Project to ensure that all the minimum requirements comply with the Palm Desert Municipal Code.

4. The proposed conditional use complies with the goals, objectives, and policies of the City's General Plan

Project Compliance: Yes. The proposed restaurant use is an outdoor dining expansion of existing restaurants and complies with the City's General Plan in providing for a mixture of pedestrian-oriented commercial uses. The General Plan designation for the project location is "Neighborhood Center," which asks for both a wide variety of commercial uses as a transitional district and walkable amenities for neighboring residents. The Project complies with General Plan Policy 3.14 – Access to daily activity, by providing restaurant uses; Policy 3.22 – University Neighborhood, by facilitating the development of a University oriented neighborhood west of Cook Street, north of Frank Sinatra Street, and east of Portola Avenue; and Policy 2.3 – Noise from entertainment uses, by placing conditions to ensure the restaurant is operated in a manageable manner. Specifically, the following General Plan Goals and policies are being met:

SECTION 3. CEQA. The application has complied with the requirements of the "2024 Local Guidelines for Implementing the California Environmental Quality Act for the City Palm Desert" Resolution No. 2024-035, in that the Planning Commission finds that the Project is exempt from CEQA pursuant to Section 15301 Existing Facilities ("Class 1") and Section 15303 New Construction or Conversion of Small Structures of the State CEQA guidelines ("Class 3").

Class 1 Categorical Exemptions apply to projects that consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Examples of these types of projects include interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The project qualifies for the Class 1 Categorical Exemption as it proposes external modifications to two (2) existing structures with an approximate gross floor area of 17,546 square feet each. These modifications include structural additions to serve primarily as an accessory use for outdoor dining of the existing restaurants.

Class 3 Categorical Exemptions apply to the installation of small new equipment or 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. An example of the exemption includes, in urbanized areas, "accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences" 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 where the surrounding area is not environmentally sensitive." The project qualifies for a Class 3 Categorical Exemption as it proposes 3,394 square feet of accessory patio structures for existing restaurants.

Additionally, the Project is not subject to any of the exceptions for categorical exemptions identified in CEQA Guidelines Section 15300.2:

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- 1) The Project qualifies as a Class 1 exemption, which is not listed as one of the classes under 15300.2 (A). The Project site is an existing building located within an existing urban area that has been developed for several years. This site has not been identified as an area of critical concern officially adopted pursuant to federal, state or local agencies. There is no potential that the project may impact a designated environmental resource of hazard or critical concern.
- 2) There is no substantial evidence on the record that the Project would create a cumulative impact. There are no known projects proposing similar uses in the immediate Project vicinity. Therefore, it is not anticipated that any successive projects of the same type in the immediate vicinity would create cumulative impacts.
- 3) No unusual circumstances exist for the proposed Project, Project site or immediate vicinity. The project is not proposing a new use for the existing commercial buildings. Further, it will incorporate tested design features to increase safety of the current outdoor dining situation and will minimize noise, weather impacts, and other potential concerns. Therefore, no fair argument or substantial evidence exists to suggest the Project would create a significant impact, nor can it be reasonably perceived that the Project would create a significant impact.
- 4) The project is not proposed near any designated scenic highways. Therefore, the project will not create a significant impact on existing scenic highways.
- 5) According to the Department of Toxic Substance Control's database of hazardous waste site, EnviroStor, neither the project site nor any properties in the vicinity have been identified as a hazardous waste site. Therefore, the project site does not create a significant impact due to the location of hazardous waste sites.
- 6) The project site has not been identified as a historic resource by local or state agencies, nor has the project site not been determined to be eligible for listing in the National Register of Historic Places or California Register of Historical Resources. Therefore, the Project would not adversely affect historic resources on the Project Site or in the vicinity.

SECTION 4. Project Approval. The Planning Commission hereby recommends approval of CUP25-0003.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City's office at 73510 Fred Waring Drive, Palm Desert, CA 92260. Rosie Lua, the Secretary to the Palm Desert Planning Commission, is the custodian of the record of proceedings.

SECTION 6. Execution of Resolution. The Chairperson of the Planning Commission signs this Resolution, and the Secretary to the Commission shall attest and certify to the passage and adoption thereof.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Palm Desert, California, as follows:

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1. That the above recitations are true and correct and constitute the findings for approval of the Planning Commission in this case.
2. That the Planning Commission does hereby approve Case No. CUP25-0003, pursuant to the conditions of approval in Exhibit A and the statement of use in Exhibit B.

ADOPTED ON July 8, 2025.

LINDSAY HOLT
CHAIRPERSON

ATTEST:

ROSIE LUA
SECRETARY

I, Rosie Lua, Secretary of the City of Palm Desert Planning Commission, hereby certify that Resolution No. 2892 is a full, true, and correct copy, and was duly adopted at a regular meeting of the Planning Commission of the City of Palm Desert on July 8, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Palm Desert, California, on July ____, 2025.

ROSIE LUA
SECRETARY

EXHIBIT A

**CONDITIONS OF APPROVAL
CASE NO. CUP25-0003**

PLANNING DIVISION:

1. The development of the property shall conform substantially with the approved plans and exhibits on file with the Development Services Department, except as modified by the following conditions. Any variation from the approved plans must be reviewed and approved by the Planning Division prior to building permit issuance and may require review and approval by the ARC, Planning Commission, and/or City Council.
2. The Applicant agrees that in the event of any administrative, legal, or equitable action instituted by a third party challenging the validity of any of the procedures leading to the adoption of these Project Approvals for the Project, or the Project Approvals themselves, the Developer and City each shall have the right, in their sole discretion, to elect whether or not to defend such action. The Developer, at its sole expense, shall defend, indemnify, and hold harmless the City (including its agents, officers, and employees) from any such action, claim, or proceeding with counsel chosen by the City, subject to the Developer's approval of counsel, which shall not be unreasonably denied, and at the Developer's sole expense. If the City is aware of such an action or proceeding, it shall promptly notify the Developer and cooperate in the defense. The Developer, upon such notification, shall deposit with City sufficient funds in the judgment of the City Finance Director to cover the expense of defending such action without any offset or claim against said deposit to assure that the City expends no City funds. If both Parties elect to defend, the Parties hereby agree to affirmatively cooperate in defending said action and to execute a joint defense and confidentiality agreement in order to share and protect the information under the joint defense privilege recognized under applicable law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense in order to make the most efficient use of legal counsel and to share and protect information. Developer and City shall each have sole discretion to terminate its defense at any time. The City shall not settle any third-party litigation of Project approvals without the Developer's consent, which consent shall not be unreasonably withheld, conditioned, or delayed unless the Developer materially breaches this indemnification requirement.
3. The development of the property described herein shall be subject to the restrictions and limitations set forth herein, which are in addition to the approved development standards listed in the Palm Desert Municipal Code (PDMC), and state and federal statutes now in force, or which hereafter may be in force.
4. The CUP shall expire if construction of the said Project shall not commence within 24 months from the date of final approval unless an extension of time is granted by the Palm Desert Planning Commission; otherwise, said approval shall become null, void, and of no effect whatsoever.
5. All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Development Services Department.

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6. The approved CUP shall only be modified with written City approval per PDMC Chapter 25.72.050. Any proposed changes to this CUP will require an amendment to the application, which may require review and approval by the ARC, Planning Commission, and/or City Council.
7. This approval authorizes the operation of three (3) individual patio shade structures, totaling 3,394 square feet of gross area, with a net usable area of 2,833 square feet, to be constructed adjacent to two (2) multi-tenant commercial buildings at 36901 Cook Street and 36891 Cook Street. Plans on file reflect revisions to the parking area, landscaping, and architectural designs associated with the proposed structures. The patios are designated with the following net usable areas:
 - North Patio: 1,079 square feet
 - Central Patio: 1,079 square feet
 - South Patio: 622 square feet
8. The use shall operate as an extension of the adjoining restaurant spaces, in accordance with the approved Statement of Use on file with the Development Services Department (attached as Exhibit B). Any modifications to the restaurant spaces—including changes in use, square footage adjustments, operational modifications, or alterations to hours of operation—shall require review and approval by the Zoning Administrator, with potential modifications to the approved conditions and seating plan.
9. Use of the facility outside of approved operating hours is prohibited, except for routine maintenance, cleaning, and deliveries. Any other after-hours activity will require additional review and approval.
10. The Applicant shall execute a written acknowledgment to the Planning Division stating acceptance of and compliance with all the Conditions of Approval of Resolution No. 2892 for CUP25-0003 and that the plans submitted are in compliance with the Conditions of Approval. No modifications shall be made to said plans without written approval from the appropriate decision-making body.
11. Prior to the issuance of a building permit for the construction of any use or structure contemplated by this approval, the Applicant shall first obtain permits and or clearance from the following agencies:

Coachella Valley Water District (CVWD)
Public Works Department
Fire Department
Building and Safety Division
California Department of Alcoholic Beverage Control
Riverside County Department of Health

Evidence of said permit or clearance from the above agencies shall be presented to the Building and Safety Division at the time of issuance of a building permit for the use contemplated herewith.

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12. A copy of the herein-listed Conditions of Approval shall be included in the construction documentation package for the Project, which shall be continuously maintained on-site during Project construction.
13. Failure to comply with any of these conditions will result in the revocation of this permit subject to PDMC 25.60.120.
14. The Applicant shall comply with PDMC Chapter 9.24 for Noise Control Requirements. No loud or disruptive music, sound, or noise shall be audible from the exterior of the premises.
15. The Applicant shall remove litter from the premises, and adjacent public sidewalks and parking lots daily, and shall keep the areas swept weekly to prevent debris buildup. Trash cans shall be added, and "No Littering" signs shall be posted on the premises.
16. The Applicant shall not permit any loitering on the premises or on property adjacent to the premises.
17. The requirements of PDMC Chapter 8.36 regarding smoking shall be complied with at all times.
18. The design of the proposed retaining wall is subject to review by the City's Development Services Department and may require a stucco finish.
19. All permanent and temporary exterior signage shall comply with PDMC 25.56.
20. The Applicant shall provide payment for filing fees for the Notice of Exemption within five (5) days of project approval.

ARCHITECTURAL REVIEW COMMISSION

21. The Applicant shall comply with all conditions of approval provided by the City's Architectural Review Commission on May 13, 2025, as follows:
 - A. The Applicant shall provide an updated University Village sign program to clarify the new building frontage sign locations and blade signs, consistent with DR25-0003 drawings. The updated sign program is to be approved by Staff.
 - B. Piping and conduit, which services the patio structures, shall be concealed.

RIVERSIDE COUNTY FIRE DEPARTMENT

22. With respect to the planning conditions for the referenced project [CUP25-0003], the fire department requires the following fire protection measures be provided in accordance with Riverside County Ordinances, the current edition of California Fire Code (CFC) as adopted and amended by the County of Riverside and/or recognized fire protection standards.

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23. Fire Protection Water Supplies/Fire Flow – Minimum fire flow for the construction of all buildings is required per CFC Appendix B. Prior to building permit issuance for new construction, the applicant shall provide documentation to show there exists a water system capable of delivering the required fire flow. Specific design features may increase or decrease the required fire flow.
 - A. Will Serve Letters from the responsible water purveyor are required prior to a map recordation.
24. Fire Protection Water Supplies/Hydrants – The minimum number of fire hydrants required, as well as the location and spacing of fire hydrants, shall comply with CFC Appendix C and NFPA 24. Fire hydrants shall be located no more than 400 feet from all portions of the exterior of the building along an approved route on a fire apparatus access road, unless otherwise approved by the fire department. In areas where new water mains are extended along streets and hydrants are not needed for protection of structures, standard fire hydrants shall be provided at spacing not to exceed 1,000 feet along streets for transportation hazards. Fire hydrants shall be at least 40 feet from the building it is serving. A fire hydrant shall be located within 20 to 100 feet of the fire department connection for buildings protected with a fire sprinkler system. The size and number of outlets required for the approved fire hydrants are 4" x 2 ½" x 2 ½" (super hydrant). Reference CFC as amended and NFPA 24.
25. Fire Department Access – Fire apparatus access roads shall be provided within 150 feet of all exterior portions of buildings, unless otherwise approved by the fire department. Fire apparatus access roads shall have an unobstructed width of no less than 24 feet. Dead-end fire apparatus access roads exceeding 150 feet in length shall provide an approved turn around. The minimum required turning radius of a fire apparatus access road is 38 feet outside radius and 14 feet inside radius. (For developments with the SRA and within the LRA VHFHSZ, the minimum required turning radius of a fire apparatus access road is 74 feet outside radius and 50 feet inside radius. See California Code of Regulations Title 14 Section 1273.04.) The construction of the fire apparatus access roads shall be all weather and capable of sustaining 75,000 lbs. Unless otherwise approved, the grade of a fire apparatus access road shall not exceed 16 percent, and the cross slope shall not exceed 2.5 percent. The angles of approach and departure for fire apparatus access roads shall be a maximum of 6 percent grade change for 25 feet of approach/departure. Reference CFC as amended and Riverside County Fire Department Policies and Standards.
26. Fire Department Building Construction Plan Review – Submittal of construction plans to the Fire Department will be required. Final fire and life safety conditions will be addressed when the Fire Department reviews the plans. These conditions will be based on California Fire Code, California Building Code (CBC), and related codes/standards adopted at the time of construction plan submittal. Reference CFC as amended.

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27. These conditions are preliminary, and further review will occur upon receipt of construction plans. Additional requirements may be required based upon the adopted codes at the time of submittal.

END OF CONDITIONS OF APPROVAL

DRAFT

**EXHIBIT B
Statement of Use**

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DRAFT



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ARCHITECTS • INTERIORS

Statement of Use – CUP25-0003

The proposed shade patio structures will be used by the adjacent businesses as an assembly area servicing their existing businesses. The existing businesses include Chef KK, Bowl of Heaven, D'Coffee Bouteaque, Billy Q's, Island Boba, A Cut Above, and Pueblo Viejo. The existing businesses website are as follows: chefkatherinekingcatering.com, desertacai.com, d-coffee-bouteaque.wa-café.com, billyqs.net, islandbobasushipoke.com, jimlassakacutabove.com, & puebloviejogrill.com.

The hours of operation will coincide with the existing hours of operation with the existing businesses, 11am-10pm. The existing parking area will be utilized to serve the new shade patio structures, as these businesses are currently using this area for assembly/dining purposes. The parking area is used mostly by the professional business to the West/South during the hours of 8am-5pm, after 5pm is when the parking area is used mostly by the restaurant/businesses that will use these new patio shade structures. The number of employees varies from business to business. Each business will have anywhere from 2 to 12 employees working during business hours.

Signature:

Ryan McComb PVG Architects

Date:

3/24/2025