

CITY OF VICTORVILLE DEVELOPMENT DEPARTMENT  
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**MITIGATED NEGATIVE DECLARATION**

Preparation Date: August 30, 2024

**Name or Title of Project:** RC1051 Victorville Project

**Location:** Northwest corner of the intersection of Roy Rogers Drive and Civic Drive, and generally west of Interstate 15 (I-15). The Project site comprises three parcels with Assessor's Parcel Number (APN) 3106-201-24, 3106-201-25, and 3106-201-27.

**Entity or Person Undertaking Project:** Raising Cane's Chicken Fingers (Applicant), City of Victorville (Agency)

**Description of Project:** The Project proposes to develop the existing vacant lot into a Raising Cane's Restaurant. The proposed development will include a 2,899 square foot (sq. ft) restaurant with an outdoor patio, drive-thru, and parking. The associated improvements include, but are not limited to on-site grading, domestic water service, sanitary sewer service, storm drain infrastructure, concrete and asphalt pavement, landscaping, and irrigation. The proposed commercial building would have maximum structural height of approximately 26 feet.

**Statement of Findings:** The City of Victorville Planning Commission has reviewed the Initial Study for this proposed project and has found that there are no adverse environmental impacts to either the man-made or physical environmental setting if the following mitigation measures are implemented in conformance with the Mitigation Monitoring Policy and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Victorville Planning Division.

**Mitigation Measures:**

**Biological Resource Measures:**

1. **MM BIO-1:** A qualified biologist obtained by the City of Victorville Planning Department shall develop a Worker Environmental Awareness Program (WEAP) that will include information on general and special status species within the Project site, identification of these species and their habitats, techniques being implemented during construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species and reporting procedures when encountering listed or sensitive species. The WEAP will be submitted to the City of Victorville Planning Department for approval before implementation. Construction crews, foremen, and other personnel potentially working on-site will attend this education program and place their name on a sign-in sheet. This briefing shall include provisions of any requirements required for the project. The Worker Environmental Awareness Program training will be implemented on the first day of work and periodically throughout construction as needed. The WEAP sign-in sheet will then be submitted to the City of Victorville Planning Department for documentation.

2. **MM BIO-2:** A biologist experienced with identification of the sensitive and common biological resources in the region shall be present to monitor all initial ground disturbing and vegetation clearing activities regardless of the time of year such activities are scheduled to begin (biological monitor). The biological monitor shall perform biological clearance sweeps at the start of each workday that ground disturbing activities take place. The biological monitor shall be present on a full-time basis during the initial ground-disturbing and vegetation-clearing activities to ensure the activities do not affect sensitive biological resources and to move or redirect wildlife out of harm's way as necessary. The monitor will be responsible for communicating regularly with the Project Proponent and onsite contractor on non-compliance issues and ways to ensure that impacts to sensitive biological resources will be avoided to the fullest extent possible in accordance with the appropriate Project agreements and permits, as applicable. Biological monitoring shall take place until the Proposed Project impact area has been completely cleared of any vegetation. The biological monitor shall keep a record of monitoring activities in a log that contains representative photographs of the work activities monitored and any sensitive biological resources incidentally encountered during Project activities and provide them to the City upon request.
3. **MM BIO-3:** Pre-construction take avoidance surveys for burrowing owl shall be completed for the Project prior to the start of initial ground-disturbing activities. The surveys shall be performed on the property and within a 500-foot buffer, where accessible, in accordance with the take avoidance survey methods identified in the CDFG Staff Report (CDFG 2012) on Burrowing Owl Mitigation. The first survey shall be conducted within 14 days prior to the start of initial ground-disturbing activities and a second survey shall be conducted no more than 24 hours prior to the start of initial ground-disturbing activities (including vegetation removal). If survey results are negative, Project activities may occur and no additional protection measures are required. If burrowing owl or occupied burrowing owl burrow(s) (e.g., whitewash, feathers, pellets, bones of prey items) is/are observed on or immediately adjacent to the Proposed Project impact area, additional mitigation measures will need to be implemented to offset impacts to burrowing owl. These measures shall be developed in accordance with the Staff Report on Burrowing Owl Mitigation (CDFG 2012) and may include additional biological monitoring, seasonal work restrictions, establishing a non-disturbance buffer around each burrow location, or passive relocation. Coordination with CDFW may need to occur to perform passive relocation of burrowing owls and/or to devise a specific mitigation methodology for the Project Site if one is found to be necessary.
4. **MM BIO-4:** The Western Joshua Tree Conservation Act effective July 10, 2023, prohibits the importation, export, take, possession, purchase, or sale of any western Joshua tree in California unless authorized by the CDFW.

A western Joshua tree census will be conducted throughout the Project site to determine the number of trees present, their locations, size, health status, and impacts as directed by CDFW (Census Instructions (ca.gov)). The census will include but not be limited to quantifying the trees within the proposed project's impact footprint, measurements, flower/fruit status, and photographs. A census report including CDFW WJTC incidental take permit application form

(Section 1927.3 CDFW 405); description of the methodology used to conduct the census; data sheets; and maps showing the location of trees in the Project area will be prepared and submitted to the City of Victorville for initial review then to CDFW for final review and approval. Following CDFW review and approval of the permit application, the CDFW will provide the applicant an invoice for the required mitigation in-lieu fee.

In-lieu fees streamline the approach to permitting and will allow permittees to satisfy mitigation obligations by paying a set amount for the take of each individual western Joshua tree, based on the tree's height and location. Under the WJTCA, all in-lieu fees collected will be deposited into the Western Joshua Tree Conservation Fund for appropriation to CDFW solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree.

5. **MM BIO-5:** Bird nesting season generally extends from February 1 through September 15 in southern California and specifically, April 15 through August 31 for migratory passerine birds. In general, projects should be constructed outside of this time to avoid impacts to nesting birds. If a project cannot be constructed outside of nesting season, the project site shall be surveyed for nesting birds by a qualified avian biologist obtained by the City of Victorville Planning Department within three (3) days prior to initiating the construction activities. If active nests are found during the pre-construction nesting bird surveys, a Nesting Bird Plan (NBP) will be prepared by the qualified avian biologist and implemented. At a minimum, the NBP will include guidelines for addressing active nests, establishing buffers, monitoring, and reporting. The NBP will include a copy of maps showing the location of all nests and an appropriate buffer zone around each nest sufficient to protect the nest from direct and indirect impact. The size and location of all buffer zones, if required, shall be determined by the biologist, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. The nests and buffer zones shall be field checked weekly by a qualified biological monitor. The approved buffer zone shall be marked in the field with construction fencing, within which no vegetation clearing or ground disturbance shall commence until the qualified biologist has determined the young birds have successfully fledged. Following the nesting bird survey(s), a report with findings will be prepared by the qualified avian biologist and submitted to the City of Victorville Planning Department for documentation.

**Cultural Resource Measures:**

6. **MM CUL-1:** In the event that cultural resources are discovered during Project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior Standards shall be hired to assess the find. Work on the outer portions of the Project outside of the buffered area may continue during this assessment period. Additionally, the Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in MM TCR-1, regarding any pre-contact finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
7. **MM CUL-2:** If significance pre-contact cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a

Monitoring and Treatment Plan, the drafts of which shall be provided to YSMN for review and comment, as detailed in MM TCR-1. The archaeologist shall monitor the remainder of the Project and implement the Plan accordingly.

8. **MM CUL-3:** If human remains or funerary objects are encountered during any activities associated with the Project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code Section 7050.5 and that code enforced for the duration of the Project.
9. **MM CUL-4:** WEAP Training. An archaeologist meeting the Secretary of Interior’s (SOI) minimum professional qualifications in archaeology (Project Archaeologist) will conduct a Worker Environmental Awareness Program (WEAP) training for all on-site personnel related to cultural resources for the Project. The training will provide an overview of how to identify cultural resources within the Project site and the process to follow in the case of inadvertent discovery. All personnel that access the site must undergo this training to include any personnel that engage with the Project after the initial WEAP training is provided.

**Geology and Soil Measures:**

10. **MM GEO-1:** In the event an unanticipated fossil or other paleontological resource discovery is made during Project development, in accordance with Society of Vertebrate Paleontology (SVP) 2010 guidelines, a qualified professional Paleontologist should be retained in order to examine the find and to determine if further paleontological resources mitigation is warranted. The Paleontologist monitoring mass grading for the Project shall be empowered to temporarily halt or redirect construction activities to ensure avoidance of adverse impacts to paleontological resources. During monitoring, samples shall be collected and processed to recover microvertebrate fossils. Processing shall include wet screen washing and microscopic examination of the residual materials to identify small vertebrate remains. Upon encountering a large deposit of bone, salvage of all bone in the area shall be conducted in accordance with modern paleontological techniques.

**Greenhouse Gas Emission Measures:**

11. **MM GHG-1: CAP Compliance.** Prior to issuance of the building permits, and as a condition of approval, the Project shall demonstrate that at least 100 points have been achieved through improvements listed in the City of Victorville Climate Action Plan (CAP) Commercial Screening Tables.

**Tribal Cultural Resource Measures:**

12. **MM TCR-1:** The Yuhaaviatam of San Manuel Nation Cultural Resources Department shall be contacted, as detailed in MM CUL-1, of any pre-contact cultural resources discovered during Project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a Cultural Resources Monitoring Treatment Plan shall be created by the archaeologist, in coordination with YSMN, and all subsequent finds

shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the Project, should the YSMN elect to place a monitor on-site.

13. **MM TCR-2:** Any and all archaeological/cultural documents created as a part of the Project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the Project.