

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: November 14, 2013

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Jim Heywood, Commissioner

Tom Murphy, Commissioner

Tom Steeno, Commissioner

* - * - * - * - * - * - * - *

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney



CITY OF HESPERIA
9700 Seventh Avenue
Council Chambers
Hesperia, CA 92345
City Offices: (760) 947-1000

The Planning Commission, in its deliberation, may recommend actions other than those described in this agenda.

Any person affected by, or concerned regarding these proposals may submit written comments to the Planning Division before the Planning Commission hearing, or appear and be heard in support of, or in opposition to, these proposals at the time of the hearing. Any person interested in the proposal may contact the Planning Division at 9700 Seventh Avenue (City Hall), Hesperia, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday, and 7:30 a.m. to 4:30 p.m. on Fridays) or call (760) 947-1200. The pertinent documents will be available for public inspection at the above address.

If you challenge these proposals, the related Negative Declaration and/or Resolution in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the public hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact Dave Reno, Principal Planner (760) 947-1200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.10235.104 ADA Title 11]

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding any item on the Agenda will be made available in the Planning Division, located at 9700 Seventh Avenue during normal business hours or on the City's website.

NOVEMBER 14, 2013

**AGENDA
HESPERIA PLANNING COMMISSION**

Prior to action of the Planning Commission, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar. PLEASE SUBMIT A COMMENT CARD TO THE COMMISSION SECRETARY WITH THE AGENDA ITEM NUMBER NOTED.

CALL TO ORDER

6:30 p.m.

- A. Pledge of Allegiance to the Flag
- B. Invocation
- C. Roll Call:

Chair Chris Elvert
Vice Chair William Muller
Commissioner Jim Heywood
Commissioner Tom Murphy
Commissioner Tom Steeno

JOINT PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the Commission Secretary. Comments are limited to three (3) minutes per individual. State your name and address for the record before making your presentation. This request is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, the Commission is prohibited from taking action on oral requests. However, Members may respond briefly or refer the communication to staff. The Commission may also request the Commission Secretary to calendar an item related to your communication at a future meeting.

CONSENT CALENDAR

- D. Approval of Minutes: October 10, 2013 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit CUP13-00005 to allow the sale of beer & wine for on-site consumption as part of a restaurant at 13529 Main Street (Applicant: Fresh Up, Inc. - Larry Yanez [dba. Wingstop]; APN: 3057-011-19). 1-1
- 2. Consideration of a Specific Plan Amendment to change approximately 16 acres from Auto Sales Commercial (ASC) to Rural Estate Residential (RER) within the Main Street and Freeway Corridor Specific Plan at 7572, 7580, 7600, 7620, 7632, 7658, 7664 Bellflower Street and a portion immediately to the west (Applicant: City of Hesperia; APNs: 3039-281-23 through 30) 2-1

- 3. Consideration of Conditional Use Permit CUP11-10229, to construct a 3.5 million square foot distribution center and industrial park and Tentative Parcel Map TPM11-10230, to create 13 parcels and a remainder with a non-residential condominium overlay on 232 gross acres zoned Commercial Industrial Business Park (CIBP) and Wash Protection Overlay, located on the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street. The proposal includes an Environmental Impact Report prepared in compliance with the California Environmental Quality Act (CEQA) (Applicant: Covington Group, Inc.; APNs: 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04).

3-1

PRINCIPAL PLANNER'S REPORT

The Principal Planner or staff may make announcements or reports concerning items of interest to the Commission and the public.

- E. DRC Comments

4-1

- F. Major Project Update

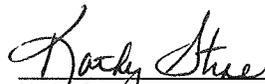
PLANNING COMMISSION BUSINESS OR REPORTS

The Commission Members may make comments of general interest or report on their activities as a representative of the Planning Commission.

ADJOURNMENT

The Chair will close the meeting after all business is conducted.

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, November 7, 2013 at 5:30 p.m. pursuant to California Government Code §54954.2.



 Kathy Stine
 Planning Commission Secretary

HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
OCTOBER 10, 2013
MINUTES

DRAFT

The Regular Meeting of the Planning Commission was called to order at 6:30 p.m. by Vice Chair Muller in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

CALL TO ORDER 6:30 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call:

Present: James Heywood
Tom Murphy
Tom Steeno
William Muller

Absent: Chris Elvert

Motion by Tom Murphy to excuse the absence of Chair Chris Elvert. Seconded by William Muller and passed with the following roll call vote:

AYES: James Heywood
Tom Murphy
Tom Steeno
William Muller

Absent: Chris Elvert

JOINT PUBLIC COMMENTS

Vice Chair Bill Muller opened Public Comments at 6:33 p.m.

No comments to consider.

Vice Chair Bill Muller closed Public Comments at 6:33 p.m.

CONSENT CALENDAR

Approval of Minutes: September 12, 2013 Planning Commission Meeting Draft Minutes.

Motion by Tom Steeno to approve September 12, 2013 Planning Commission Meeting Draft Minutes. Seconded by William Muller and passed with the following roll call vote:

AYES: James Heywood, Tom Murphy, Tom Steeno, and William Muller
NOES: None
ABSENT: Chris Elvert.

PUBLIC HEARING

1. Consideration of Conditional Use Permit CUP13-00003 to construct a 99-bed skilled nursing facility, a 52-unit independent living facility, and a 7,051 square foot outpatient dialysis center and Variance VAR13-00005 to allow a deviation from the required number of parking spaces and carports on 5.3 acres designated Single-Family Residence (R1-18000) at 17577 and 17579 Sultana Street. The proposal includes an Initial Study and Mitigated Negative Declaration (ND-2013-02) prepared in compliance with the California Environmental Quality Act (CEQA). (Applicant: Suncor Hesperia, LLC; APNs: 0411-214-40 & 41)

Senior Planner Daniel Alcaayaga gave a PowerPoint presentation.

Commissioner Tom Steeno asked why there were only 16 carports when we required 52.

Daniel Alcaayaga explained that the storm drain issues kept the project from having the required amount.

Commissioner Tom Steeno had questions regarding the restaurant parking agreement.

Daniel Alcaayaga clarified that a reciprocal parking agreement was in place.

Commissioner Tom Steeno asked about any sewer issues,

Daniel Alcaayaga stated that any issues were to be addressed after the sewer analysis was received.

Commissioner Jim Heywood stated concerns regarding the traffic at Sultana Ave. and "I" Ave. and asked how that was being mitigated.

Daniel Alcaayaga stated that the shift changes occur at different times than the school traffic.

Vice Chair Bill Muller had questions regarding the erosion on the property and stated that he felt the wall would be a safety barrier.

Vice Chair Bill Muller opened Public Comments at 7:23 p.m.

Gary Miller from Miller and Associates, the architect on the project, spoke and clarified some of the commission's questions.

Commissioner Tom Steeno suggested putting another 16 carports spaces west of the existing ones.

Mr. Reyes, Suncor's landscape architect spoke and informed the commission on the landscaping and wall issues. He stated that other areas could work for seating if parking replaced the current planned seating area.

Del Petersen, a resident in the area spoke in opposition to the project.

Vice Chair Bill Muller closed Public Comments at 7:53 p.m.

Commission discussion ensued.

Motion by Commissioner Tom Murphy to approve as amended, Resolution Nos. PC-2013-12 and PC-2013-13, approving CUP13-00003 and VAR13-00005 as amended to provide more covered parking at grade by moving the retaining wall to the west and add islands by removing planters. Seconded by Tom Steeno and passed with the following roll call vote:

AYES: James Heywood, Tom Murphy, Tom Steeno and William Muller
NOES: None
ABSENT: Chris Elvert

PRINCIPAL PLANNER'S REPORT

DRC Comments

Principal Planner Dave Reno, AICP, gave an update on current DRC projects.

Major Project Update

Dave Reno gave an update on Fire Station #301 and the closure of Mariposa Road, north of Rancho Road.

PLANNING COMMISSION BUSINESS OR REPORTS

ADJOURNMENT

Vice Chair Bill Muller adjourned the meeting at 8:10 p.m. until November 14, 2013.

Chris Elvert,
Commission Chair

By: Kathy Stine,
Commission Secretary



DATE: November 14, 2013
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP13-00005; Applicant: Fresh Up, Inc. - Larry Yanez (dba. Wingstop); APN: 3057-011-19

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2013-23, approving Conditional Use Permit CUP13-00005.

BACKGROUND

Proposal: A Conditional Use Permit to allow the sale of beer and wine for on-site consumption within a restaurant.

Location: 13529 Main Street

Current General, Plan, Zoning and Land Uses:

The site is within the Regional Commercial (RC) District of the Main Street and Freeway Corridor Specific Plan (Attachment 1). The surrounding land is designated as noted on Attachment 2. The restaurant will occupy 1,410 square feet within an existing 6,233 square foot multi-tenant building (constructed in 2011). The property in question was intended to be a frontage parcel to a larger shopping center. The anchor tenant, which was expected to be Kmart, was not completed, and there is an existing parking lot and street improvements associated this development to the south. IHOP restaurant is located on another frontage parcel to the west. The land to the north and east is vacant.

ISSUES/ANALYSIS:

Land Use: Wingstop specializes in chicken wings and boneless wing strips. The restaurant has a nostalgic, aviation theme associated with its facilities. The restaurant would like to sell beer and wine, as part of their menu, for on-site (on-sale) consumption. The Main Street and Freeway Corridor Specific Plan requires a conditional use permit (CUP) for the sale of alcohol. The Applicant has applied for a Type 41 license with the California Department of Alcoholic Beverage Control (ABC).

The proposal is situated within Census Tract 100.17, which is bounded by Main Street to the north (Attachment 3). The Census Tract extends along the south side of Main Street from Bellflower Road (in Phelan) to the California Aqueduct (just east of the Walmart Center). Interstate I-15 extends for 6 miles within the Census Tract and captures rural residential portions of Oak Hills. The Census Tract's southern boundary borders the San Bernardino National Forest and Summit Valley. ABC allows a total of eleven on-sale licenses within Census Tract 100.17, which is not considered to be over-concentrated. Therefore, the Planning Commission is not required to make a finding of public convenience and necessity.

There are currently 6 licenses active within the Census Tract. On October 13, 2011, the Planning Commission approved a CUP for Eagle Rock Services, which permits the sale of alcohol within a restaurant, as part of the semi-truck and trailer repair facility. The development associated with Eagle Rock Services has not been established. As per ABC's standard, the City may issue four additional CUPs for on-sale licenses before the Census Tract will be considered over-concentrated.

Table 1: Existing On-Sale Licenses in Census Tract 100.17

| Status | Business Name | Business Address | Type of License |
|------------|--------------------------------|---------------------|--|
| Active | Summit Inn Restaurant | 5950 Mariposa Rd | 41-Beer & Wine |
| Active | Courtyard By Marriott | 9619 Mariposa Rd | 47-Beer, Wine, & Liquor |
| Active | Spring Hill Suites By Marriott | 9625 Mariposa Rd | 70 - On-Sale General Restrictive Service |
| Active | Love Oasis Sushi | 12719 Main St, 400 | 41-Beer & Wine |
| Active | B&B Pizzeria | 13312 Rancho Rd, 24 | 41-Beer & Wine |
| Active | Outpost Cafe | 8685 Highway 395 | 47-Beer, Wine, & Liquor |
| Not Active | Eagle Rock Services | 8750 Caliente | 47-Beer, Wine, & Liquor |

Table 1 shows there are seven licensees within Census Tract 100.17. Love Oasis Sushi is a restaurant located on the south side of Main Street within the Target Center. Beef O'Brady's and Chipotle, which hold Type 41 licenses, are in proximity to the proposal, but are located in a different census tract to the north. All other facilities, near the project, are restaurants within hotels. Outpost Café and Eagle Rock Services are in proximity to Joshua Road and the I-15 freeway. Summit Inn Restaurant is located near Oak Hill Road and the I-15 freeway. B&B Pizzeria is on Rancho Road within an unincorporated part of San Bernardino County.

The restaurant would like their dining service to include alcohol sales, in order to remain competitive and meet customer demand. The area provides convenient shopping and dining services to nearby residents. Although there are other restaurants in proximity to the project, each offers a different type of dining experience and services. Approval of the CUP would support the restaurant in serving the public's dining needs.

The Planning Commission has previously expressed concerns over the proliferation of alcohol establishments along Main Street. The area in proximity to Main Street currently holds 40 on-sale licenses that are primarily restaurants and 27 of which are in downtown. ABC's criteria is based on the population within each census tract and does not account for the City's unique land use characteristics or jurisdictional boundaries. Unlike other cities, the City of Hesperia offers commercial services primarily along a few major thoroughfares, while other cities may offer commercial services every mile. This results in the concentration of commercial uses primarily along Bear Valley Road, Main Street, and portions of Hesperia Road and "I" Avenue.

Schools and Parks: Mission Crest Elementary School and Malibu Park are both located one mile to the south. The project site is located about 1-½ miles from Hesperia High School and Hesperia Community Park.

Environmental: This project is exempt from the California Environmental Quality Act (CEQA) per Section 15301, Existing Facilities.

Conclusion: The Census Tract is not considered over-concentrated by ABC with respect to on-sale alcohol outlets. Approval of alcoholic beverage license is supportive of the land uses intended within the Regional Commercial District.

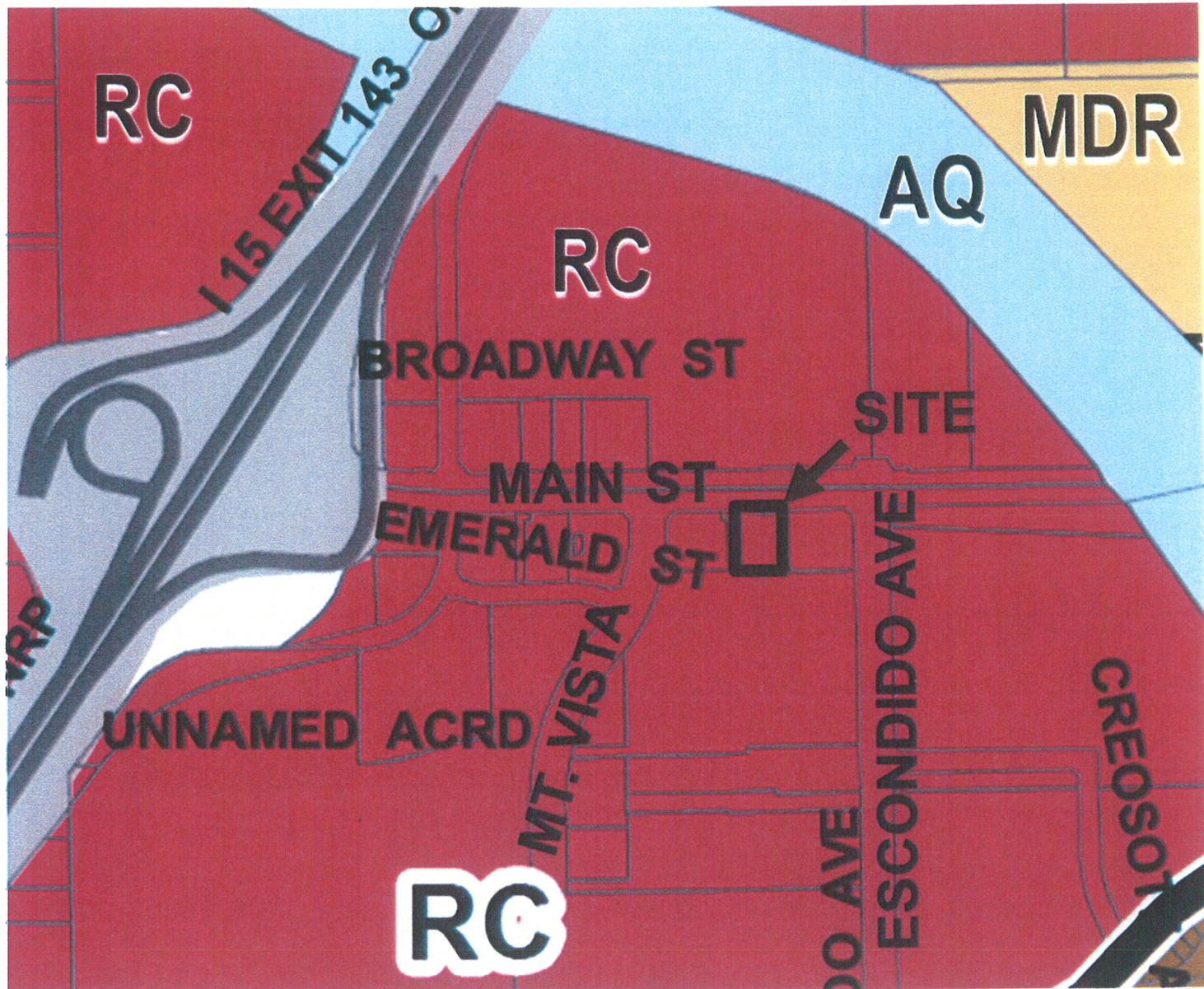
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan
2. Aerial photo
3. Census Tract Map
4. Resolution No. PC-2013-23, with list of conditions

ATTACHMENT 1



APPLICANT(S):
FRESH UP, INC - LARRY YANEZ (DBA. WINGSTOP)

FILE NO(S):
CUP13-00005

LOCATION:
13529 MAIN STREET

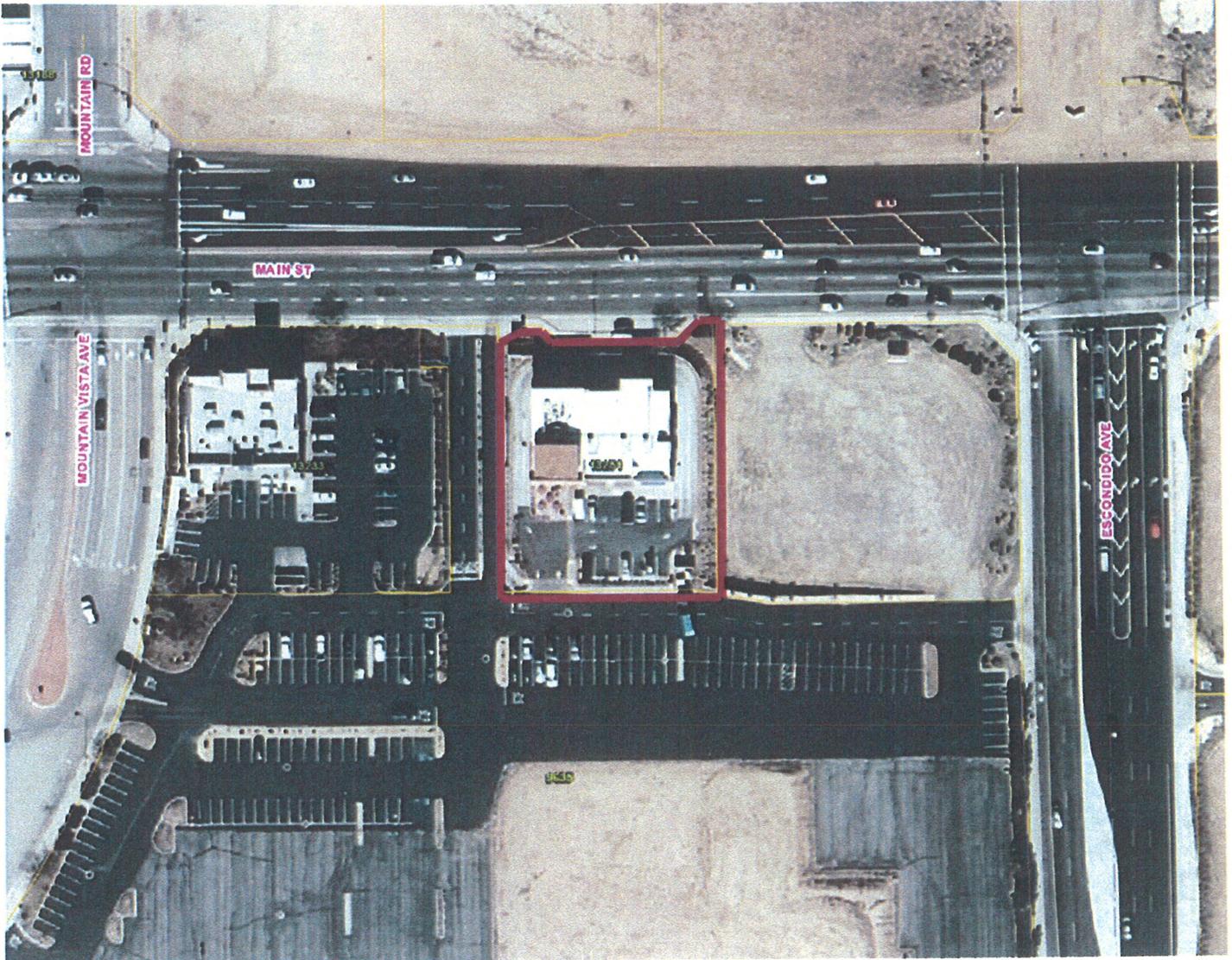
APN:
3057-011-19

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT



GENERAL PLAN MAP

ATTACHMENT 2



APPLICANT(S):
FRESH UP, INC - LARRY YANEZ (DBA. WINGSTOP)

FILE NO(S):
CUP13-00005

LOCATION:
13529 MAIN STREET

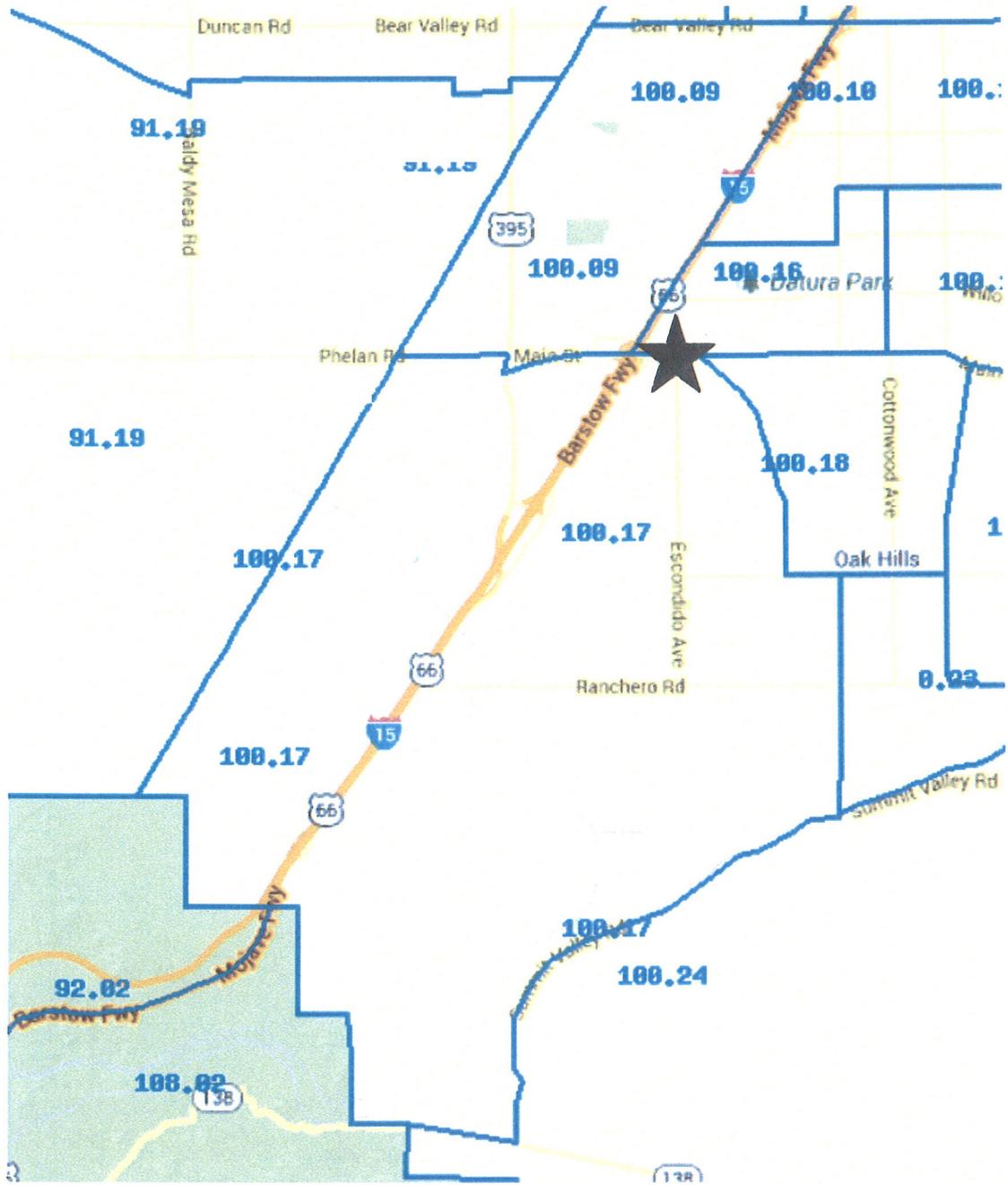
APN:
3057-011-19

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT



AERIAL PHOTO

ATTACHMENT 3



APPLICANT(S):
 FRESH UP, INC - LARRY YANEZ (DBA. WINGSTOP)

FILE NO(S):
 CUP13-00005

LOCATION:
 13529 MAIN STREET

APN:
 3057-011-19

PROPOSAL:
 A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT



CENSUS TRACT MAP

ATTACHMENT 4

RESOLUTION NO. PC-2013-23

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT AT 13529 MAIN STREET (CUP13-00005)

WHEREAS, Fresh Up, Inc. has filed an application requesting approval of Conditional Use Permit CUP13-00005 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a restaurant at 13529 Main Street and consists of Assessor's Parcel Number 3057-011-19; and

WHEREAS, the Application, as contemplated, proposes to establish the sale of beer and wine, as part of a restaurant, for on-site consumption; and

WHEREAS, the subject site is presently developed with a multi-tenant retail building and the new restaurant will occupy a suite within the building. There is an existing parking lot with street improvements associated with a partial development to the south. IHOP restaurant is located on another frontage parcel to the west. The land to the north and east are vacant; and

WHEREAS, the subject property, as well as surrounding properties, are within the Regional Commercial (RC) District of the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15301, Existing Facilities; and

WHEREAS, on November 14, 2013, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced November 14, 2013 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed use is conditionally allowed within the Regional Commercial District of the Main Street and Freeway Corridor Specific Plan and complies with all applicable provisions of the Development Code. The proposed use would not impair the integrity and character of the surrounding neighborhood. The site is suitable for the type and intensity of the use that is proposed. The Application is restricted to the sale of beer and wine, as part of a restaurant, for on-site consumption.

- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity; or be adverse to the public convenience, health, safety, or general welfare. The proposed serving of beer and wine as part of the dining experience will not have a detrimental impact on adjacent properties.
- (c) The proposed use is consistent with the objectives, policies, land uses and programs of the General Plan, Specific Plan and Development Code. The proposed use will take place within an existing restaurant. The sale of beer and wine is consistent with the allowable uses within the Regional Commercial District.
- (d) There are adequate provisions for sanitation, public utilities and general services to ensure the public convenience, health, safety, and general welfare. The proposed use will occur within a restaurant with adequate infrastructure. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP13-00005, subject to the conditions of approval as shown in Attachment 'A'.

Section 4. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 14th day of November 2013.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP13-00005

Approval Date: November 14, 2013
Effective Date: November 26, 2013
Expiration Date: November 26, 2016

This list of conditions apply to a Conditional Use Permit to allow the sale of beer and wine for on-site consumption within a restaurant at 13529 Main Street. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Fresh Up, Inc. - Larry Yanez [dba. Wingstop]; APN: 3057-011-19).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

THE FOLLOWING ARE CONTINUING CONDITIONS. FAILURE TO COMPLY WITH THESE CONDITIONS MAY RESULT IN REVOCATION OF THE CONDITIONAL USE PERMIT:

(Note: The "Init" and "Date" spaces are for internal city use only).

Init Date

- | | | |
|-------|-------|---|
| _____ | _____ | 1. <u>Valid License.</u> At all times during the conduct of the use allowed by this permit, the use shall obey all laws and shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void. (P) |
| _____ | _____ | 2. <u>Permit Revocation.</u> In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall become null and void. (P) |
| _____ | _____ | 3. <u>Alcohol Consumption.</u> No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee. This includes all sidewalks and the parking lot. (P) |
| _____ | _____ | 4. <u>Employee Age.</u> All employees of the Applicant serving alcohol must be at least 21 years of age. (P) |
| _____ | _____ | 5. <u>ABC Requirements.</u> The use must comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P) |

- _____ 6. **ABC License.** The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises. (P)
- _____ 7. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Review Committee, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

| | | |
|-------|---------------------------------------|----------|
| (P) | Planning Division | 947-1200 |
| (B) | Building Division | 947-1300 |
| (E) | Engineering Division | 947-1414 |
| (F) | Fire Prevention Division | 947-1012 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |



DATE: November 14, 2013
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: Specific Plan Amendment SPLA13-00005; Applicant: City of Hesperia; APNs: 3039-281-23 through 30

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2013-18, recommending that the City Council introduce and place on first reading an ordinance approving Specific Plan Amendment SPLA13-00005.

BACKGROUND

Proposal: A Specific Plan Amendment to change approximately 16 acres within the Main Street and Freeway Corridor Specific Plan from Auto Sales Commercial (ASC) to Rural Estate Residential (RER) (Attachment 1). The Rural Estate Residential would permit single-family residences on lot sizes of two acres or more, and would be permitted to have accessory or animal uses similar to those permitted in Rural Residential areas of the City.

Location: 7572, 7580, 7600, 7620, 7632, 7658, and 7664 Bellflower Street, and a portion of vacant land immediately to the west.

General Plan and Land Uses: The subject property is currently within the Auto Sales Commercial District of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 1. Six single-family residences exist at 7572, 7580, 7600, 7620, 7632, and 7658 Bellflower Street (Attachment 2). A slab for a residence exists at 7664 Bellflower Street. The western portion of the properties are affected by the Oro Grande Wash and are within the Wash Protection Overlay of the Specific Plan. The parcel to the north is owned by County Service Area 70 Zone J (Zone J) and partially developed with utility equipment. The parcel situated further north is vacant. Properties to the south and east are also vacant. The land to the west encompasses 11 acres of the City's mitigation bank property.

ISSUES/ANALYSIS

Land Use: On November 30, 2004, the southern portion of the freeway corridor was incorporated into the City. Upon incorporation, the 15 acres in question were designated Community Center Development (CCD) by the Oak Hills Community Plan. The CCD designation generally permitted residential developments as part of a Planned Development, and densities could not exceed four dwelling units per acre. The Oak Hills Community Plan was adopted on April 3, 2002, and continued to be implemented in the freeway corridor until 2008.

The Main Street and Freeway Corridor Specific Plan was adopted on September 16, 2008. CCD was replaced with the Auto Service Commercial (ASC) designation. On the west side of the freeway, the land south of the Union Pacific - Southern Pacific Railroad and north of Farmington Street, including the 15 acres, were designated ASC. On the east side of the freeway, only the properties south of the railroad and north of Rancho Road were included in the ASC designation. The intent of the ASC designation, by envisioning an auto sales mall in proximity to the I-15 and Rancho Road Interchange, was to take advantage of freeway visibility and generate higher sales tax. The Oro Grande Wash would serve as a buffer between Auto Sales Commercial and Rural Estate Residential land uses.

Prior to 2008, the land was designated CCD, which permitted residences. Between 2004 through 2007, a total of six residences were constructed on the east side of the Oro Grande Wash, west of Bellflower Street and south of El Centro Road. Prior to incorporation, three houses pulled permits under the County. Upon incorporation, four single-family residences pulled permits under the City, one of which was not completed. The corner parcel began construction in 2006; however, the permits expired in 2009 and only a slab remained on the property.

Recently, the property owner of the corner parcel at Bellflower Street and El Centro Road inquired about finishing the residence on the property. Staff found that a slab remained on the property and the parcel had been designated ACS. Staff determined that construction permits had expired and permits could not be reinstated without a Specific Plan Amendment. The owner of the corner parcel requested that this Specific Plan Amendment be initiated. Building plans have been reviewed and approved by the Building & Safety Division, and permit issuance is pending a decision by the City Council on this application. The Amendment will allow the residence to resume construction. The owner has also contacted Zone J and they have issued a will-serve letter.

In addition, six houses have been constructed west of Bellflower Street and are presently considered legal non-conforming uses. The Amendment would bring all seven properties into conformance with the Specific Plan. Staff does not believe expanding the residential designation to the north, south, and east is necessary. There is a commercial development immediately to the south, which is currently under review. The parcel to the north is owned by Zone J and partially developed with utility equipment. The land further north is affected by drainage and topography and the property owners are currently exploring their options. A development proposal may be filed in the future. The land to the east has freeway frontage and is prime land for Auto Sales Commercial uses.

Environmental: The project is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Specific Plan Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Specific Plan Amendments are exempt if they do not propose to increase the density or intensity allowed in the General Plan. The portion affected by the Specific Plan Amendment within the City's mitigation bank property will remain open space.

Conclusion: The establishment of residences east of the Wash effectively shifted the Auto Sales Commercial boundary east to Bellflower Street. The proposed Amendment will allow the property, which was partially constructed with a residential slab, to resume construction. The Amendment will bring a total of seven properties into conformance with the Specific Plan, and this action would be consistent with the General Plan.

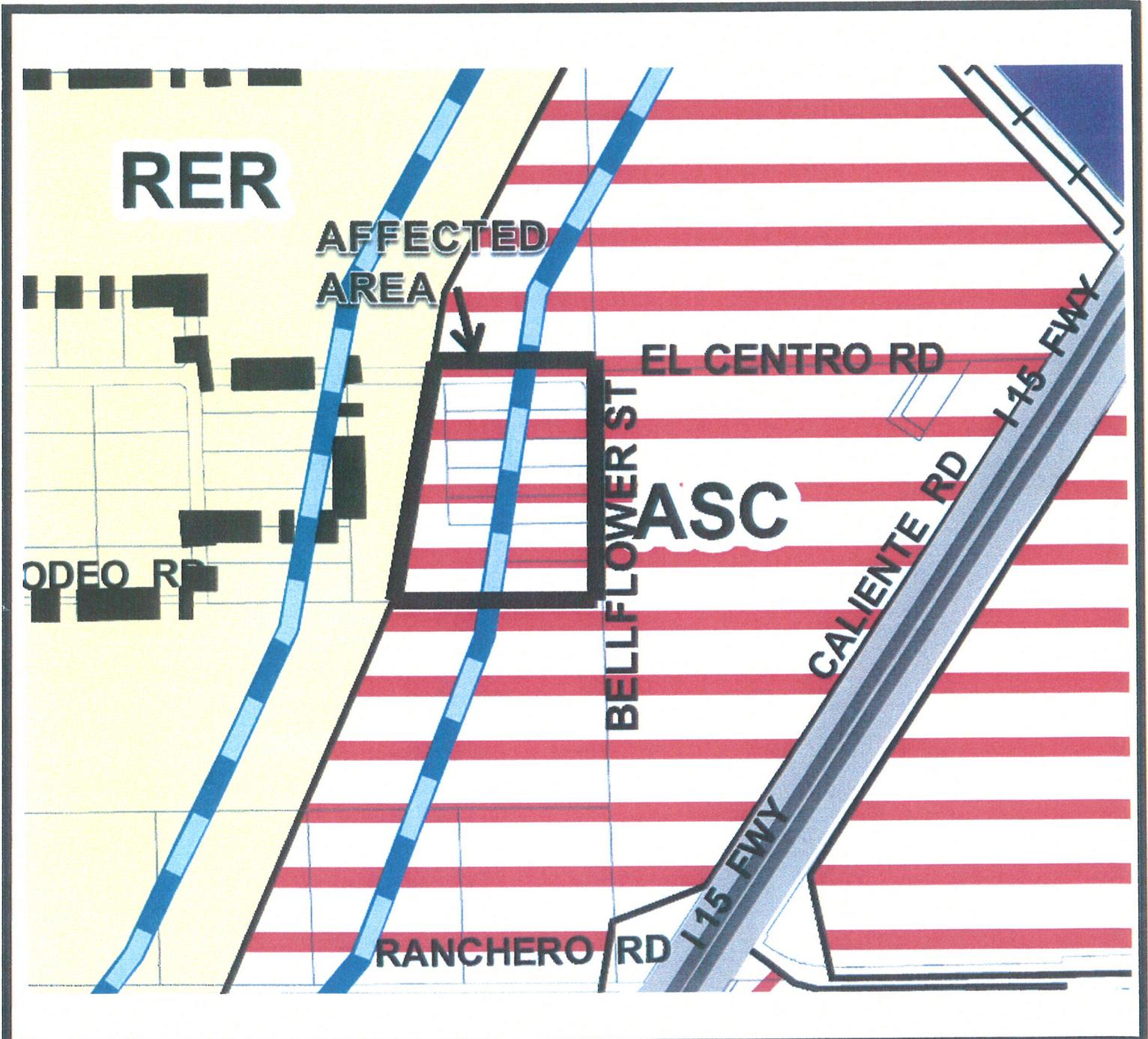
ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. Resolution No. PC-2013-18 with Exhibit "A"

ATTACHMENT 1



APPLICANT:
CITY OF HESPERIA

FILE NO:
SPLA13-00005

LOCATION:
7572, 7580, 7600, 7620, 7632, 7658, AND 7664 BELLFLOWER STREET
AND A PORTION IMMEDIATELY TO THE WEST

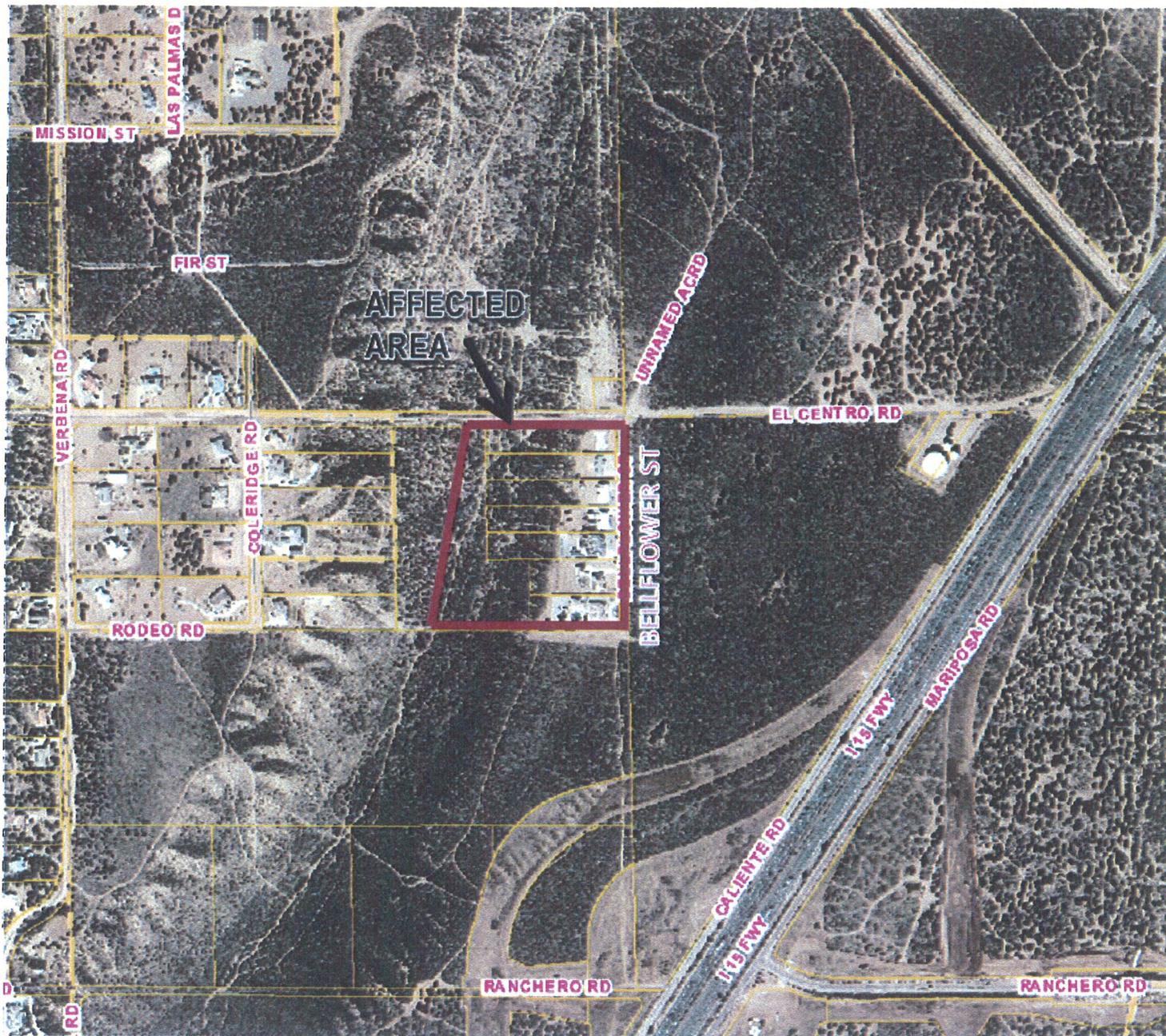
APN (S): 3039-281-23
THROUGH 30

PROPOSAL:
CONSIDERATION OF SPECIFIC PLAN AMENDMENT SPLA13-00005 TO CHANGE
APPROXIMATELY 16 ACRES WITHIN THE MAIN STREET AND FREEWAY CORRIDOR
SPECIFIC PLAN FROM AUTO SALES COMMERCIAL (ASC) TO RURAL ESTATE
RESIDENTIAL (RER)



GENERAL PLAN MAP

ATTACHMENT 2



APPLICANT:
CITY OF HESPERIA

FILE NO:
SPLA13-00005

LOCATION:
7572, 7580, 7600, 7620, 7632, 7658, AND 7664 BELLFLOWER STREET
AND A PORTION IMMEDIATELY TO THE WEST

APN (S): 3039-281-23
THROUGH 30

PROPOSAL:
CONSIDERATION OF SPECIFIC PLAN AMENDMENT SPLA13-00005 TO CHANGE
APPROXIMATELY 16 ACRES WITHIN THE MAIN STREET AND FREEWAY CORRIDOR
SPECIFIC PLAN FROM AUTO SALES COMMERCIAL (ASC) TO RURAL ESTATE
RESIDENTIAL (RER)



AERIAL PHOTO

ATTACHMENT 3

RESOLUTION NO. PC-2013-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE OFFICIAL ZONING MAP BY RECLASSIFYING CERTAIN REAL PROPERTY WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM AUTO SALES COMMERCIAL (ASC) TO RURAL ESTATE RESIDENTIAL (RER) AT 7572, 7580, 7600, 7620, 7632, 7658, AND 7664 BELLFLOWER STREET AND A PORTION IMMEDIATELY TO THE WEST (SPLA13-00005)

WHEREAS, The City of Hesperia has initiated an application requesting approval of SPLA13-00005 described herein (hereinafter referred to as "Application"); and

WHEREAS, The Application applies to approximately 16 acres within the Auto Sales Commercial District of the Main Street and Freeway Corridor Specific Plan at 7572, 7580, 7600, 7620, 7632, 7658, and 7664 Bellflower Street and a portion immediately to the west and consists of Assessor's Parcel Numbers 3039-281-23 through 30; and

WHEREAS, The Application, as contemplated, proposes to change the zoning of approximately 16 acres from the Auto Sales Commercial (ASC) District to Rural Estate Residential (RER) of the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, A total of six residences exist within the affected area. There are residences at 7572, 7580, 7600, 7620, 7632, and 7658 Bellflower Street. A slab for a residence exists at 7664 Bellflower Street. The western portion of the properties is affected by the Oro Grande Wash. The parcel to the north is owned by Zone J and partially developed with utility equipment. Properties to the south and east are currently vacant. The land to the west encompasses 11 acres of the City's Mitigation Bank Property; and

WHEREAS, The subject property is currently designated Planned Mixed Use (PMU) on the City's Land Use map. All surrounding properties are also within the PMU General Plan Land Use designation; and

WHEREAS, The subject property is currently within the Auto Sales Commercial District of the Main Street and Freeway Corridor Specific Plan. The western portion of the properties is affected by the Wash Protection Overlay. The properties to the north, south, and east are within the Auto Sales Commercial District. The land to the west is within the Rural Estate Residential; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Specific Plan Amendment is exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City's CEQA Guidelines, as Specific Plan Amendments are exempt if they do not propose to increase the density or intensity allowed by the General Plan. The proposed Amendment will bring six properties with existing single-family residences into conformance with the Specific Plan. One property, which has an existing slab for a residence, will be permitted to commence construction; and

WHEREAS, On November 14, 2013, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

WHEREAS, All legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced November 14, 2013 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site of the proposed change in district classification is suitable for any of the land uses permitted within the proposed Specific Plan designation, because the single-family residences can meet the standards for setbacks, height, lot coverage, parking, and circulation within the proposed Specific Plan designation.
- (b) The proposed change in Specific Plan designation is reasonable and beneficial at this time, because a total of six single-family residences exist at 7572, 7580, 7600, 7620, 7632, and 7658 Bellflower Street, and a slab exists at 7664 Bellflower Street. The Amendment will allow the residence at 7664 Bellflower Street to resume construction. The Amendment will bring all properties into conformance with the Specific Plan.
- (c) The proposed change in zone district classification will not have a significant adverse impact on surrounding properties or the community in general, because the majority of the properties are developed with existing single-family residences, and expansions will be subject to the City's policies governing development. Zone J currently serves the residences on Bellflower Street and has issued a will-serve letter for a future residence at 7664 Bellflower Street.
- (d) The proposed project is consistent with the adopted General Plan of the City of Hesperia, because the proposed Specific Plan Amendment would bring the existing single-family residences and one future residence into conformance with Rural Estate Residential District. The seven residential properties are capable of utilizing existing supporting infrastructure and municipal services, as directed by the City's adopted General Plan. The portion affected by the Specific Plan Amendment within the City's Mitigation Bank Property will remain open space.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends approval of Specific Plan Amendment SPLA13-00005, amending the Official Zoning Map of the City of Hesperia as shown on Exhibit "A."

Section 4. That the Secretary shall certify to the adoption of this Resolution.

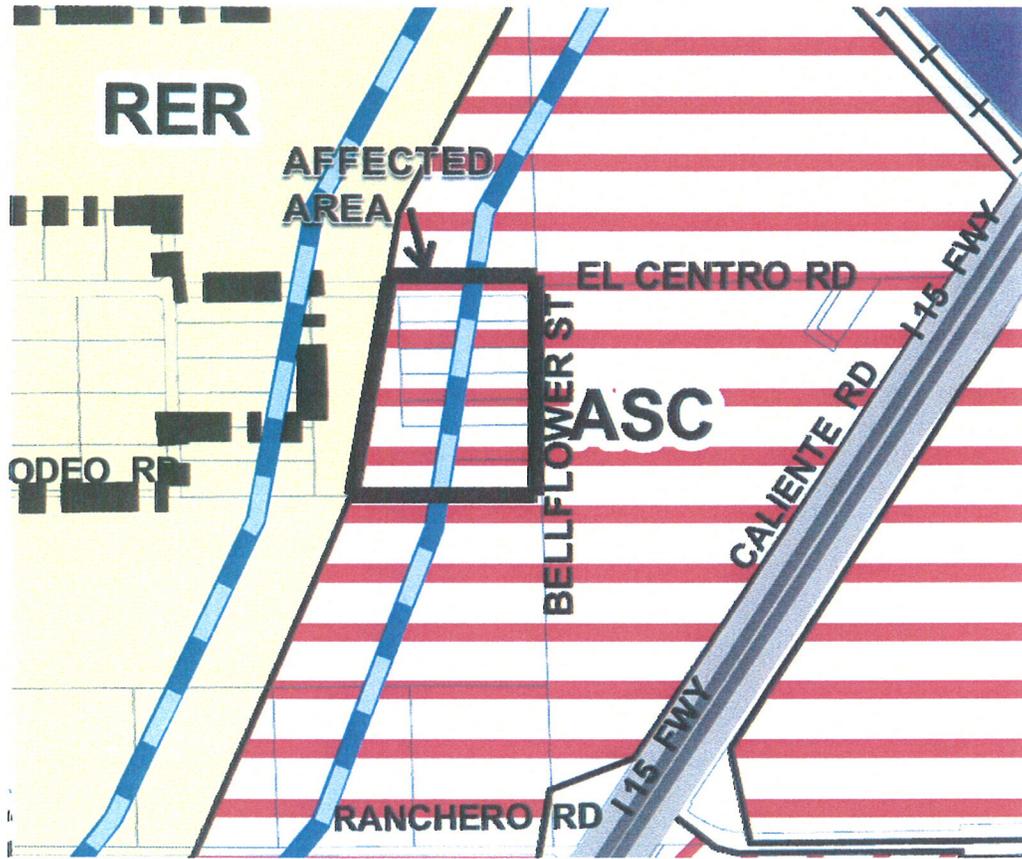
ADOPTED AND APPROVED this 14th day of November 2013.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

Exhibit "A"



SPLA13-00005
FROM AUTO SALES COMMERCIAL (ASC) TO
RURAL ESTATE RESIDENTIAL (RER) ON 16 ACRES



DATE: November 14, 2013
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Stan Liudahl, AICP, Senior Planner
SUBJECT: CUP11-10229 & TPM11-10230 (Covington Group, Inc.; APNs: 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04)

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2013-14, recommending that the City Council make the environmental determination pursuant to the California Environmental Quality Act (CEQA) by certifying the Final Environmental Impact Report (FEIR) and adopting a statement of overriding considerations and adopt Resolution Nos. PC-2013-15 and PC-2013-17, recommending that the City Council approve CUP11-10229 and TPM11-10230.

BACKGROUND

Proposal: A Conditional Use Permit (CUP) has been filed to construct a 3.5 million square foot distribution center and industrial park in five phases on 232 gross acres. The project, identified by the applicant as the "Hesperia Commerce Center," contains two different site designs, identified as Option A and Option B (Attachments 1 and 2). The proposed use is consistent with the Specific Plan, although approval of a CUP is required to approve the distribution warehouses in excess of 200,000 square feet. The project contains four buildings in excess of 200,000 square feet. These four buildings range in size from 425,880 to 1,110,050 square feet. 226,205 square feet will be developed in a business park setting within Phase 4. Construction of this project will require a large number of construction workers. Once completed, the developer estimates that the project will employ in excess of 3,500 workers.

On September 2, 2008, the City Council approved Site Plan Review SPR-2007-75, allowing a 943,130 square foot industrial park on approximately 41 acres in the northern portion of this 232-acre project site. Although SPR-2007-75 expired on October 16, 2011, the underlying tentative parcel map (PM-18927) is effective until October 16, 2015, based upon automatic state extensions. TPM11-10230 will create 13 parcels and a remainder parcel, allowing separate ownership of many of the larger buildings. In addition, a non-residential condominium overlay is proposed, allowing for ownership of individual units within the development. Conditions, Covenants and Restrictions (CC&Rs) will be recorded with the map, to establish an association with authority to enforce standards and provide for the maintenance of all common areas.

Construction of 3.5 million square feet of building area will take several years. The Development Code provides only an initial three-year effective period. Consequently, the developer has been negotiating a Development Agreement (DA) to allow the CUP to be effective for 12 years initially, with a provision allowing an automatic 8-year extension, as well as other provisions. Staff is recommending approval of the extended entitlement period, and the project is conditioned to be effective upon the City Council's approval of the DA.

Location: On the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street.

Current General, Plan, Zoning and Land Uses: The site is within the Commercial Industrial Business Park (CIBP) Zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 3. The 232-acre site is vacant. Hesperia Fire Station 305, Commercial Engine Service, and Interstate 15 are located east of the project site, on the opposite side of Caliente Road (Attachment 4). The properties to the north, south, and west are vacant.

ISSUES/ANALYSIS

CUP11-10229: The Hesperia Commerce Center consists of approximately 3.5 million square feet of gross building area on approximately 232 gross acres. Option A contains 3,545,792 square feet and Option B contains 3,455,942 square feet. Both options will be developed in five phases. The phasing will allow development of the large distribution warehouses within the northernmost portion of the project first, with subsequent phases progressing south; Phase 4 extending to the southernmost project boundary. That portion of the project on the east side of Caliente Road is within Phase 5. The proposed phasing is provided in detail within Table 1.

Table 1. Gross building area within each phase for both options (square feet)

| Phase | Option A | Building area | Option B | Building area |
|---------------|--------------------------------|------------------|--------------------------------|------------------|
| 1 | Buildings 1 & 2 | 959,240 | Buildings 1 & 5 ¹ | 1,508,170 |
| 2 | Buildings 3 & 5 | 1,137,180 | Building 3 | 498,400 |
| 3 | Buildings 4 & 6 - 10 | 1,067,364 | Buildings 4 & 6 - 10 | 1,067,364 |
| 4 | Buildings 11 - 25 ² | 226,205 | Buildings 11 - 25 ² | 226,205 |
| 5 | Buildings 28 - 32 | 155,803 | Buildings 28 - 32 | 155,803 |
| Totals | | 3,545,792 | | 3,455,942 |

The proposed development complies with all standards of the Specific plan, except for the minimum number of parking spaces required for Phases 1 and 2 of Option A as shown within Table 2. Phase 2 comprises three distribution warehouses totaling 2,069,290 square feet (Buildings 1, 2, and 3) and one 27,130 square foot office building (Building 5). Distribution warehouses are required a minimum of 20 spaces + 0.40 space/ 1,000 square feet for each building exceeding 10,000 square feet. Based upon this standard, 875 spaces are required for Buildings 1, 2 and 3. A minimum of 3.33 parking spaces are required for every 1,000 square feet for the office building. Therefore, the office building requires 90 spaces. Phases 1 and 2 require (415 + 550 = 965 spaces) and 517 + 416 = 933 spaces are provided for the two phases. Since 965 parking spaces are required and 933 spaces will be provided, a 32-space deficiency will occur. The modifications needed to provide 32 additional spaces within Phase 2 can be made without redesigning the site.

¹ Building number 2 is not used
² Building numbers 26 and 27 were not used

Table 2. Parking spaces required and provided for each phase of both options

| Phase | Option A | | Option B | |
|---------------|-----------------|-----------------|-----------------|-----------------|
| | Spaces required | Spaces provided | Spaces required | Spaces provided |
| 1 | 415 | 517 | 698 | 725 |
| 2 | 550 | 416 | 215 | 251 |
| 3 | 517 | 567 | 517 | 567 |
| 4 | 339 | 642 | 339 | 642 |
| 5 | 159 | 374 | 159 | 374 |
| Totals | 1,980 | 2,516 | 1,928 | 2,559 |

The proposed buildings will exceed the architectural requirements of the Specific Plan. The large concrete tilt-up buildings within the project exhibit a clean, corporate look, exhibiting two exterior building colors and multiple expansion joints. In addition, the corners of the buildings exhibit changes in wall and roof plane projections contain clear anodized aluminum panels, brushed aluminum mullions, metal shade screens, a generous number of green tinted windows, and decorative sconces. The smaller buildings will include stacked stone veneer as well as many of these same architectural features (Attachment 5).

TPM11-10230: The tentative parcel map will create 13 parcels and a remainder parcel, allowing separate ownership of many of the larger buildings. In addition, the parcel map incorporates a non-residential condominium overlay. This will allow for ownership of individual units within the development. Conditions, Covenants and Restrictions (CC&Rs) will be recorded with the map, which will establish an association with authority to enforce standards and provide for the maintenance of all common areas as well as the four private streets (Parcels A thru D). Maintenance of the proposed retention basins, including the large above-ground basin within the remainder parcel, will be shared by the association as per the CC&Rs. An irrevocable reciprocal access and shared parking agreement is required as a condition of approval, ensuring that all businesses within the project will have adequate access and parking. Nine driveway approaches are provided, four of which are private streets accessing Caliente Road.

Conclusion: The proposed development provides new, higher paying employment opportunities. At buildout, the developer estimates that the project will employ 3,729 persons under Option A and 3,647 under Option B, which will make it a major employment center within the City. In addition, the development will indirectly increase the City's economic base through retail purchases by these workers. The project conforms with the policies of the City's General Plan and development of the site will comply with the Municipal Code as well as the Main Street and Freeway Corridor Specific Plan.

ENVIRONMENTAL ANALYSIS

Given the size and regional importance of this project, CEQA requires that the environmental impact of the project be analyzed. An initial study was prepared, which determined that the project may have a significant impact on the environment. As a result, an Environmental Impact Report (EIR) was required. A Notice of Preparation (NOP) was distributed for public review for a period of 30 days from August 6, 2012 thru September 4, 2012 and the Draft EIR was distributed for a 45-day public period from August 20, 2013 thru October 3, 2013. The environmental document was circulated to local, state and federal agencies and organizations as well as surrounding property owners. Three letters were received during the public comment

period. The letters, as well as the responses to them are included in the Final EIR. The Draft and Final EIR have been provided to the Commission under separate cover.

The EIR addresses not only the potential impact of Option A, which slightly exceeds the impact of Option B, but also compares the impact against potential alternate project locations and the "no project" alternative. Two alternative locations were considered. One of the locations is north of the project site; also within the CIBP Zone of the Specific Plan. The other location is within the eastern portion of the City within the CIBP and General Industrial (GI) Zones. The first challenge with the alternative locations is the lack of availability of vacant sites 200 acres and larger. The other major difficulty is the lack of infrastructure needed to serve the project, as very few properties within industrial areas are within a reasonable distance from existing sewer lines. Sewer is available within Caliente Road, adjacent to the project. The alternative locations would require major extension of utilities, which would result in a significant growth inducing impact. Therefore, the proposed project will have the least environmental impact, except for the "no project" alternative.

The EIR contains mitigation measures which reduce the project's impact to a less than significant level for many environmental considerations. The list of mitigation measures is provided within Table ES-1 of the Draft EIR. However, the project's impact upon air quality and greenhouse gas emissions cannot be mitigated to a less than significant level and will remain "significant and unavoidable." Consequently, pursuant to CEQA guidelines, a statement of overriding considerations must be made in order to approve the project. The following is a summary of the potential impacts of the project:

Air Quality: The project site has been planned for commercial/industrial and business park uses as indicated in the City's Main Street and Freeway Corridor Specific Plan. To mitigate project-related emissions, the development must comply with the provisions of Title 24 of the California Code of Regulations regarding energy conservation. The EIR determined that the proposed project is consistent with the Air Quality Management Plan (AQMP) as growth projections for the City of Hesperia were used as input in the formulation.

During construction, the project will exceed air quality standards even after mitigation measures have been implemented. The long-term project operation will still create vehicular emissions that would exceed the Mojave Desert Air Quality Management District's (MDAQMD) daily emission thresholds, largely due to emissions from the South Coast Air Quality Management District. The project's impact related to carbon monoxide and PM₁₀ emissions will individually and cumulatively result in significant and unavoidable air quality impacts. The Project could also result in a cumulative net increase of PM₁₀ emissions within a designated PM₁₀ non-attainment area. The EIR concludes that there are significant unavoidable impacts to air quality and a finding of overriding considerations is included in the resolution certifying the EIR. The City's General Plan Program EIR makes the same conclusion as to overall development in the City.

Global Warming: The EIR evaluated the project impacts upon Global Warming in accordance with Assembly Bill No. 32, the California Global Warming Solutions Act of 2006. AB 32 requires emissions to be reduced to 1990 levels by 2020. The project complies with draft greenhouse gas (GHG) emission reduction strategies. These GHG emission reduction strategies were developed by the 2006 Climate Action Team (CAT) report created by various California State agencies submitted to the Governor and the State Legislature. The EIR includes design features which will be incorporated into the project, consistent with the City's Climate Action Plan (CAP). These mitigation measures are included on page 3-59 of the DEIR. The CAP is a companion to

the 2010 General Plan that builds on the General Plan's framework, with more specific actions that will be applied to achieve emission reduction targets consistent with California legislation. The project's cumulative impact upon Global Warming is determined to be significant despite imposition of these design features. The EIR concludes that there are significant unavoidable impacts upon air quality and a finding of overriding considerations is included in the resolution certifying the EIR for this project. This same finding of overriding considerations regarding Air Quality was made when the EIR for the City's 2010 General Plan Update was adopted.

Traffic/Circulation: A Traffic Impact Analysis (TIA) was prepared, due to the project's regional significance. Based on the TIA prepared for this project, the development is expected to generate 10,964 vehicle trips daily, with 958 trips occurring during the a.m. peak hour and 927 trips occurring during the p.m. peak hour. The City has established a Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service for the Arterial street network. The Development Impact Fees are imposed on new development and collected as part of the building permit process. The timing of these improvements is established through the City's Capital Improvement Program (CIP). Periodically, the City conducts traffic counts and reviews traffic trends throughout the City to determine the timing of necessary roadway improvements. The developer is required to pay all applicable City DIF.

Street improvements will be phased, requiring that the later phases widen the phase's frontage along Caliente Road as buildings are constructed. The developer will be required to construct curb, gutter and sidewalk along the project's frontage of Caliente Road, consistent with the Major Arterial roadway cross section. In addition to the 120-foot roadway improvements, a traffic signal will be installed at driveway #3 as a traffic mitigation measure. Another traffic signal will be required on the corner of Caliente Road and Joshua Street. These improvements will be required with Phase 1, given the traffic expected with the first phase of the project, which will allow nearly one million square feet of distribution warehouse buildings. Year 2016 regional mitigation measures include the widening of Joshua Street west of Highway 395 to provide two additional traffic lanes. That portion of Joshua Street east of Highway 395 as well as the required traffic signal on the corner of Joshua Street and Outpost Road is expected to be constructed by the Love's Travel Center, which will create a direct impact upon that intersection.

The Main Street and Freeway Corridor Specific Plan identifies mitigation measures designed to reduce the impacts of overall regional commercial growth along the freeway to less than significant levels. These improvements are to be funded by DIF and scheduled for the locations within the City's jurisdiction. These improvements are similar to, and consistent with the improvements identified within this project's EIR. Since Caliente Road is a Major Arterial, the developer will receive a credit for the cost of the improvements against the DIF. The EIR states that although the project's traffic impacts are significant, they can be adequately mitigated.

Noise: On-site noise impacts associated with the project include noise from truck loading and unloading activities and activities in the parking lot, such as doors slamming, slow-moving vehicles, and employees conversing. The project's noise generating activities are over 1,800 feet from the nearest residence. At this distance, background noise from Interstate 15 masks much of the noise that will be generated by the proposed development. Therefore, the noise associated with long-term operational activities is below a level of significance. It is anticipated that construction noise received at residential uses to the west may temporarily exceed the City's Noise Ordinance. The Development Code restricts construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Saturday, excluding federal holidays.

Utilities: The infrastructure necessary to serve this project exists within its vicinity. The development will connect to the existing 16" PVC water line in Caliente Road, which will meet the minimum fire flow as required by the California Fire Code. Likewise, sewer connections will be made from the existing 8-inch sewer line in Caliente Road.

Water Supply: Senate Bill SB 610 requires approval of a Water Supply Assessment (WSA) when any individual industrial park development will: 1) employ more than 1,000 people; 2) occupy more than 40 acres of land; or 3) involve construction of more than 650,000 square feet of building floor area. The Hesperia Commerce Center meets the threshold requiring a WSA. Water will be supplied by the Hesperia Water District. The District relies upon groundwater allocations as administered and monitored by the Mojave Water Agency (MWA). Locally-produced groundwater, extracted from the Basin, is the District's sole source of supply.

A water supply assessment (WSA) was prepared, due to the regional significance of this project. The water demand of this project as well as the water demand of other projects will be met until at least 2030, based upon the analysis within the WSA. The District can also rely upon additional groundwater production from its wells to meet increased demand, subject to the purchase of water with replacement fees. The District Board of Directors approved the WSA on February 5, 2013, ensuring that sufficient water supplies will be maintained with development of this project. This project will not cause the HWD to exceed the current levels of water production and will not result in a water shortfall for existing or future planned uses within the required 20-year time frame.

Drainage: The additional storm flow from the project site will be conveyed into a series of curb inlets, area inlets, and catch basins. The proposed retention basin along the western boundary of the site as well as the underground retention facilities on the east side of the project will retain the additional drainage flow generated by the project. Therefore, upon completion of the on-site drainage improvements, the impact of the project upon properties downstream is not considered significant. A major drainage feature exists west of the proposed retention basin. This drainage area, identified as A-01 on the Master Plan of Drainage, is commonly referred to as the Oro Grande Wash. The developer is proposing to avoid this area.

Public Services: The developer is required to pay development impact fees (DIF) to offset impacts to police and fire protection facilities and services. In addition, the site is adjacent to Fire Station 305. Any retail sales tax generated by the project will provide additional monies to augment the City's police and fire services. The project has adequate emergency access to all parking areas and buildings. The distribution center/industrial park includes fire lanes, two points of access, fire truck turn-arounds, fire detector check connections and post indicator valves (FDC/PIV) as well as fire hydrants. The buildings 5,000 square feet and larger will include smoke detectors, alarms, and sprinkler systems. The DEIR determined that the project's impact to public services is less than significant.

Biological Resources: A large portion of the project site has been disturbed by off-road vehicle use over the years. The EIR states that the site does not contain habitat for special-status plant species or plant or wildlife species listed by the State and/or Federal government as endangered or threatened. The EIR identified 647 Joshua trees, 346 chaparral yucca, and 12 cacti. Based upon the field investigation, 577 of the 647 Joshua trees are transplantable. These plants will either be placed within the development's landscaping, adjacent to the above-ground retention basin, or relocated off-site through a City approved adoption program.

During the site survey, biologists did not discover any threatened or endangered species. A pre-construction survey for the burrowing owl, desert tortoise, and Mojave ground squirrel will be conducted within 30 days of any ground disturbing activities, to ensure that a taking will not occur. Development of the site will not have an impact upon protected flora or fauna, given the proposed mitigation measures.

Cultural Resources: Based on the results of field work and a literature search, the site does not contain any significant historical or paleontological resources. The EIR includes a mitigation measure requiring a professional archaeological/paleontological inspector to conduct monitoring during site excavation and grading activities. In the event that cultural resources are discovered during grading, the mitigation program requires that work be suspended until the archaeologist/paleontologist evaluates the significance of the resource and determines its disposition. Based upon the mitigation measures, the project's impact to cultural resources is not considered significant.

Geology/Soil: The EIR determined that there is a low potential for liquefaction, landslides, and expansive soil to occur on the site. There are no known active, inactive, or potentially active faults that traverse the site. The nearest fault is the Cleghorn Fault, located five miles from the project site and the San Andreas Fault is about seven miles from the site. The development will be designed in compliance with the California Building Code and implement the recommendations of the project's geotechnical investigation during grading.

Disturbance of the site and grading will increase the potential for on-site soil erosion. The proposed project is required to obtain a National Pollutant Discharge Elimination System (NPDES) permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) that identifies Best Management Practices (BMPs) to limit both wind-borne and water-borne soil erosion during project construction activities. Therefore, impacts upon soils and/or geology are not significant.

Land Use: The proposed project is consistent with the City's Commercial Industrial Business Park (CIBP) Zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). Distribution center and industrial park uses are permitted, although buildings exceeding 200,000 square feet are subject to approval of a Conditional Use Permit (CUP). The project is on the fringe of expanding truck-oriented land uses. This area is uniquely suited to these types of businesses, as it is near the Interstate 15 / Highway 395 intersection. The proposed project would neither displace residents, nor divide an existing established community. The existing pattern of development, including the location of the property in relation to the I-15 freeway and Highway 395, is not suitable for residential development. Therefore, the proposed development will not pose a negative impact upon land use.

Project Alternatives: Alternatives to the proposed project, including the "no project" alternative, were evaluated and determined to be infeasible and/or inconsistent with the objectives of the City. Assemblage of over 200 acres of contiguous properties is a difficult task. This task becomes even more difficult when the site must be within an industrial zone district and close to Interstate 15 and/or Highway 395. A detailed discussion of these alternatives is found in Chapter 6 of the EIR.

Overriding Considerations: Pursuant to CEQA, the City must balance the benefits of the project against any significant and unavoidable environmental impacts that cannot be mitigated to less than significant. If the benefits of the Project outweigh these environmental impacts, those impacts are considered "acceptable." Since the impact upon Air Quality and Greenhouse Gas Emissions are considered significant and unavoidable, findings for a Statement of Overriding Considerations must be made. The project's benefits include strengthening the local economy by providing new employment opportunities for local residents and generating tax revenues to maintain adequate infrastructure facilities. Further, the project will help satisfy the City's deficiency of "bread-winning jobs, as most residents must currently travel outside the City to obtain higher paying jobs. The project's social and economic benefits render these significant and unavoidable impacts acceptable.

Conclusion: In summary, because the project is consistent with the City's General Plan, most of the project's impacts, whether less than significant, mitigable, or unmitigable and significant, were known and acknowledged by the City when the General Plan EIR was adopted in 2010. Prior to acting on the project, the Planning Commission must recommend that the City Council make the environmental determination, certifying that the Final EIR is complete; that it has been prepared in compliance with CEQA; that it reflects the City's independent judgment; and that all impacts from carrying out the project have been identified and disclosed to the public. Resolution PC-2013-14 has been prepared to document this determination. Once that has occurred, the Planning Commission can consider the conditional use permit and the tentative parcel map. If recommended for approval, the mitigation monitoring and reporting program will be administered with the project approval.

FISCAL IMPACT

The development will be subject to payment of development impact fees, which will offset the increased cost of services in this area. Once completed, the Hesperia Commerce Center will create more than 3,500 jobs. It is expected that many of the short-term construction jobs and long-term jobs will be filled by local residents, which will cause a small reduction in the number of commuters. Creation of higher paying jobs within the City is very important to the local economy and is consistent with the City's goal to establish job producing businesses in this area.

ALTERNATIVE(S)

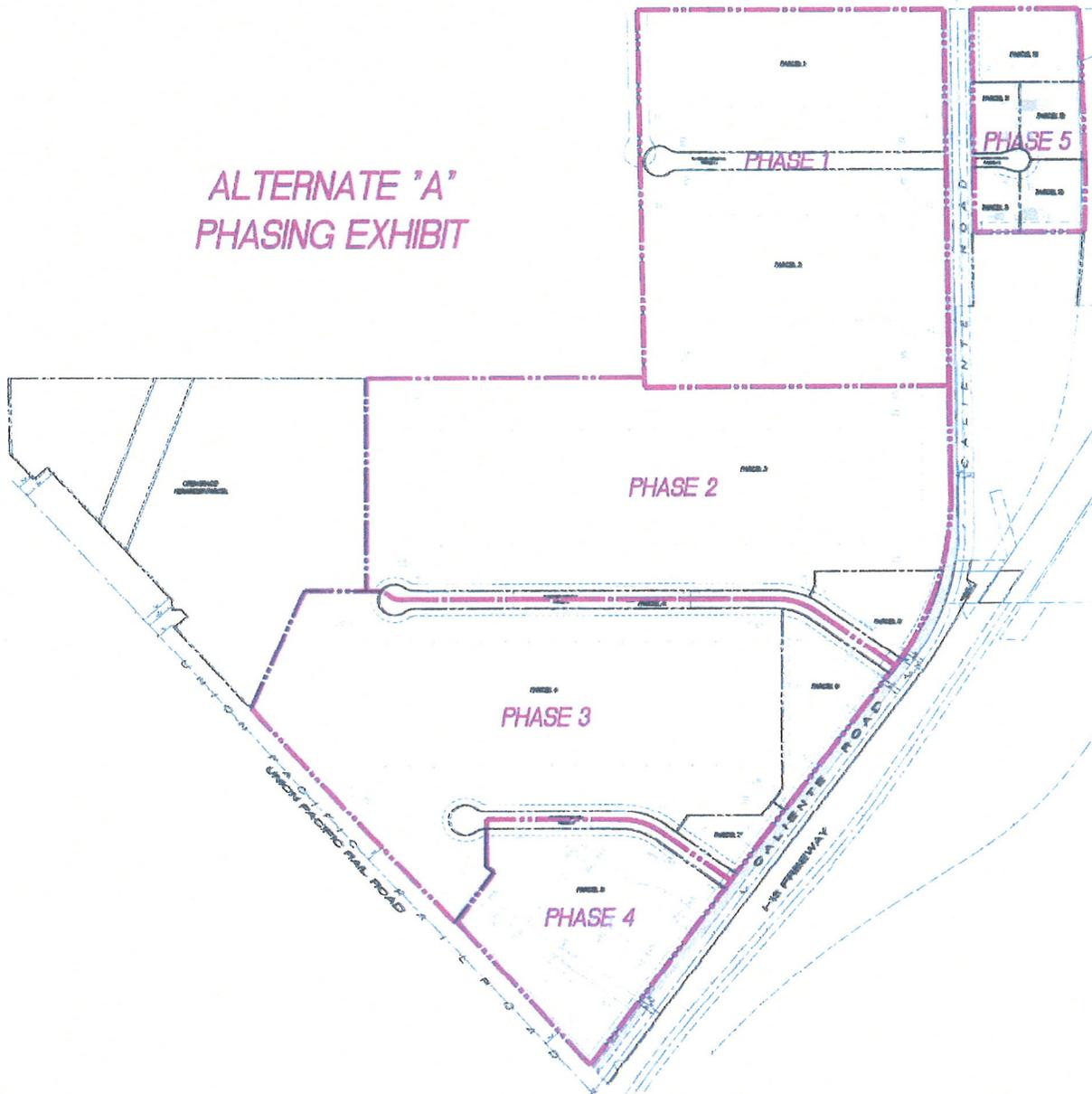
1. The Planning Commission may recommend relocating the use to a different site within an industrial zone. The assembly of property needed for this development would be a challenge and the infrastructure needed to serve a 3.5 million square foot distribution center / industrial park does not exist in the northwest and eastern portion of the City. In addition, the proposed site is proximate to existing truck-related development. As such, staff does not support this alternative.
2. Provide alternative direction to staff.

ATTACHMENT(S)

1. Site plan – Option A
2. Site plan – Option B
3. General Plan / Zoning Map
4. Aerial photo
5. Color rendering
6. Resolution No. PC-2013-14 (Environmental findings to recommend adoption of the EIR)
7. Resolution No. PC-2013-15, with list of conditions (CUP11-10229)
8. Resolution No. PC-2013-17, with list of conditions (TPM11-10230/PM-19339)

ATTACHMENT 1

ALTERNATE "A" PHASING EXHIBIT



APPLICANT(S):
COVINGTON GROUP, INC.

FILE NO(S):
CUP11-10229 & TPM11-10230

LOCATION:
ON THE EAST AND WEST SIDE OF CALIENTE ROAD
BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR
STREET.

APNs:
3039-311-03 THRU 06, 3039-341-01 THRU
07, 3039-351-08, AND 3039-431-02 & 04

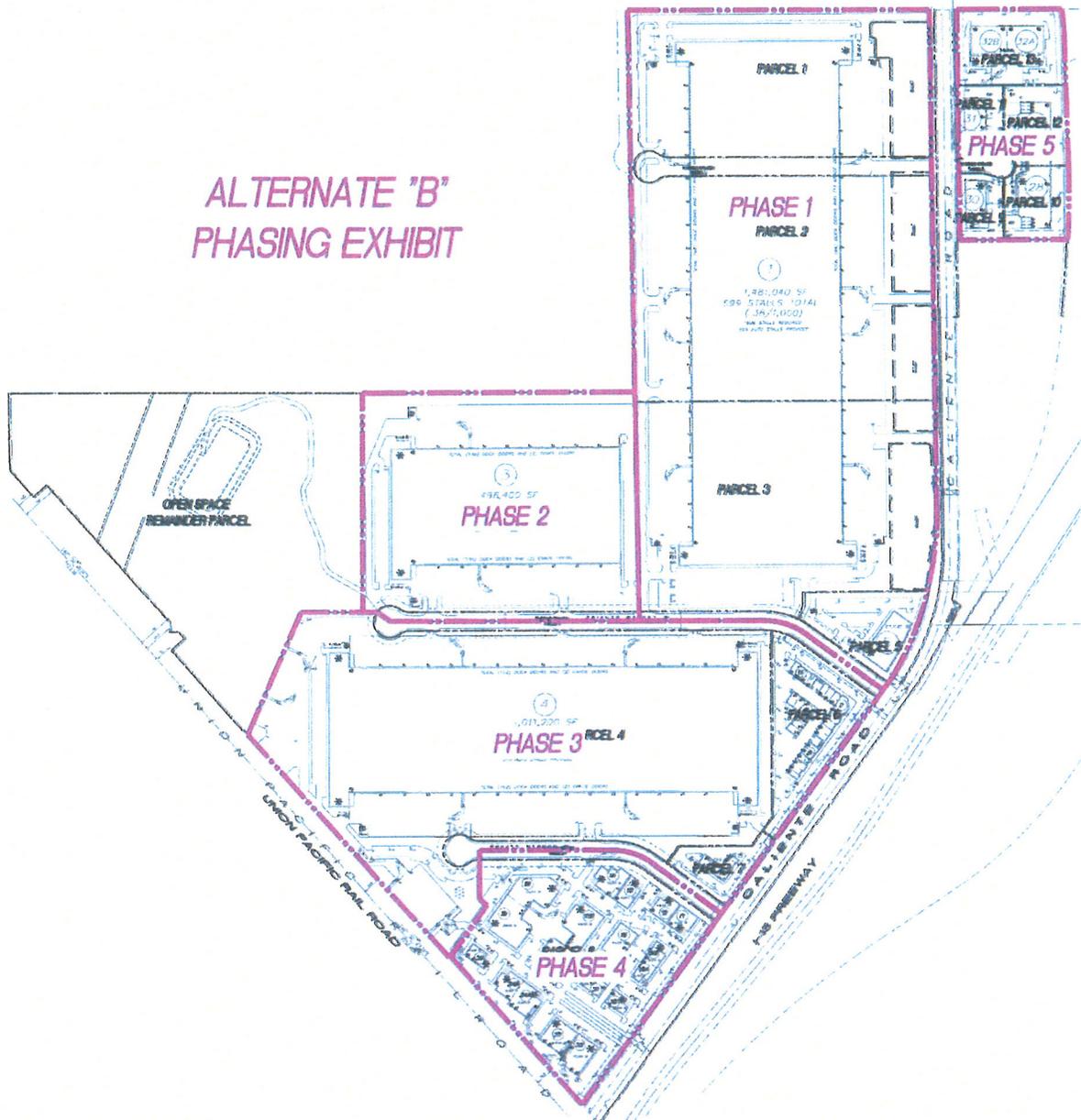
PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE
FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK AND A TENTATIVE PARCEL MAP TO
CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY
ON 232 GROSS ACRES. THE PROPOSAL INCLUDES AN ENVIRONMENTAL IMPACT REPORT
PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)



SITE PLAN OPTION A

ATTACHMENT 2

ALTERNATE 'B' PHASING EXHIBIT



APPLICANT(S):
COVINGTON GROUP, INC.

FILE NO(S):
CUP11-10229 & TPM11-10230

LOCATION:
ON THE EAST AND WEST SIDE OF CALIENTE ROAD
BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR
STREET.

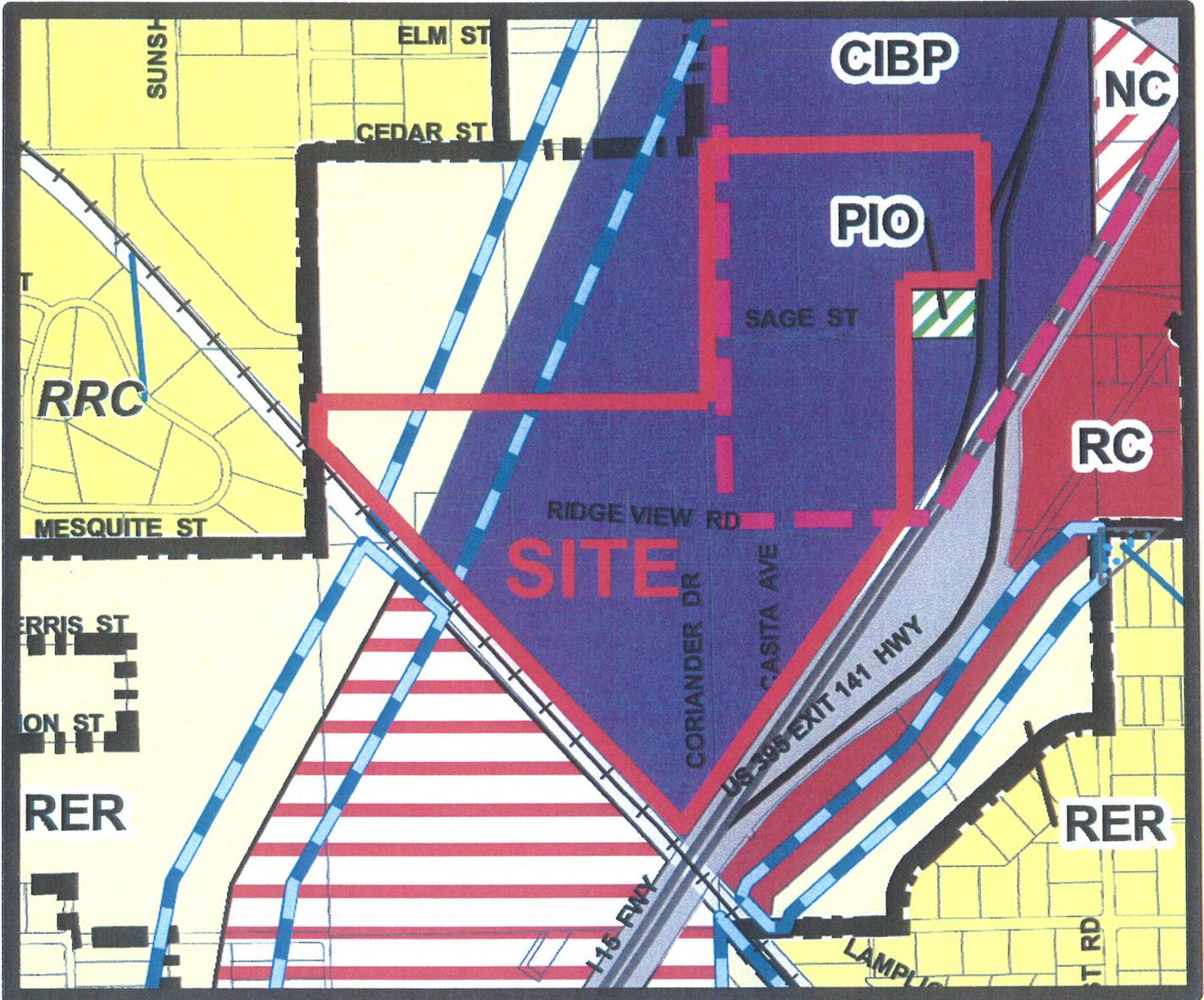
APNs:
3039-311-03 THRU 06, 3039-341-01 THRU
07, 3039-351-08, AND 3039-431-02 & 04

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE
FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK AND A TENTATIVE PARCEL MAP TO
CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY
ON 232 GROSS ACRES. THE PROPOSAL INCLUDES AN ENVIRONMENTAL IMPACT REPORT
PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)



SITE PLAN OPTION B

ATTACHMENT 3



APPLICANT(S):
COVINGTON GROUP, INC.

FILE NO(S):
CUP11-10229 & TPM11-10230

LOCATION:
ON THE EAST AND WEST SIDE OF CALIENTE ROAD BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR STREET.

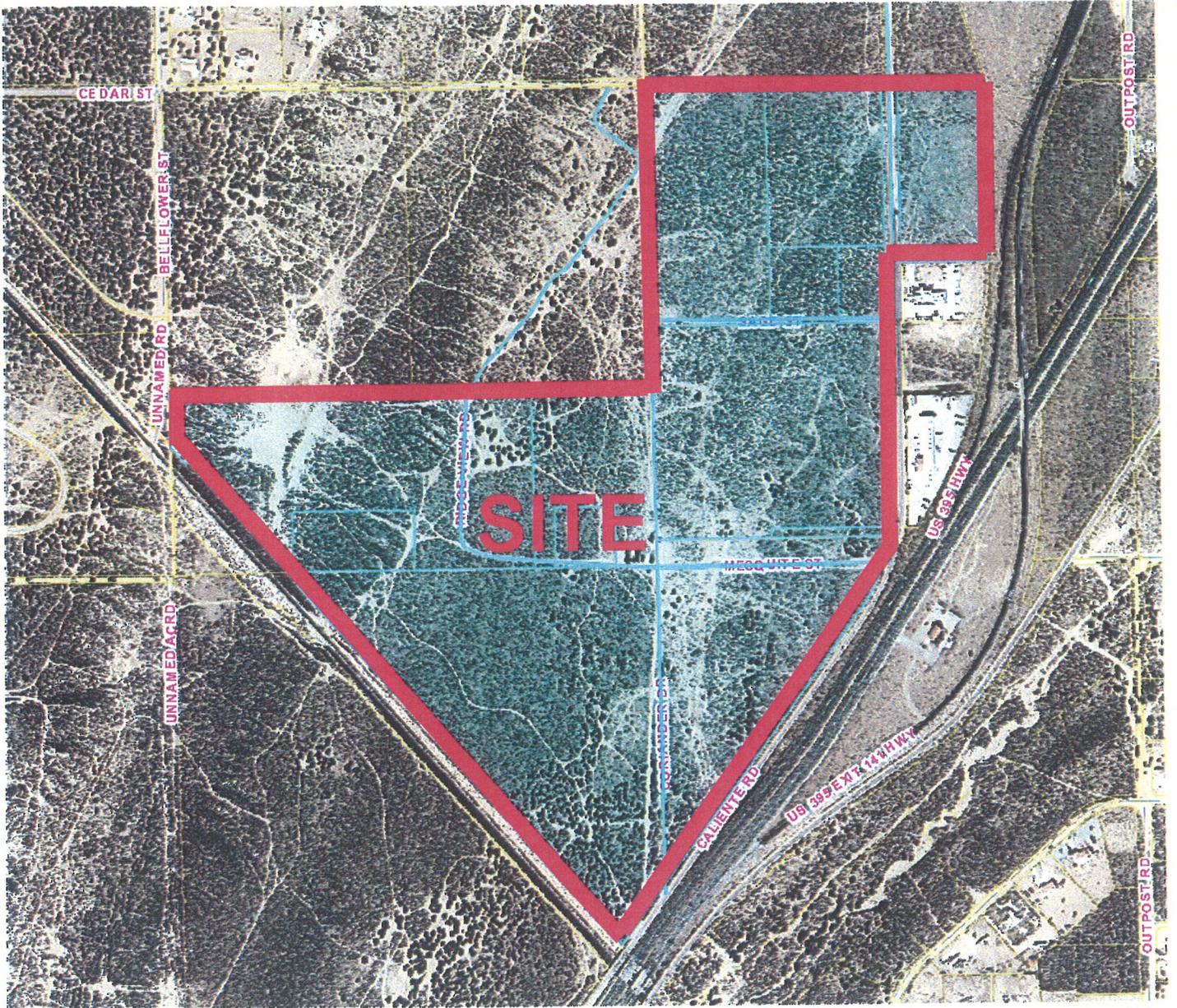
APNs:
3039-311-03 THRU 06, 3039-341-01 THRU 07, 3039-351-08, AND 3039-431-02 & 04

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK AND A TENTATIVE PARCEL MAP TO CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY ON 232 GROSS ACRES. THE PROPOSAL INCLUDES AN ENVIRONMENTAL IMPACT REPORT PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)



GENERAL PLAN / ZONING MAP

ATTACHMENT 4



APPLICANT(S):
COVINGTON GROUP, INC.

FILE NO(S):
CUP11-10229 & TPM11-10230

LOCATION:
ON THE EAST AND WEST SIDE OF CALIENTE ROAD
BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR
STREET.

APNs:
3039-311-03 THRU 06, 3039-341-01 THRU
07, 3039-351-08, AND 3039-431-02 & 04

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE
FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK AND A TENTATIVE PARCEL MAP TO
CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY
ON 232 GROSS ACRES. THE PROPOSAL INCLUDES AN ENVIRONMENTAL IMPACT REPORT
PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)



AERIAL PHOTO

ATTACHMENT 5



APPLICANT(S):
COVINGTON GROUP, INC.

FILE NO(S):
CUP11-10229 & TPM11-10230

LOCATION:
ON THE EAST AND WEST SIDE OF CALIENTE ROAD
BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR
STREET.

APNs:
3039-311-03 THRU 06, 3039-341-01 THRU
07, 3039-351-08, AND 3039-431-02 & 04

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE
FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK AND A TENTATIVE PARCEL MAP TO
CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY
ON 232 GROSS ACRES. THE PROPOSAL INCLUDES AN ENVIRONMENTAL IMPACT REPORT
PREPARED IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)



COLOR RENDERING

ATTACHMENT 6

RESOLUTION NO. PC-2013-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA RECOMMENDING THAT THE CITY COUNCIL ADOPT ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2012081016), ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPT A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, the Hesperia Commerce Center project would consist of the construction of a 3.5 million square foot distribution center and industrial park, including up to 34 industrial warehouse and office buildings, and the creation of 13 parcels and a remainder with a non-residential condominium overlay on 232 gross acres zoned Commercial Industrial Business Park (“CIBP”) and Wash Protection Overlay in the City of Hesperia (“City”) (the “Project”); and

WHEREAS, the Project would be accessible to both Interstate 15 and US Highway 395 and would promote the City’s economic development by creating jobs for citizens of Hesperia and surrounding communities, increasing the City’s tax base, fulfilling the growing demand for distribution and light industrial uses in the region, utilize existing infrastructure, and develop the land to the highest and best allowable use compatible with the City’s General Plan, Main Street and Freeway Corridor Specific Plan; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) (*Public Resources Code* § 21000 et. seq.) and the State CEQA Guidelines (14 CCR § 15000 et. seq.), the City of Hesperia is the lead agency for the Project as the public agency with general governmental powers; and

WHEREAS, the City of Hesperia, as lead agency, prepared an initial study, from which it was determined that an Environmental Impact Report (“EIR”) should be prepared pursuant to CEQA in order to analyze all adverse environmental impacts of the Project; and

WHEREAS, a Notice of Preparation (“NOP”) and the Initial Study identifying the scope of environmental issues were distributed to numerous state, federal, and local agencies and organizations from August 6, 2012 to September 5, 2012, for a period of 30 days, pursuant to State CEQA Guidelines sections 15082(a), 15103, and 15375. Relevant comments received in response to the NOP/Initial Study were incorporated into the Draft EIR (“DEIR”); and

WHEREAS, a public information meeting was held at City Hall on August 28, 2012; and

WHEREAS, the City completed the DEIR and circulated it with the Notice of Completion (“NOC”) to affected public agencies and interested members of the public for the required 45 day public comment period, from August 20, 2013 through October 3, 2013; and

WHEREAS, the Planning Commission duly noticed and conducted a public hearing on November 14, 2013, at which time all interested parties were provided the opportunity to give testimony for or against the issue; and

WHEREAS, as contained herein, the City has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, the EIR for the Project reflects the City's independent judgment. The City has exercised independent judgment in accordance with *Public Resources Code* Section 21082.1(c)(3) in directing the consultant in the preparation of the EIR. The City has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of the City for the purposes of making decisions on the merits of the project.

WHEREAS, all the requirements of CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines have been satisfied in the EIR, which is sufficiently detailed so that all of the significant environmental effects of the Project have been adequately evaluated; and

WHEREAS, the EIR prepared in connection with the Project sufficiently analyzes both the feasible mitigation measures necessary to avoid or substantially lessen the Project's environmental impacts and a range of feasible alternatives capable of eliminating or reducing these effects in accordance with CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Planning Commission during the above referenced November 14, 2013 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- 1) The Planning Commission has independently reviewed, analyzed and considered the Final EIR and all written documentation and public comments prior to making recommendations on the proposed Project; and
- 2) The Final EIR was prepared and completed in compliance with the provisions of CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines; and
- 3) The information and analysis contained in the Final EIR reflects the City's independent judgment as to the environmental consequences of the proposed Project; and
- 4) The documents and other materials, including without limitation, staff reports, memoranda, maps, letters and minutes of all relevant meetings, which constitute the administrative record of proceedings upon which the Planning Commission's decision is based are located at the City of Hesperia, Planning Division, 9700 Seventh Avenue, Hesperia, CA 92345. The custodian of the records is the Principal Planner.

Section 3. That on the basis of the evidence contained in the administrative record of the Final EIR, the Planning Commission finds based on the information submitted the following conclusion of the public comment period on the Draft EIR, following the consultant's responses thereto, there is no significant new information concerning the Project's environmental effects, feasible mitigation measures,

or feasible project alternatives; therefore there is no need or requirement to recirculate the EIR for additional public comment.

Section 4. That the Planning Commission of the City of Hesperia hereby recommends that the City Council certify the Final EIR.

Section 5. **Exhibit A** (Facts, Findings and Statement of Overriding Considerations) and **Exhibit B** (Mitigation Monitoring and Reporting Program) of this Resolution provide findings required under Section 15091 of the State CEQA Guidelines for significant effects of the Project. **Exhibit A** of this Resolution provides the findings required under Section 15093 of the State CEQA Guidelines relating to the acceptable adverse impacts of the Project due to overriding considerations. The City has balanced the economic, legal, social, technological, and other benefits of the Project against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits outweigh the unavoidable adverse environmental effects. Therefore, the Planning Commission hereby recommends that the City Council adopt the Facts, Findings and Statement of Overriding Considerations attached hereto as **Exhibit A**.

Section 6. Pursuant to *Public Resources Code* Section 21081.6, the Planning Commission hereby recommends approval of the Mitigation Monitoring and Reporting Program attached as **Exhibit B** to this Resolution and recommends the Council require the Project to comply with the mitigation measures contained therein. The Planning Commission finds that these mitigation measures are fully enforceable on the Project and shall be binding upon the City and affected parties.

DULY AND REGULARLY ADOPTED this 14th day of November, 2013 by the City of Hesperia Planning Commission by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Kathy Stine, Planning Commission Secretary

Chris Elvert, Chair

Planning Commission

EXHIBIT “A”

Facts, Findings and Statement of Overriding Considerations Regarding the Environmental Effects from the Approval of the Hesperia Commerce Center State Clearinghouse No. 2012081016

I. INTRODUCTION

The City Council (this “Council”) of the City of Hesperia (the “City”), in approving the Hesperia Commerce Center Project (the “Project”) which requires approval of a Conditional Use Permit to permit warehousing and distribution centers greater than 200,000 square feet in size (“CUP”), a Tentative Tract Map and a Development Agreement makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Environmental Impact Report (“EIR”) was prepared by the City acting as lead agency pursuant to the California Environmental Quality Act (“CEQA”). Hereafter, the Notice of Preparation, Notice of Availability, Notice of Completion, the Draft EIR (circulated from August 20, 2013 to October 3, 2013), Technical Studies attached as Appendices to the Draft EIR, the Final EIR containing Responses to Comments and textual revisions to the Draft EIR, and the Mitigation Monitoring and Reporting Program will be referred to collectively herein as the “EIR”. These Findings are based on the entire record before this Council, including the EIR. This Council adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR does not mean that it has been rejected by this Council.

II. PROJECT SUMMARY

A. PROJECT DESCRIPTION

1. Site Location

The Hesperia Commerce Center Project is located west of Interstate 15 (I-15) within the City of Hesperia in San Bernardino County (DEIR p. 2-1). Specifically, the Project site

is non-contiguous and comprises approximately 232 acres of undeveloped land on both the east and west sides of Caliente Road, with the larger portion of the site located between Cedar Street and Union Pacific Railroad. The eastern portion of the site, accounting for approximately six percent of the total acreage, is located on the east side of Caliente Road north of Fire Station 305 and south of the future extension of Cedar Street (*Id.*). The Project is within the Highway 395/I-15 District of the *Hesperia Main Street and Freeway Corridor Specific Plan* (“Specific Plan”). According to the Specific Plan, the Project site is primarily within the Commercial/Industrial Business Park (“CIBP”) District. The Specific Plan also identifies that a portion of the site, adjacent to the Oro Grande Wash, is within the Wash Protection Overlay, and the westernmost portion of the site is within the Rural Estate Residential (“RER”) District. (DEIR p. 2-7 and 3-72)

The properties within the immediate vicinity of the Project site are vacant, except for the properties to the east, which include Commercial Engine Service, and Fire Station 305. A park and ride lot and a truck stop with various commercial land uses exist northeast of the Project site. In addition, to the south of the Project site, the Ranchero Road and I-15 interchange commenced construction on January 2013 and has an estimated completion date of 2015. (DEIR p. 2-7)

2. Project Description

The Project proposes the development of up to 34 industrial warehouse and office buildings with a total building area of up to 3.5 million square feet on a 232-acre site. (DEIR p. 2-11) The Project proposes two build options to allow development flexibility—Option A and Option B. The options solely affect Parcels 1 through 3 and Buildings 1 through 3. Option A places two structures on Parcel 1 (425,880 square feet; 533,360 square feet), whereas Option B would place one large structure (1,481,040 square feet) that would occupy Parcels 1 and 2, and a portion of Parcel 3. With Option B Building 2 would be eliminated. Option A provides a total building area of 3,545,792 square feet; Option B provides 3,455,942 square feet. Therefore, Option A, analyzed by the EIR, provides 89,850 more building square footage than Option B. (DEIR p. 2-12)

Under Option A, Parcel 3 will accommodate one large warehouse structure (1,110,050 square feet), Parcel 4 will accommodate one large warehouse structure (1,011,200 square feet), and Parcel 5 will accommodate a 27,130 square feet office structure. (DEIR 2-13, Table 2-2) Three parcels (Parcels 6, 7, and 8) will include a condominium overlay. (DEIR p. 2-11) Project Parcel 6 will accommodate development of four buildings for light industrial use, totaling 46,365 square feet. Project Parcel 7 will accommodate one 9,799 square feet light industrial structure. Project Parcel 8 will accommodate 18 industrial buildings, totaling 226,205 square feet. Project Parcel 9 will accommodate a 16,352 square feet industrial structure. Project Parcel 10 will accommodate a 34,610 square feet industrial structure. Project Parcel 11 will accommodate a 20,001 square feet industrial structure and Project Parcel 12 will accommodate a 33,680 square feet industrial structure. Project Parcel 13 will accommodate two industrial structures totaling 51,160 square feet. (DEIR p. 2-12, Table 2-1 and Table 2-2) In addition, four lettered parcels will be dedicated for private roadways and one lettered parcel will be dedicated for open space/water retention. (DEIR p. 2-11)

3. Actions Covered by the EIR

The EIR will support the following discretionary approvals:

- Approval of a Tentative Parcel Map to include, but not limited to, creation of 18 parcels, including three parcels with a “condominium overlay”;
- Conditional Use Permit for a warehousing and wholesale distribution center larger than 200,000 square feet in size;
- Development Agreement between the City of Hesperia and Covington Capital; and
- Any other discretionary approvals that may be necessary.

B. PROJECT GOALS AND OBJECTIVES

The Project goals and objectives include the following:

- Promote the City of Hesperia’s economic development;
- Create jobs for area residents;

- Increase the City of Hesperia’s tax base;
- Create a Project that utilizes and/or enhances existing infrastructure, including the proximity to major roadways and freeways, railroad service corridors, and other similar infrastructure that will help promote the site and its use as an industrial business park development;
- Fulfill the growing demand for distribution and light industrial uses in the region;
- Develop the land to the highest and best allowable land use compatible with the City’s General Plan, Main Street and Freeway Corridor Specific Plan, and planning guidelines; and
- The Project site should be located accessible to both I-15 and US Highway 395.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The City conducted an extensive review of this Project which included a Draft EIR and a Final EIR, including technical reports; along with a public review and comment period. The following is a summary of the City’s environmental review of this Project:

- On August 6, 2012, the City circulated a Notice of Preparation (“NOP”) identifying the environmental issues to be analyzed in the Project’s EIR to the State Clearinghouse, responsible agencies, and other interested parties. The Initial Study (DEIR Appendix A) identified potential environmental impacts related to air quality, biological resources, cultural resources, greenhouse gas, noise, and transportation/traffic. Additionally, issues of concern were identified by the Lead Agency through responses to the Project Initial Study/Notice of Preparation (“NOP”) and other communications addressing the Project and Project EIR. Among areas of concern identified through the NOP process were issues pertaining to hydrology/water quality.

- The Notice of Availability (“NOA”) and Draft EIR were circulated for public review and a Notice of Completion (“NOC”) was filed with the State Clearinghouse on August 20, 2013 to start the 45-day review period.
- On November 4, 2013, in accordance with *Public Resources Code* Section 21092.5, the City provided written proposed responses to public agencies that commented on the DEIR.
- On October 22, 2013, notice of the Planning Commission hearing to consider the project was posted and provided in the following newspapers of general and/or regional circulation to run the week of October 28, 2013: *Hesperia Star*.
- On November 14, 2013, the Planning Commission conducted a public hearing to consider the Project. The Commission, after considering written comments and oral testimony on the EIR, determined that no new information was presented that would require recirculation of the EIR. Following public testimony, submission of additional written comments, and staff recommendations, the Planning Commission Recommended that the City Council certify, the EIR, adopt these Findings and the Statement of Overriding Considerations, and approve the Project as recommended by the Staff Report.
- On December 3, 2013, the City Council conducted a public hearing to consider the Project. The Council, after considering written comments and oral testimony on the EIR, determined that no new information was presented that would require recirculation of the EIR. Following public testimony, submission of additional written comments, and staff recommendations, the City Council certified the EIR, adopted these Findings and the Statement of Overriding Considerations, and took action to approve the Project as recommended by the Planning Commission.

IV. INDEPENDENT JUDGMENT FINDING

URS Corporation prepared the EIR under the supervision, direction and review of the City of Hesperia planning staff.

Finding: The EIR for the Project reflects the City's independent judgment. The City has exercised independent judgment in accordance with *Public Resources Code* Section 21082.1(c)(3) in directing the consultant in the preparation of the EIR. The City has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of the City.

And at a meeting assembled on December 3, 2013, the City Council of the City of Hesperia determined that based upon all of the evidence presented, included but not limited to the Final EIR, written and oral testimony given at the meetings and hearings, and submission of testimony from the public, organizations, and regulatory agencies, the following impacts associated with the Project are (1) less than significant and do not require mitigation; or (2) potentially significant and each of these impacts will be avoided or reduced to a level of insignificance through the identified mitigation measures and/or implementation of an environmentally superior alternative to the Project; or (3) significant and cannot be fully mitigated to a level of less than significant but will be substantially lessened to the extent feasible by the identified mitigation measures.

A. GENERAL FINDING ON MITIGATION MEASURES

In preparing the Approvals for this Project, City staff incorporated the mitigation measures recommended in the EIR as applicable to the Project. In the event that the Conditions of Approval do not use the exact wording of the mitigation measures recommended in the EIR, in each such instance, the adopted Conditions of Approval are intended to be identical or substantially similar to the recommended mitigation measures. Any minor revisions were made for the purpose of improving clarity or to better define the intended purpose.

Finding: Unless specifically stated to the contrary in these findings, it is this Council's intent to adopt all mitigation measures recommended by the EIR which are applicable to the Project. If a measure has, through error, been omitted from the Conditions of Approval or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Conditions of Approval repeating or rewording mitigation measures recommended in the EIR are intended to be substantially similar to the mitigation measures recommended in the EIR and are found to be equally effective in avoiding or lessening the identified environmental impact. In each instance, the Conditions of Approval contain the final wording for the mitigation measures.

V. ENVIRONMENTAL IMPACTS AND FINDINGS

City staff reports, the EIR, written and oral testimony at public meetings or hearings, these Facts, Findings and Statement of Overriding Considerations, and other information in the administrative record, serve as the basis for the City's environmental determination.

The detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Section 3.0 of the Draft EIR. Responses to comments from the public and from other government agencies on the Draft EIR are provided starting on page 2 of the Final EIR. Revisions to the Draft EIR are also included following the responses to each comment letter.

The EIR evaluated seventeen major environmental categories for potential impacts including Aesthetics, Agricultural and Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation and Traffic, and Utilities and Service Systems. Both Project-

specific and cumulative impacts were evaluated. Of these seventeen major environmental categories, this Council concurs with the conclusions in the EIR that the issues and sub issues discussed in subsections A, B and C below either are less than significant without mitigation or can be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in subsection D, the Council must evaluate the overriding considerations and Project benefits and balance them against the significant impacts of the proposed Project.

A. **ENVIRONMENTAL EFFECTS FOUND TO BE NOT SIGNIFICANT**

The Initial Study for the Project determined that the Project would result in no impact with regard to several environmental issues. In the presentation below, each issue is identified and the potential for significant adverse environmental effects is discussed.

1. **Aesthetics**

a. **Scenic Resources**

Potential Significant Impact: Whether the project would substantially damage scenic resources, including, but not limited to, trees, rock, outcroppings and historic buildings within a state scenic highway.

Finding: Potential impacts of the Project on Aesthetics were discussed in detail in Section 3.1.4 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to Scenic Resources will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-5 to 3-6.).

Facts in Support of the Finding: There are no scenic resources or historically significant buildings on site. (DEIR p. 3-5.). The two nearest resources are not located within Project boundaries, but adjacent to the Project site and represent historical road or trail features. The

location of these travel routes do not interfere with the Project, but given the site's proximity to these features, monitoring of grading activities is expected to occur. I-15 and Highway 395 are the closest facilities to the Project site, but neither facility has been designated as a state scenic highway. State Route 138 and State Route 173 are designated as Eligible State Scenic Highways but are not officially designated. The three-mile segment of State Highway 138 that is designated as an Eligible State Scenic Highway is located approximately five miles south of the Project site. The approximate two-mile segment of State Highway 173 that is designated as an Eligible State Scenic Highway is located nearly seven miles south east of the Project site, and no portion of the Project would be visible from either of the two eligible state scenic highways. (DEIR p. 3-6.). For this reason, the Project will have no impact on scenic resources.

2. Agricultural Resources

a. All Issue Areas

Potential Significant Impact: Whether the project would result in significant impacts to agricultural resources.

Finding: Potential impacts of the Project on Agricultural Resources were discussed in detail in Section 3.2 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to Agricultural Resources will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-7 to 3-11.).

Facts in Support of the Finding: Neither the Project site nor the surrounding areas

qualify as prime or unique farmland, or farmland of statewide importance. No Williamson Act land is located on or near the Project site. Additionally, the Project site does not contain any forest land and does not involve the redesignation of forest land. According to the City of Hesperia General Plan, the majority of land within the City limits is identified as "Grazing Land." While the Grazing Land designation supports agricultural related activities, it is unknown whether the property as ever been used for agricultural production or livestock grazing. The Project site is mostly located within the Commercial/Industrial Business Park ("CIBP") designation and partially within the Rural Residential District of the City's Hesperia Main Street and Freeway Corridor Specific Plan. The CIBP designation does not allow for the keeping of livestock. The portion of the site to be developed is intended to facilitate projects such as the one proposed. (DEIR pp. 3-10 to 3-11.). Further, as planned urban development in the City of Hesperia, including San Bernardino County, will not result in the conversion of prime agricultural land to nonagricultural use, development of related projects would not cause a significant cumulative impact on agriculture or timber production. (DEIR p. 4-2.). Therefore, no impact to farmland, agricultural land, or forest land would occur.

3. Air Quality

a. **Objectionable Odors**

Potential Significant Impact: Whether the project would create objectionable odors affecting a substantial number of people.

Findings: Based on the entire record before us, this Council finds that no significant impact related to objectionable odors will occur as a result of development of the Project and, therefore, no mitigation is required.

Facts in Support of the Findings: Odors are typically associated with industrial projects involving the use of chemicals, solvents, petroleum products, and other strong-smelling elements used in manufacturing. The Project would not contain any of those listed odor-producing uses. For this reason, the Project will have no impact on objectionable odors.

4. Biological Resources

a. **Riparian Habitat or Other Sensitive Natural Communities**

Potential Significant Impact: Whether Project implementation would substantially affect a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Finding: Potential impacts of the Project on Biological Resources are discussed in detail in Section 3.4 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to riparian habitat or sensitive natural communities will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-37.).

Facts in Support of the Finding: No riparian or other sensitive habitat areas are located on or adjacent to the Project Site. The Oro Grande Wash located within the western portion of the Project site was not identified as containing riparian habitat. For this reason, the Project will have no impact on riparian habitats or sensitive natural communities. (DEIR p. 3-37.).

b. Federally Protected Wetlands

Potential Significant Impact: Whether the Project would result in significant impacts on any Federally Protected Wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.

Finding: Potential impacts of the Project on Biological Resources are discussed in Section 3.4 of the Draft EIR. Based on the entire record before us, this Council finds that no impact related to Federally Protected Wetlands will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-37 to 3-38.).

Facts in Support of the Finding: The Project does not involve development in the area of the Oro Grande Wash along the western boundary of the study area. Instead, an open space remainder parcel is proposed, and a 150-foot wide conservation easement to the City of Hesperia will be recorded with the parcel map. As no development or disturbance is anticipated on the remainder parcel, the Project does not warrant completion of a jurisdictional wetlands and waters determination on those lands likely subject to USACE, RWQCB, and CDFG jurisdiction. (DEIR,

pp. 3-37 to 3-38.). For this reason, the Project would have no impact on federally-protected wetlands.

c. Habitat Conservation Plan

Potential Significant Impact: Whether the Project would conflict with provisions of an adopted Habitat Conservation plan, Natural Community Conservation plan, or other approved local, regional, or state habitat conservation plan.

Finding: Potential impacts of the Project on Biological Resources are discussed in Section 3.4 of the Draft EIR. Based on the entire record before us, this Council finds that no impact on habitat conservation plan will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-39.).

Facts in Support of the Finding: The Project Site is not part of any adopted Habitat Conservation Plan or Natural Communities Conservation Planning Program. For this reason, construction and operation of the Project would have no impact on any adopted Habitat Conservation Plan or Natural Communities Conservation Planning Program. (DEIR p. 3-39.).

d. Cumulative Impacts Related to Biological Resources

Potentially Significant Impact: Whether implementation of the proposed Project could result in significant cumulative impacts related to biological resources.

Finding: Potential impacts of the Project on biological resources are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Council finds no cumulative impacts related to biological resources and therefore no mitigation is required.

Facts in Support of the Finding: Based on compliance with the GPUEIR policies for the protection of biological resources, potential cumulative impacts would be reduced to a level of less than significant. In addition, according to the GPUEIR, no cumulative impacts to sensitive plants would result from build out of the City of Hesperia, and as such, no impact is anticipated at project build out. (DEIR p. 4-4.). For this reason, the Project will have no cumulative impact on biological resources.

5. Cultural Resources

a. Historical Resources

Potential Significant Impact: Whether the Project would result in a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.

Finding: Potential impacts of the Project on Cultural Resources are discussed in Section 3.5 of the Draft EIR. Based on the entire record before us, this Council finds no impact related to historical resources as defined in Section 15064.5, and therefore no mitigation is required.

Facts in Support of the Finding: For potential impacts to historical resources to be considered significant, the resources in question must be listed in or determined eligible for listing in the California Register of Historic Places, be included in a local register of historic resources, or be determined by the lead agency to be historical resources. (DEIR p. 3-44.). None of the six previously recorded cultural resources are considered historically significant. (DEIR p. 3-42.). For this reason, there is no impact on historical

resources and no mitigation is required.

6. Geology and Soils

a. Rupture of a Known Earthquake Fault

Potential Significant Impact: Whether implementation of the proposed Project could result in the exposure of people or structures to potentially substantial adverse effects, including the risk of loss, injury or death involving rupture of a known earthquake fault.

Finding: Potential impacts of the Project on Geology and Soils are discussed in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds that no impact on people or structures involving rupture of a known earthquake fault will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-50.).

Facts in Support of the Finding: No potentially active faults exist on or in the immediate vicinity of the Project area. As such primary ground rupture is not a significant concern. (DEIR p. 3-50.). For this reason, there is no impact resulting from rupture of a known earthquake fault and no mitigation is required.

b. Expansive Soils

Potential Significant Impact: Whether the Project would be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code, creating substantial risk to life or property.

Finding: Potential impacts of the Project on Geology and Soils are discussed in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds that no impact related to expansive soils will occur as a

result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-52.).

Facts in Support of the Finding: Section 1802.3.2 of the California Building Code describes expansive soils as having a plasticity index (PI) of 15 or greater. According to the U.S. Department of Agriculture Web Soil Survey, soils at the Project site have a maximum PI of 2.3. Therefore, the soils are not considered to be expansive and construction will not be impacted. (DEIR p. 3-52.). For this reason, the Project will have no impact related to expansive soils.

c. Septic Tanks

Potential Significant Impact: Whether the Project would have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems.

Finding: Potential impacts of the Project on Geology and Soils are discussed in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds that no impact related to the use of septic tanks will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-52.).

Facts in Support of the Finding: The Project site is located adjacent to both an 8-inch sewer line and a 10-inch sewer line. All new high-density developments located near an existing area with sewer service will be required to connect to the sewer pursuant to the California Plumbing Code and Lahontan Guidelines. The Project will not be using a septic system. (DEIR p. 3-53.). For this reason, the Project will have no impact on septic tanks.

7. **Hazards and Hazardous Materials**

a. **Located in Airport Land Use Plan or Near a Private Airstrip**

Potential Significant Impact: Whether the Project would result in safety hazard for people residing in the Project area due to the Project's vicinity to an airport or airstrip.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to airports or airstrips will occur as a result of development of the Project and, therefore, no mitigation is required.

Facts in Support of the Finding: The project site is not located within the vicinity of an airport land use plan nor is it within two miles of an airport. In addition, it is not within the vicinity of a private air strip. (DEIR pp. 3-65 to 3-66.). For this reason, the Project will not result in a safety hazard for people due to the project's vicinity to an airport or airstrip.

8. **Hydrology and Water Quality**

a. **Groundwater Resources and Quality**

Potential Significant Impact: Whether implementation of the proposed Project would substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

Finding: Potential impacts of the Project on Hydrology and Water Quality are discussed in detail in Section 3.9 of the Draft EIR. Based on the entire

record before us, this Council finds that no impacts related groundwater resources or groundwater quality will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-70.).

Facts in Support of the Finding: A Water Supply Analysis report meeting Senate Bill 610 was prepared for the Project and accepted by the Hesperia Water District, finding that the proposed Project's water demands could be met for at least 20 years, accounting for anticipated growth of other projects within the City. (DEIR p. 3-70.). The proposed Project would result in an increase in impervious surfaces within the Project site, which could decrease the area in which stormwater can infiltrate and recharge local groundwater sources. However, the Project proposes the use of above and underground detention basins. Implementation of site-specific water conservation BMPs also reduces potential impacts associated with water availability. (*Id.*). For this reason, the Project will have no impact on groundwater resources or groundwater quality.

b. Flood Hazards

Potential Significant Impact: Whether implementation of the proposed Project could place housing within a 100-year flood hazard area, impede or redirect flood flows, or expose people or structures to a significant risk of loss, injury or death involving flooding.

Finding: Potential impacts of the Project on Hydrology and Water Quality are discussed in detail in Section 3.9 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to housing

within a 100-year flood hazard area, redirection of flood flows, or exposure to a significant risk of loss, injury or death due to flooding will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-68 to 3-69.).

Facts in Support of the Finding: The project involves the development of industrial warehouse and office buildings and does not include housing. (DEIR p. 2-11.). Further, the Project is not in an area designated as a 100-year flood hazard area. (DEIR p. 3-69.). For this reason, the Project will have no impact regarding placement of housing within a 100-year flood hazard area or placement of structures within a 100-year flood hazard area which would impede or redirect flood flows. Based on the use of above-ground and underground detention basins, most flows will be managed on site. (DEIR p. 3-69.). For this reason, the Project will not impact exposure of people or structures to a significant risk of loss, injury or death involving flooding.

c. Exposure to Seiche, Tsunami or Mudflow

Potential Significant Impact: Whether implementation of the proposed Project would expose people or structures to inundation by seiche, tsunami, or mudflow.

Finding: Potential impacts of the Project on Hydrology and Water Quality are discussed in detail in Section 3.9 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to inundation by seiche, tsunami or mudflow will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-70.).

Facts in Support of the Finding: The Project is located within the Mojave Desert and

inundation by seiche, tsunami, or mudflow is not possible as the Project site is not in proximity to the ocean, lake, or any other large water body. (DEIR p. 3-70.). For this reason, the Project will have no impact on water inundation.

9. Land Use Planning

a. Habitat Conservation Plan

Potential Significant Impact: Whether implementation of the proposed Project conflicts with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

Finding: Potential impacts of the Project on Land Use Planning are discussed in detail in Section 3.10 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to Habitat Conservation Plans or Natural Community Conservation Plans will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-76 to 3-77.).

Facts in Support of the Finding: A Habitat Conservation Plan (HCP) is designed to offset any harmful effects that a proposed activity might have on federally listed threatened and endangered species. The Natural Communities Conservation Planning Program (NCCP) identifies and provides for the regional or area wide protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity. The Project site is not included within an established HCP or NCCP (DEIR pp. 3-76 to 3-77.). The majority of the Project site is designated CIBP, a land use compatible with the proposed Project, while a small portion of the

western half of the site is designated Rural Estate Residential. A small portion of the site is also within the Wash Protection Overlay (WPO), which limits construction of permanent structures within the wash's right of way in order to keep washes natural and undeveloped and keep habitable structures safe from large stormwater events. Under both Project alternatives, these areas are designated as retention areas and are not incorporated in the site design. No development would take place in areas not designated CIBP. (DEIR p. 3-77.). Accordingly, the Project will have no impact on any conservation plan.

10. Mineral Resources

a. All Issues Areas

Potential Significant Impact: Whether the project would result in significant impacts to mineral resources.

Finding: Potential impacts of the Project on Mineral Resources are discussed in detail in Section 3.11 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to mineral resources will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-77 to 3-80.).

Facts in Support of the Finding: According to the City of Hesperia General Plan Conservation Element, mineral resources in the City have been identified by the Department of Conservation Division of Mines and Geology as potentially containing concrete aggregate resources consistent with the majority of the Barstow and Victor Valley areas. These resources are not

significant due to the vast availability of similar deposits in the region. (DEIR p. 3-77.). However, the City has not identified any known mineral resources that would be of significant value. Therefore, no impacts would occur to mineral resources of statewide importance and mitigation is not required. (DEIR p. 3-79.).

b. Cumulative Impacts Related to Mineral Resources

Potential Significant Impact: Whether implementation of the proposed Project could result in significant cumulative impacts related to mineral resources.

Finding: Potential impacts of the Project on Mineral Resources are discussed in detail in Section 3.11 of the Draft EIR. In addition, Section 4.11 of the Draft EIR discusses cumulative impacts related to mineral resources in particular. Based on the entire record before us, this Council finds no significant cumulative impacts related to mineral resources. (DEIR p. 4-6.).

Facts in Support of the Finding: According to the City of Hesperia General Plan Conservation and Open Space Element, the City has not identified any rare mineral resources that would be of value to the region and the residents of the state. Sand and gravel on the Project site are prevalent within the entire High Desert region. (DEIR p. 4-6.). Accordingly, the Project's potential contribution to cumulative impacts in regard to mineral resources is not considerable and there are no cumulative effects of the Project.

11. Noise

a. Airport Land Use Plan or Private Airstrip

Potential Significant Impact: Whether implementation of the proposed Project could expose people residing or working in the Project area to excessive noise levels because of its proximity to an Airport Land Use Plan or private airstrip.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to people residing or working in the Project area within the vicinity of an airport land use plan, two miles of a public airport or private use airport, or private airstrip will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-94.).

Facts in Support of the Finding: The project is not located within an airport land use plan or within two miles of a public airport or public use airport. (DEIR p. 3-94.). The Project is also not located within the vicinity of a private airstrip (*Id.*). Accordingly, the Project will not be exposed to a substantial level of aircraft noise and would not result in a significant noise impact. No mitigation is required.

12. Population and Housing

a. **Displace Housing**

Potential Significant Impact: Whether implementation of the proposed Project could displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

Finding: Potential impacts of the Project on Population and Housing are discussed in detail in Section 3.13 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to the displacement of

existing housing will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-97.).

Facts in Support of the Finding: The Project site is currently undeveloped and does not have existing residential structures. Further the Project site is zoned such that residential housing is not a permitted land use on the portion of the site planned for development. (DEIR p. 3-97.). Accordingly, as no residential structures are present on site and the Project will not displace any existing housing necessitating construction of replacement housing elsewhere, there is no impact from the Project.

b. Displace People

Potential Significant Impact: Whether implementation of the proposed Project could displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

Finding: Potential impacts of the Project on Population and Housing are discussed in detail in Section 3.13 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to the displacement of a substantial number of people will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-97.).

Facts in Support of the Finding: Displacement of people is directly correlated with the displacement of associated housing. The Project site is currently vacant and does not contain existing residential structures. The Project will also not create a condition that would require displacement of residents, necessitating construction of homes elsewhere. (DEIR p. 3-97.). Accordingly, there is no

impact from the Project.

13. Recreation

a. All Issue Areas

Potential Significant Impact: Whether implementation of the proposed Project would result in significant impacts to recreational facilities.

Finding: Potential impacts of the Project on Recreation are discussed in detail in Section 3.15 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to recreation will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-105.).

Facts in Support of the Finding: The Project site is located adjacent to the Oro Grande Wash, which is in a Wash Protection Overlay designed to protect the resource as well as serve as part of a local recreational trail network within the City. As a requirement for development, the Project will provide a 150-foot easement centered on the Oro Grande Wash, which will eventually be developed as a trail. Further, the Project is located within the Highway 395/Interstate-15 District of the Specific Plan, which is not intended to result in demand for recreational opportunities. The Project is also not anticipated to trigger population growth, as the jobs created by the Project are anticipated to be filled by current residents of Hesperia and the surrounding High Desert Communities. The City currently has a surplus of open space at 30 acres per 1,000 people, and this trend is anticipated to continue at buildout.

The impact upon the existing neighborhood recreational facilities would therefore not be significantly greater than the existing demand. (DEIR p. 3-105.). While a recreational trail easement is required in accordance with the General Plan, the trail will not be developed with the Project. The trail will not be constructed until conservation easements have been granted from the starting point to the ending point. Development of the Project will not cause a significant environmental impact, as it will ultimately enable the establishment of a recreational trail, affording a positive impact on recreational uses. (*Id.*). Therefore, no significant impact to recreational facilities will occur and no mitigation is required.

b. Cumulative Impacts Related to Recreation

Potential Significant Impact: Whether implementation of the proposed Project could result in significant cumulative impacts related to recreation.

Finding: Potential impacts of the Project on Recreation are discussed in detail in Section 3.15 of the Draft EIR. In addition, Section 4.14 of the Draft EIR discusses cumulative impacts related to recreation in particular. Based on the entire record before us, this Council finds no significant cumulative impacts related to recreation. (DEIR p. 4-7.).

Facts in Support of the Finding: The Project and related projects are not anticipated to trigger significant population growth, since jobs created by the Project are expected to be filled by current residents of Hesperia and the surrounding High Desert Communities. Although the City

currently has a surplus of parks and open space, the wash will provide additional recreational opportunities for the citizenry. The trails system will also maintain the corridor for wildlife. Until all segments of the trail are acquired, the trail will not be developed and the recordation of a conservation easement will satisfy the recreational requirement for the Project. (DEIR p. 4-7.). Accordingly, the Project's potential contribution to cumulative impacts in regard to recreation is not considerable and there are no cumulative effects of the Project.

14. Transportation and Traffic

a. Air Traffic Patterns

Potential Significant Impact: Whether implementation of the proposed Project could result in a change in air traffic patterns, including either an increase in traffic levels or change in location that results in substantial safety risks.

Finding: Potential impacts of the Project on Transportation and Traffic are discussed in detail in Section 3.16 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to air traffic patterns will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-114.).

Facts in Support of the Finding: The Project site will not conflict with an airport land use plan and is not within two miles of a public airport, public use airport, or private airstrip. No impacts on air traffic patterns, including either an increase in traffic levels or change in location that results in substantial safety risks to an airstrip will

occur. (DEIR p. 3-114.). Therefore, the Project will have no impact on air traffic patterns and no mitigation is required.

b. Hazards Due to Design Features

Potential Significant Impact: Whether implementation of the proposed Project could substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

Finding: Potential impacts of the Project on Transportation and Traffic are discussed in detail in Section 3.16 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to design features will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-115)

Facts in Support of the Finding: The Project has been designed to meet or exceed City development standards as provided in the Municipal Code, Specific Plan, and applicable street design regulations. Prior to Project approval, the City's Development Review Committee shall ensure all applicable requirements are met. Transportation improvements shall also be designed by a licensed professional civil engineer and constructed by a licensed construction contractor. (DEIR p. 3-115.). The Project also does not include any sharp curves or dangerous intersections in its design, and will not result in the creation of circulation design hazards. (*Id.*). Therefore, the Project will have no impact on design features and no mitigation is required.

c. Emergency Access

Potential Significant Impact: Whether implementation of the proposed Project could result in adequate emergency access.

Finding: Potential impacts of the Project on Transportation and Traffic are discussed in detail in Section 3.16 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to emergency access will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-115.).

Facts in Support of the Finding: The Project site has been designed to meet or exceed City development standards. If any road or lane closures that will temporarily restrict vehicular traffic are required during Project construction, the Project will implement adequate and appropriate measures to facilitate the passage of persons and vehicles through or around the closures. The Project will also go through the City's Development Review process, which requires approval by the City's Fire and Police Departments prior to building permit issuance. (DEIR p. 3-115) Based on adherence to applicable existing City requirements, the Project will have no impact on emergency access and no mitigation is required.

d. Public Transit, Bicycle, or Pedestrian Facilities

Potential Significant Impact: Whether implementation of the proposed Project could result in conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the

performance or safety of such facilities.

Finding: Potential impacts of the Project on Transportation and Traffic are discussed in detail in Section 3.16 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to public transit, bicycle, or pedestrian facilities will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-115.).

Facts in Support of the Finding: The Project has been designed to meet or exceed City development standards. All necessary bus turnouts, bicycle racks, and other standards supportive of alternative transportation will be provided in accordance with General Plan, Municipal Code, and Specific Plan. (DEIR p. 3-115.). Therefore, the Project will have no impact on public transit, bicycle, or pedestrian facilities and no mitigation is required.

B. IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT REQUIRING NO MITIGATION

The following issues were found in the EIR as having no potential to cause significant impacts and therefore require no Project-specific mitigation. In the following presentation, each resource issue is identified and the potential for significant adverse environmental effects is discussed.

1. Aesthetics

a. Scenic Vistas

Potential Significant Impact: Whether the Project would have a substantial adverse effect on a scenic vista.

Finding: Potential impacts of the Project on Aesthetics are discussed in detail in Section 3.1.4 of the Draft EIR. Based on the entire record before us, this

Council finds that no significant impact related to scenic vistas will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-5.)

Facts in Support of the Finding: The Project is not located within any of the scenic vista areas identified within the General Plan and Specific Plan. The Project site is not located adjacent to a hillside, although there are grade variations within the vicinity of the Project, including the Oro Grande Wash and existing railroad located along the southern portion of the site. These features are located below the Project's final grade. Graded slopes and retaining walls at a maximum visible height of 15 feet would be utilized to accommodate the vertical differences within the Project and the Project perimeter. Development of the Project site would be consistent with the anticipated development of the Highway 395/Interstate 15 District of the Specific Plan, and no development is planned for the western portion of the Project within the Wash Protection Overlay established by the Specific Plan. The portion of the Site within the Wash Protection Overlay is adjacent to a proposed retention area. The General Plan finds natural vegetation occupying much of the City as an essential component of the visual landscape and the City of Hesperia Municipal Code Section 16.24 finds it is in the public interest to preserve and protect specified desert plants. Vegetative visual resources are most commonly protected through tree preservation ordinances that place limitations on removal of native trees. Removal

and relocation of native desert vegetation is addressed in Section 3.4 Biological Resources of the EIR. (DEIR p. 3-5) Accordingly, this aesthetics impact is less than significant and no mitigation is required.

b. Visual Character, Quality, and Compatibility

Potential Significant Impact: Whether the Project would substantially degrade the existing visual character or quality of the site and its surroundings.

Finding: Potential impacts of the Project on Aesthetics are discussed in detail Section 3.1.4 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to visual character will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-6.).

Facts in Support of the Finding: Although the Project site is currently vacant with native vegetation scattered throughout the site, development of the Project will not be inconsistent with the area, in the context of uses in the Project vicinity, as the Project site is immediately adjacent to existing nonresidential development and residential development is not far away. Moreover, the Project will comply with the Specific Plan, including building setbacks and landscaping. The proposed building elevations are consistent with the Architectural Design Standards and Guidelines outlined in the Specific Plan, ensuring the Project is an aesthetic development. Implementation of the Project is also consistent with General Plan Goal OS-2, which promotes the preservation of natural open space in order to protect sensitive

environments and the preservation of amenities such as washes, bluffs, Joshua tree forests, or juniper woodlands. (DEIR p. 3-6.). Accordingly, the impacts to visual character, quality, and compatibility will be less than significant and no mitigation is required.

c. Illumination/Glare

Potential Significant Impact: Whether the Project would create a new source of light or glare which would adversely affect day or nighttime views in the area.

Finding: Potential impacts of the Project on illumination and glare are discussed in detail in Section 3.1.4 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to illumination and glare will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-7.).

Facts in Support of the Finding: The Project will comply with General Plan Implementation Policy LU-3.5, which focuses on protecting sensitive land uses from impacts associated with light and glare through the incorporation of setbacks, site planning, and other design techniques. The Development Code contains lighting standards, which ensure that new developments and expansions of existing developments will not have a negative impact on surrounding land uses. (DEIR p. 3-7.). Accordingly, the impacts to illumination and glare will be less than significant and no mitigation is required.

d. Cumulative Impacts

Potential Significant Impact: Whether implementation of the proposed Project could contribute to potential cumulative aesthetic impacts.

Finding: Potential impacts of the Project on Aesthetics were discussed in detail in Section 3.1.4 of the Draft EIR. Furthermore, Section 4.1 of the Draft EIR assesses cumulative impacts related to Aesthetics. Based on the entire record before us, this Council finds no significant impact related to Aesthetics and therefore no mitigation is required.

Facts in Support of the Finding: As analyzed in the General Plan Update EIR (“GPUEIR”), consistency with the Conservation and Open Space Elements to ensure that scenic vistas will be preserved by implementation of Policy OS-2.3, and implementation of Policy LU-3.5, requiring buffering of residential land uses from business uses through the incorporation of setbacks, site planning and other design techniques, was found to avoid impacts to aesthetics. There are no cumulative impacts associated with Project implementation that were not already considered and evaluated as part of the Hesperia General Plan update. (DEIR p. 4-2.). Accordingly, the Project’s contribution to potential cumulative aesthetic impacts is not considerable and the cumulative effects of the Project are determined to be less than significant.

2. Air Quality

a. Consistency with an Applicable Air Quality Plan

Potential Significant Impact: Whether implementation of the proposed Project could conflict with or obstruct implementation of an applicable air quality plan.

Finding: Potential impacts of the Project on Air Quality are discussed in detail in Section 3.3 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to consistency with an applicable Air Quality Plan and therefore, no mitigation is required. (DEIR p. 3-25.).

Facts in Support of the Finding: Conformance with the Mojave Desert Air Quality Management District (“MDAQMD”) attainment plan is determined by demonstrating 1) compliance with all applicable District rules and regulations, 2) compliance with all proposed control measures that are not yet adopted from the applicable plan(s), and 3) consistency with growth forecasts in the applicable plan, which can be established by demonstrating consistency with the land use plan used to generate the forecast. (DEIR p. 3-25.). The Project complies with the first criterion because it will comply with all the applicable MDAQMD rules and regulations that relate to the construction and operation of the Project. The project complies with the second and third criteria because the warehousing and office uses that would be developed under the proposed Project are consistent with the land use designation specified under the General Plan and the zoning specified in the Specific Plan. As such, development of the Project would be consistent with the growth forecasts

included within the General Plan. (*Id.*).

b. Exposure of Sensitive Receptors

Potential Significant Impact: Whether implementation of the proposed Project could result in exposure of sensitive receptors to substantial pollution concentration.

Finding: Potential impacts of the Project on Air Quality are discussed in detail in Section 3.3 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to exposure of sensitive receptors to substantial pollution concentrations and, therefore, no mitigation is required. (DEIR pp. 3-21 to 3-22.).

Facts in Support of the Finding: Project construction activities will not result in the potential exposure of sensitive receptors to substantial pollutant concentrations because the Project's emissions from construction will not exceed the annual MDAQMD thresholds of significance for PM_{2.5}, CO, CO₂e, and SO₂. (DEIR p. 3-21.) In addition, the MDAQMD has provided screening distances for which localized impacts are not expected to cause a negative impact on sensitive receptors. The distance between the proposed Project and any sensitive receptors exceeds the screening distance used by the MDAQMD for distribution centers. (DEIR pp. 3-21 to 3-22.). Accordingly, the Project's potential to expose sensitive receptors to substantial pollutant concentrations is determined to be less than significant and no mitigation is required.

c. Ambient Air Quality Standards

Potential Significant Impact: Whether emissions from the proposed Project

would exceed the state or federal Ambient Air Quality Standards.

Finding: Potential impacts of the Project on Air Quality are discussed in detail in Section 3.3 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to the exceedance of state or federal Ambient Air Quality Standards, and, therefore no mitigation is required. (DEIR pp. 3-22 to 3-23.).

Facts in Support of the Finding: Adherence to ambient air standards is demonstrated through an analysis of localized CO concentrations. (DEIR p. 3-22.). Areas of vehicle congestion have the potential to create CO “hotspots.” The intersections modeled for CO hotspots due to their level of congestion and the Project’s contribution to traffic did not exceed MDAQMD’s threshold. (DEIR pp. 3-22 to 3-23.). Accordingly, the Project’s potential to exceed state or federal Ambient Air Quality Standards is less than significant, and therefore no mitigation is required.

3. Geology and Soils

a. Seismic Ground Shaking or Seismic-Related Ground Failure

Potential Significant Impact: Whether implementation of the proposed Project could result in the exposure of people or structures to potentially substantial adverse effects, including the risk of loss, injury or death involving seismic ground shaking or seismic-related ground failure.

Finding: Potential impacts of the Project on Geology and Soils are discussed in detail in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to the seismic ground

shaking or seismic-related ground failure, and, therefore no mitigation is required. (DEIR pp. 3-50 to 3-51.).

Facts in Support of the Finding: Although no active faults are located in the immediate vicinity of the Project, the proposed Project could be subject to periodic seismic shaking as energy is released during earthquakes. (DEIR p. 3-50.). Project structures will be constructed to meet current Uniform Building Code (UBC) standards to address potential impacts related to seismic events. In addition, groundwater at the Project site is historically deep, historic liquefaction has not been reported in the site vicinity, and the Project site is not zoned for potential liquefaction hazard by the State of California. (DEIR pp. 3-50 to 3-51.). Accordingly, impacts related to strong seismic ground shaking or seismic related ground failure are less than significant, and therefore no mitigation is required.

b. Soil Erosion or Loss of Topsoil

Potential Significant Impact: Whether implementation of the proposed Project would result in substantial soil erosion or the loss of topsoil.

Finding: Potential impacts of the Project on Geology and Soils are discussed in detail in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to substantial soil erosion or the loss of topsoil, and, therefore no mitigation is required. (DEIR p. 3-51.).

Facts in Support of the Finding: Although near-surface sediments in Hesperia are generally sandy and highly susceptible to erosion, during construction the Project will be required to comply with Mojave Desert Air Quality Management District (MDAQMD) Rule 403 (Fugitive Dust Emissions Control), which includes Best Management Practices (BMPs) such as watering controls to prevent equipment from tracking dirt off-site, and cessation of grading during high wind conditions. The Project will also comply with the City of Hesperia Municipal Code Section 16.12.230, requiring preparation of an erosion control plan to minimize erosion during grading and construction. In addition, the Project's excavation and grading activities will be carried out pursuant to a National Pollutant Discharge Elimination System (NPDES) permit that requires adoption of appropriate Stormwater Pollution Prevention Plan and implementation of BMPs to reduce erosion from stormwater runoff. (DEIR p. 3-51.). Based on consistency with these regulations, impacts related to substantial soil erosion or loss of topsoil are less than significant, and therefore no mitigation is required.

c. Soil Stability

Potential Significant Impact: Whether the proposed Project would be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.

Finding: Potential impacts of the Project on Geology and Soils are discussed in detail in Section 3.6 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to substantial soil erosion or the loss of topsoil, and, therefore no mitigation is required. (DEIR pp. 3-51 to 3-52.).

Facts in Support of the Finding: The ground surface at the Project site is relatively level, and therefore the risk of lateral spread displacement is low. As spreading is also associated with landslides, landslides would not be a significant concern for the Project site. As stated above, historic liquefaction has not been reported in the site vicinity, nor has there been evidence of paleo-seismic liquefaction. The Project site is not within an area with a potential liquefaction hazard by the State of California, and therefore the site does not have a potential for permanent ground displacement. Further, the Technical Background Report for the GPUEIR determined that subsidence is not prevalent within the City of Hesperia based on the typical soil types within the City. Potential impacts due to subsidence are also less than significant. (DEIR pp. 3-51 to 3-52.). Accordingly, impacts related to soil stability are less than significant, and therefore no mitigation is required.

d. Cumulative Impacts Related to Geology and Soils

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to geology and soils.

Finding: Potential impacts of the Project on Geology and Soils are discussed in detail in Section 3.6 of the Draft EIR. Furthermore, Section 4.7 of the

Draft EIR assesses cumulative impacts related to Geology and Soils. Based on the entire record before us, this Council finds no significant impact related to Geology and Soils and therefore no mitigation is required.

Facts in Support of the Finding: The Project will incrementally increase the number of people and amount of developed land potentially exposed to earthquake related hazards. (DEIR p. 4-4.). However, all construction in the City will be subject to the UBC, City inspections, and other standards that will reduce possible impacts from each development to less than significant levels. (*Id.*). Accordingly, the Project's potential contribution to cumulative impacts in regard to geology and soils is not considerable and the cumulative effects of the Project are determined to be less than significant.

4. Hazards and Hazardous Materials

a. Use, Transport or Disposal of Hazardous Materials

Potential Significant Impact: Whether implementation of the proposed Project would create a significant hazard to the public or environment through the routine transport, use, or disposal of hazardous materials.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to the routine transport, use, or disposal of hazardous materials and, therefore, no mitigation is required. (DEIR pp. 3-63 to 3-64.).

Facts in Support of the Finding: Hazardous Materials refer to any material that, because of its quantity, concentration, or physical or

chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. (DEIR p. 3-63.). The Project involves the development of several warehouse and office buildings and is not anticipated to directly involve the routine transport of hazardous materials. It is possible that equipment used at the site during construction activities could utilize substances considered as hazardous, however all construction activities will conform with Title 49 of the Code of Federal Regulations, US Department of Transportation, State of California, and local laws, ordinances and procedures. The Project will also comply with state and federal laws regarding the handling of hazardous materials, such as cleaning products. (DEIR p. 3-64.). Accordingly, the Project will comply with all applicable laws and regulations, will not routinely transport, use or dispose of hazardous materials, and therefore no mitigation is required.

b. Release of Hazardous Materials

Potential Significant Impact: Whether implementation of the proposed Project would create a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions involving release of hazardous materials.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to the

release of hazardous materials into the environment and, therefore, no mitigation is required. (DEIR p. 3-64.).

Facts in Support of the Finding: The Project is not anticipated to contain or include the use of significant amounts of hazardous materials. The Project is also consistent with the permissible land uses in the CIBP zone, and all future tenants will be required to obtain necessary approvals and permits prior to business operations, including those related to storage and transport of hazardous materials. (DEIR p. 3-64.). Accordingly, the potential for the Project to accidentally release hazardous materials into the environment is determined to be less than significant and no mitigation is required. (*Id.*).

c. Hazardous Emissions Near Schools

Potential Significant Impact: Whether the proposed Project could result in hazardous emissions, or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to hazardous emissions near schools will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-64.).

Facts in Support of the Finding: The Project is not located within one-quarter mile of any existing or proposed schools, and the nearest school is located approximately 6,000 feet to the southeast of the Project site. (DEIR p. 3-64.).

Accordingly, the potential for the Project to result in health risks posed by hazardous emissions is determined to be less than significant and no mitigation is required. (*Id.*).

d. Hazardous Materials Sites

Potential Significant Impact: Whether the proposed Project is located on a site which is included on a list of hazardous materials sites and would create a substantial hazard to the public or the environment.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to hazardous materials sites will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-65.).

Facts in Support of the Finding: Phase I Environmental Site Assessments prepared for the Project site have found that the Project is not listed as a hazardous materials site. The Project site and adjacent properties are also not listed on hazardous materials sites lists maintained by the Environmental Protection Agency. (DEIR p. 3-64.). Accordingly, the potential for the Project to result in substantial hazards to the public or environment due to the site's inclusion on a list of hazardous materials sites is determined to be less than significant and no mitigation is required. (*Id.*).

e. Emergency Response Plan

Potential Significant Impact: Whether implementation of the proposed Project would physically interfere with an adopted emergency response or emergency evacuation plan.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to implementation of emergency response plans will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-66.).

Facts in Support of the Finding: The proposed Project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan because the Project includes adequate access for emergency vehicles and personnel, developed in consultation with San Bernardino County Fire Department requirements. Further, all roadway improvements are on-site improvements with the exception of improvements to Caliente Road. During roadway improvements on Caliente Road, an alternate route or half-width access will always be accessible. (DEIR p. 3-66.). Accordingly, the potential for the Project to result in impairment to an adopted emergency response plan or emergency evacuation plan is determined to be less than significant and no mitigation is required. (*Id.*).

f. Wildland Fires

Potential Significant Impact: Whether implementation of the proposed Project would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Based on the entire record before us, this Council finds that no significant impact related to exposure to risk of loss, injury or death due to wildland fires will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR p. 3-66.).

Facts in Support of the Finding: The City of Hesperia is not located within a fire threatened community. Based on the City's fire suppression delivery system, including fire dispatch, fire department representation, and water supply adequacy and condition, the City has a Class 5 Insurance Services Office (ISO) rating in developed areas and a Class 9 in the outlying areas. The City has therefore adopted the most recent version of the Wildland-Urban Interface Code and Chapter 7A of the California Building Code for use in the City where the ISO number exceeds 5. (DEIR p. 3-66.). Accordingly, the potential for the Project to result in exposure to significant risk of loss, injury or death involving wildland fires is determined to be less than significant and no mitigation is required. (*Id.*).

g. Cumulative Impacts Related to Hazards and Hazardous Materials

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to hazards and hazardous materials.

Finding: Potential impacts of the Project on Hazards and Hazardous Materials are discussed in detail in Section 3.8 of the Draft EIR. Furthermore, Section

4.8 of the Draft EIR assesses cumulative impacts related to Hazards and Hazardous Materials. Based on the entire record before us, this Council finds no significant impact related to Hazards and Hazardous Materials and therefore no mitigation is required. (DEIR p. 4-5.).

Facts in Support of the Finding: There are no Superfund sites in the City of Hesperia and surrounding Project vicinity. There are also no leaking fuel tanks in the Project vicinity. Increased transport of hazardous wastes may occur upon completion of other projects in the area, however, transporters of hazardous waste are required to display placards indicating the chemicals being carried and whether or not they are corrosive, flammable or explosive. (DEIR p. 4-5.). An incremental increase in the use of household and commercial chemicals and industrial development is also anticipated to occur. The potential cumulative impacts of hazardous materials associated with residential and nonresidential uses will be reduced through implementation of federal, state, and local agency regulations governing the transport, handling, storage and disposal of hazardous materials and wastes. (*Id.*). Accordingly, the Project's potential contribution to cumulative impacts in regard to hazards and hazardous materials is not considerable and the cumulative effects of the Project are determined to be less than significant.

5. Land Use Planning

a. Established Community

Potential Significant Impact: Whether implementation of the proposed Project

could physically divide or disrupt an established community.

Finding: Potential impacts of the Project on Land Use Planning are discussed in detail in Section 3.10 of the Draft EIR. Based on the entire record before us, this Council finds that no impacts related to the physical division of an established community will occur as a result of development of the Project and, therefore, no mitigation is required. (DEIR pp. 3-75 to 3-76.).

Facts in Support of the Finding: The Project site is located within the Highway 395/I-15 District (“District”) of the Main Street Freeway Corridor Specific Plan Area and is primarily designated Commercial/Industrial Business Park (CIBP), with the remainder and western portion of the site designed Real Estate Residential. The Oro Grande Wash occupies a portion of the site and is located within the Wash Protection Overlay. (DEIR pp. 3-72 to 3-73.). Land uses within the immediate vicinity of the Project site are primarily vacant, with single-family residential uses on large lots scattered throughout the area northwest of the site. The properties to the east are occupied by Commercial Engine Service, Fire Station 305, and a park and ride lot. A truck stop with various commercial retail land uses exists northeast of the Project site. (DEIR p. 3-72.). The Project will construct an industrial/warehouse/office facility on 232 acres of land in the southern portion of the District. The Project requires a Conditional Use Permit since the proposed distribution centers are larger than 200,000 square feet in gross floor area. The land use proposed is therefore consistent

with the permitted and conditional uses in the Specific Plan and Project implementation will have no impact on the District. Further, no component of the Project proposes any action that would physically divide the District or an established community. (DEIR p. 3-76.). As supported by the preceding discussion, the potential for the Project to result in or cause community division or disruption is less than significant and no mitigation is required. (*Id.*).

b. City of Hesperia General Plan, Specific Plan and Development Code

Potential Significant Impact: Whether implementation of the proposed Project could conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

Finding: Potential impacts of the Project on Land Use Planning are discussed in detail in Section 3.10 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to consistency with the General Plan, Specific Plan and Development Code, and therefore, no mitigation is required. (DEIR p. 3-76.).

Facts in Support of the Finding: The General Plan land use designation for the Project site is Specific Plan. The Project site is within the Commercial/Industrial Business Park (CIBP) District of the Main Street and Freeway Corridor Specific Plan, which allows development

with approval of a CUP. (DEIR p. 3-76.). The Project would develop a vacant site that has been specifically designated to accommodate light industrial, distribution and other limited industrial uses. (*Id.*). The Project would also create a significant number of jobs within the community once optimum occupancy is achieved. As such, the Project is consistent with the goals of the Specific Plan, namely LU-2, LU-6 and ED-1 regarding the creation of jobs, use of vacant sites, and encouraging industrial and commercial development in the Specific Plan area. (DEIR pp. 3-74 to 3-76.). Accordingly, this land use and planning impact is less than significant and no mitigation is required.

c. Cumulative Impacts Related to Land Use Planning

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to land use and planning.

Finding: Potential impacts of the Project on Land Use Planning are discussed in detail in Section 3.10 of the Draft EIR. Furthermore, Section 4.10 of the Draft EIR assesses cumulative impacts related to Land Use Planning. Based on the entire record before us, this Council finds no significant impact related to Land Use Planning and therefore no mitigation is required. (DEIR p. 4-6.).

Facts in Support of the Finding: The Project and all future projects will be individually evaluated to ensure conformance with the purpose of the City of Hesperia General Plan and zoning requirements. Projects in the Project

vicinity are permissible within the land use designation in which they occur, and as such, are considered to be consistent with future planned land uses within the City. (DEIR p. 4-6.). In addition, each project would be subject to design review, which would further ensure compatibility of the Project and other future projects within their respective land use designations. The planning and design review process would promote design compatibility among new and existing developments, lessening cumulative impacts to a less than significant level. (*Id.*). Accordingly, the Project's potential contribution to cumulative impacts in regard to land use and planning is not considerable and the cumulative effects of the Project are determined to be less than significant.

6. Noise

a. Agency Noise Standards

Potential Significant Impact: Whether implementation of the proposed Project could result in generation of noise levels in excess of standards established in the local General Plan or noise ordinance, or applicable standards of other agencies.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to generation of noise levels in excess of agency standards, and therefore, no mitigation is required. (DEIR p. 3-94.).

Facts in Support of the Finding: Noise generated from the proposed office

warehousing uses, including noise from HVAC systems, loading docks, truck backup warnings and vehicle travel, is regulated through Hesperia Municipal Code Chapter Section 16.20.125. Compliance with the Municipal Code section reduces noise levels to be less than significant. (DEIR p. 3-92.). Traffic noise level increases will also be less than significant, as the General Plan designates the area proximate to the Project as primarily commercial and industrial. These uses are not considered noise sensitive and the City does not have exterior noise standards for these uses with the exception of hotels, motels, and transient lodging. (DEIR pp. 3-89 to 3-91.). The City of Hesperia permits construction noise to exceed the maximum allowable noise levels, but construction activities are restricted to between the hours of 7:00 a.m. and 7:00 p.m., and construction cannot occur on Sundays or legal holidays. (DEIR p. 3-93.). Accordingly, this noise impact is less than significant and no mitigation is required.

b. Vibration – Groundborne Noise

Potential Significant Impact: Whether implementation of the proposed Project could result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Based on the entire record before us, this Council

finds no significant impact related to groundborne vibration, and therefore, no mitigation is required. (DEIR p. 3-94.).

Facts in Support of the Finding: Project construction will not exceed vibration level thresholds established by the Federal Transit Administration (FTA). (DEIR p. 3-93.). FTA criterion for vibration-induced annoyance is 80 Vibration Velocity (VdB) for residential uses and 83 VdB for industrial land uses. Construction of the Project will not generate levels of vibration that exceed the FTA criteria for nuisance at residential and industrial uses. (Id.). Further, due to the character of the proposed office and warehousing uses at the Project site and compliance with Hesperia Municipal Code section 16.20.130 which limits the levels of vibration to imperceptible levels, the Project is not anticipated to produce any significant vibration impacts during the operational phase. (DEIR p. 3-92.). Accordingly, this noise impact is less than significant and no mitigation is required.

c. Permanent Increase in Ambient Noise

Potential Significant Impact: Whether implementation of the proposed Project could result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to a permanent increase in ambient noise, and therefore, no mitigation is required. (DEIR pp. 3-89 to 3-92).

Facts in Support of the Finding: Noise generated from the proposed office warehousing uses, including noise from HVAC systems, loading docks, truck backup warnings and vehicle travel, is regulated through Hesperia Municipal Code Chapter Section 16.20.125. Compliance with the Municipal Code section reduces noise levels to be less than significant. (DEIR p. 3-92.). In addition, sensitive receptors are located 1,800 feet northwest and 3,000 feet northeast from the nearest Project site boundary and any noise generated in the Project site would be substantially attenuated and generally inaudible by the time it reaches the nearest residential uses. (*Id.*). Traffic noise level increases will also be less than significant, as the General Plan designates the area proximate to the Project as primarily commercial and industrial. These uses are not considered noise sensitive and the City does not have exterior noise standards for these uses with the exception of hotels, motels, and transient lodging. (DEIR pp. 3-89 to 3-91.). Accordingly, this noise impact is less than significant and no mitigation is required.

d. Temporary or Periodic Increase in Ambient Noise

Potential Significant Impact: Whether implementation of the proposed Project could result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to a temporary or periodic increase in

ambient noise, and therefore, no mitigation is required. (DEIR pp. 3-92 to 3-93.).

Facts in Support of the Finding: Construction activities for the Project would occur at a distance of approximately 1,800 feet from the nearest residential uses southeast of the Project site and would range from 47 to 58 dBA L_{eq} during construction. (DEIR p. 3-92.). The City of Hesperia permits construction noise to exceed the maximum allowable noise levels, but construction activities are restricted to between the hours of 7:00 a.m. and 7:00 p.m., and construction cannot occur on Sundays or legal holidays. (DEIR p. 3-93.). Accordingly, this noise impact is less than significant and no mitigation is required.

e. Cumulative Impacts Related to Noise

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to noise.

Finding: Potential impacts of the Project on Noise are discussed in detail in Section 3.12 of the Draft EIR. Furthermore, Section 4.12 of the Draft EIR assesses cumulative impacts related to Noise. Based on the entire record before us, this Council finds no significant impact related to Noise and therefore no mitigation is required. (DEIR p. 4-6.).

Facts in Support of the Finding: Construction related activities during development and traffic from area roadways during Project operations are the primary noise sources expected to affect existing and planned noise sensitive land uses in the Project vicinity. Traffic noise modeling was compiled for the build-out year of 2015 and the year

2035 scenarios under the No Project and With Project cumulative conditions, and neither condition was found to pose a significant impact upon noise sensitive uses. (DEIR p. 4-6.). Accordingly, the Project's potential contribution to cumulative impacts in regard to noise is not considerable and the cumulative effects of the Project are determined to be less than significant.

7. **Population and Housing**

a. **Population Growth**

Potential Significant Impact: Whether implementation of the proposed Project could induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).

Finding: Potential impacts of the Project on Population and Housing are discussed in detail in Section 3.13 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to substantial population growth, and therefore, no mitigation is required. (DEIR p. 3-96.).

Facts in Support of the Finding: The proposed Project does not include the construction of any new homes, but may provide up to 3,729 additional jobs in the City of Hesperia. Growth in population is controlled by land use regulations and the proposed Project is consistent with the Main Street and Freeway Corridor Specific Plan, which seeks to create employment generating uses in a business park setting. (DEIR p. 3-96.). Additionally, data from the Southern California

Association of Governments shows that during the course of the recession, the City of Hesperia lost over 2,363 jobs between 2007 and 2010. The City's unemployment rate is also 13.9 percent, which is above the County's regional average. The increase of jobs from the proposed Project would help alleviate impacts that previously occurred during the recession and would utilize the existing local and regional population rather than create an unanticipated demand on the City's workforce population. (*Id.*). Further, the existing Project will be served by existing infrastructure and approval of the Project would not increase the capacity of infrastructure in the area or result in indirect population growth. (DEIR p. 3-96.). Accordingly, this population and housing impact is less than significant and no mitigation is required.

8. Public Services

a. Governmental Facilities

Potential Significant Impact: Whether implementation of the proposed Project could result in or cause substantial adverse impacts associated with the provision of new or physically altered governmental facilities, or result in the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection services, police protection services, schools, or

other public services.

Finding: Potential impacts of the Project on Public Services are discussed in detail in Section 3.14 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to governmental facilities, and therefore, no mitigation is required. (DEIR p. 3-102.).

Facts in Support of the Finding: Based on the availability of existing governmental facilities and services (i.e., fire protection, police protection, and/or other public services) to the subject site, the Project will not result in a potential need or requirement for new physical facilities. (DEIR pp. 3-100 to 3-102.). Fire Station 305 will service the Project and no new or altered fire facilities are required to meet the required service ratio or response times. (DEIR p. 3-100.). No new or altered police facilities are needed to maintain orderly conduct within the community as a result of the Project, and the Project is not likely to directly impact schools. Jobs created by the proposed Project are expected to be filled by current residents of Hesperia and the High Desert. (DEIR pp. 3-100 to 3-101.). Further, fees and tax revenues generated by the Project will provide funding sources available for support and enhancement of fire protection, police protection, schools, and other future public services. (DEIR pp. 3-100 to 3-102.). Accordingly, the potential for the Project to result in or cause substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental

impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services is determined to be less than significant and no mitigation is required. (DEIR p. 3-102.).

b. Parks

Potential Significant Impact: Whether implementation of the proposed Project could result in or cause substantial adverse impacts associated with the provision of new or physically altered governmental facilities, or result in the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts in order to maintain acceptable service ratios, response times, or other performance objectives for parks.

Finding: Potential impacts of the Project on Public Services are discussed in detail in Section 3.14 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to parks or recreational facilities, and therefore, no mitigation is required. (DEIR p. 3-102.).

Facts in Support of the Finding: Currently the City has 31.5 acres of open space per 1,000 residents, exceeding the 1975 Quimby Act requirement of 3.5 acres of open space per 1,000 persons. (DEIR p. 3-101.). The City predicts a total of 27.3 park and open space acres per 1,000 persons at General Plan build-out. The existing parks and open space will result in 8.7 acres per 1,000 residents at General Plan build-out, which exceeds both the City's goal of five acres per 1,000 persons and the Hesperia Recreation and Park District

requirement of three acres per 1,000 residents. (DEIR p. 3-101.). Further, although the Project is not subject to the park fee, the Project will grant a 150-foot conservation easement along the Oro Grande Wash for future development of a recreational trail. (DEIR pp. 3-101 to 3-102.). Accordingly, the potential for the Project to result in or cause substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services is determined to be less than significant and no mitigation is required. (DEIR p. 3-102.).

c. Cumulative Impacts Related to Public Services

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to public services.

Finding: Potential impacts of the Project on Public Services are discussed in detail in Section 3.14 of the Draft EIR. Furthermore, Section 4.13 of the Draft EIR assesses cumulative impacts related to Public Services. Based on the entire record before us, this Council finds no significant impact related to Public Services and therefore no mitigation is required. (DEIR p. 4-7.).

Facts in Support of the Finding: Impacts to Public Services are generally dependent on population growth. Although growth within the Project vicinity is anticipated to occur, the proposed Project and other analyzed projects will not cause a

substantial increase in the City's population and will be subject to the payment of the public service fee. No new or altered parks, schools, libraries, police or fire facilities are required to meet the required service ratios or response times. (DEIR p. 4-7.). Accordingly, the Project's potential contribution to cumulative impacts in regard to public services is not considerable and the cumulative effects of the Project are determined to be less than significant.

9. Utilities and Service Systems

a. Wastewater Treatment Requirements and Facilities

Potential Significant Impact: Whether implementation of the proposed Project could exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board or require or result in the construction of new water or wastewater treatment facilities or the expansion of existing facilities.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to wastewater treatment facilities, and therefore, no mitigation is required. (DEIR pp. 3-125 to 3-126.).

Facts in Support of the Finding: Wastewater generated by the Project will be conveyed for treatment to the Victor Valley Wastewater Reclamation Authority (VWVRA) facilities (DEIR p. 3-125.). VWVRA's facilities will not be expanded due to Project implementation. The Project will connect to the existing eight-inch

and ten-inch sewer lines adjacent to and west of Caliente Road. Although there are no current capacity deficiencies, both lines are projected to be deficient by the year 2032. The Project is accounted for in this projection. According to the City's Wastewater Master Plan, Capital Improvement Project FP-29 would upgrade the deficient facility to an 18-inch line. The Project proponent will pay applicable fees to connect to the existing sewer system and these fees will contribute to system maintenance and capacity improvements. (DEIR pp. 3-125 to 3-126.). Accordingly, the impact would be less than significant and no mitigation is required.

b. Storm Water Drainage Facilities

Potential Significant Impact: Whether implementation of the proposed Project could require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which, could cause significant environmental effects.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to stormwater drainage facilities, and therefore, no mitigation is required. (DEIR p. 3-126.).

Facts in Support of the Finding: The Project would comply with the CWA and Porter-Cologne. In compliance with these laws, the WQMP includes an onsite retention basin and other BMPs that treat and contain flows. Compliance

with the CWA/NPDES and Porter-Cologne are mandatory and have been deemed adequate by the SWRCB and the RWQCB to mitigate potential impacts to water quality. (DEIR p. 3-126.). Accordingly, the proposed Project's potential impact on storm water drainage facilities is determined to be less than significant and no mitigation is required.

c. Water Supply

Potential Significant Impact: Whether the proposed Project could have sufficient water supplies available to serve the Project from existing entitlements and resources or new or expanded supplies needed.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to water supply, and therefore, no mitigation is required. (DEIR p. 3-126.).

Facts in Support of the Finding: In 2010, the District prepared an Urban Water Management Plan (UWMP). Pursuant to the requirements of Senate Bill 610 (SB 610), a Water Supply Assessment (WSA) was required for the Project and approved by the District on February 5, 2013. The total average demand for the Project based on building area and use information provided on both site plan options would be approximately 267,000 gallons per day, which equals approximately 299 acre feet per year. The density and land uses proposed for this Project are consistent with the City's General Plan land use designations on which the District's UWMP

demand projections are based. The District's UWMP concluded that the storage capacity and overall management developed and implemented will provide for a reliable source of water to the users through 2030. The proposed Project will cause an increase in the use of water. However, the increase has been accounted for in the UWMP; the Project will not exceed current levels of water production, and the Project will not impact water supply for existing or future planned uses. (DEIR p. 3-126.). Accordingly, the proposed Project's potential impact on water supply is determined to be less than significant and no mitigation is required.

d. Wastewater Demand

Potential Significant Impact: Whether implementation of the proposed Project could result in a determination by the wastewater treatment provider, which serves or may serve the Project, that it has demand in addition to the provider's existing commitments.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to wastewater demand, and therefore, no mitigation is required. (DEIR pp. 3-125 to 3-126.).

Facts in Support of the Finding: The proposed project will increase the amount of wastewater, but the additional amount was considered as part of the General Plan. The development will be connected to the existing 10-inch line of the City's sewer system located within Caliente Road. The Project will be required to meet

all wastewater connection requirements as identified by the City's Building Division. (DEIR pp. 3-126 to 3-127.). Accordingly, wastewater capacity will be sufficient for the proposed Project's use and is a less than significant impact. No mitigation is required.

e. Landfill Capacity

Potential Significant Impact: Whether implementation of the proposed Project could be served by a landfill(s) without sufficient permitted capacity to accommodate the Project's solid waste disposal needs.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to landfill capacity, and therefore, no mitigation is required. (DEIR p. 3-127.).

Facts in Support of the Finding: The City of Hesperia does not contain an active landfill. Solid waste/sanitation services are administered by Advance Disposal, which is contracted to collect all solid waste within the City. Advance Disposal also operates a Materials Recovery Facility (MRF), which has a capacity of 600 tons per day. The Company's long-term plans are to expand the capacity of the facility to meet the needs of the City and its Sphere of influence, which is the company's ultimate service area. Currently, about 150 tons of the solid waste generated by the City is sent to the landfill. This remaining solid waste is placed in transfer trucks and disposed of at the Victorville Sanitary Landfill, which is owned and operated by the County of San Bernardino and

has a surplus capacity of 98.8 percent as of 2006. The existing landfills are equipped to meet the demands of the City. (DEIR p. 3-127.). Accordingly the Project's potential impact on landfills is determined to be less than significant and no mitigation is required.

f. Solid Waste Disposal

Potential Significant Impact: Whether implementation of the proposed Project could comply with federal, state, and local statutes and regulations related to solid waste.

Finding: Potential impacts of the Project on Utility and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Based on the entire record before us, this Council finds no significant impact related to solid waste disposal, and therefore, no mitigation is required. (DEIR p. 3-127.).

Facts in Support of the Finding: The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled; AB 341, subsequent legislation adopted in 2011 for waste diversion and recycling in California, identifies a new goal of 75 percent by the year 2020. Currently 70 percent of all solid waste produced within the city is being recycled and identifies a strong commitment by the City to achieve the 75 percent requirement by the year 2020. The City also requires agreements with Advance Disposal, its contracted waste disposal company, to comply with all state and federal rules and regulations. The City exceeds the minimum requirement of the Integrated Waste Management Act and the County landfill has capacity to accept

all solid waste that is not recycled or reused. (DEIR p. 3-127.). Accordingly, the Project's potential impacts regarding solid waste is determined to be less than significant and no mitigation is required.

g. Cumulative Impacts Related to Utilities and Service Systems

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to utilities and service systems.

Finding: Potential impacts of the Project on Utilities and Service Systems are discussed in detail in Section 3.17 of the Draft EIR. Furthermore, Section 4.16 of the Draft EIR assesses cumulative impacts related to Utilities and Service Systems. Based on the entire record before us, this Council finds no significant impact related to Utilities and Service Systems and therefore no mitigation is required. (DEIR p. 4-8.).

Facts in Support of the Finding: Future projects can be expected to increase the demand for utilities and services provided by the City, the County of San Bernardino, and public utility companies. This growth is consistent with the trend of increased population and commerce that those entities have incorporated into their planning processes. Taken as a whole, the additional demand on public utilities imposed by the Project in combination with the related projects is expected to be a small fraction of the anticipated regional growth and can, for the most part, be accommodated without major extensions of any utility. (DEIR p. 4-8.). Accordingly, the Project's potential contribution to cumulative impacts in regard to utilities and service systems is not

considerable and the cumulative effects of the Project are determined to be less than significant.

C. POTENTIALLY SIGNIFICANT IMPACTS WHICH CAN BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE AND MITIGATION MEASURES

Public Resources Code Section 21081 states that no public agency shall approve or carry out a project for which an EIR has been completed which identifies one or more significant effects unless the public agency makes one or more of the following findings:

1. Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
3. Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the EIR, and overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant effects on the environment.

The following issues from four of the environmental categories analyzed in the EIR, including Biological Resources, Cultural Resources, Hydrology and Water Quality, and Transportation and Traffic, were found to be potentially significant, but can be mitigated to a less than significant level with the imposition of mitigation measures. This Council hereby finds pursuant to *Public Resources Code* § 21081 that all potentially significant impacts listed below can and will be mitigated to below a level of significance by imposition of the mitigation measures in the EIR; and that these mitigation measures are included as Conditions of Approval and set forth in the Mitigation Monitoring and Reporting Program adopted by this Council. Specific findings of this Council for each category of such impacts are set forth in detail below.

1. Biological Resources

a. Candidate, Sensitive, or Special Status Species

Potential Significant Impact: The DEIR evaluated and concluded that Project implementation could potentially substantially affect, either directly or through habitat modifications, species identified as candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the Department of Fish and Game (now Department of Fish and Wildlife) (“CDFW”), or United States Fish and Wildlife Service (“USFWS”).

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure BIO-1. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

BIO-1 The property owner or Project contractor will be responsible to schedule vegetation clearing and grading activities outside of the typical avian nesting season (February 15 to August 31) to the maximum extent practical in order to comply with the Migratory Bird Treaty Act (MBTA) and relevant sections of the California Fish and Game Code. If active nests are observed, a minimum buffer zone from occupied nests is recommended to the extent practicable. Once nesting has ended, the buffer may be removed. In addition, a pre-construction survey for burrowing owls shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading, and submitted to and approved by the Planning Division prior to issuance of a grading permit.

Facts in Support of the Finding: Because none of the six special status wildlife species were found on-site during field surveys, there is no reasonable presumption of adverse

impact to any special status species or their habitats as a result of Project implementation. (DEIR 3-37.). Although field surveys did not indicate the presence of the burrowing owl on site, the Project is within the migratory route for the burrowing owl. However, with the implementation of Mitigation Measure BIO-1 enumerated above, potentially significant impacts to the burrowing owl as well as migratory bird species are considered less than significant. (*Id.*).

b. Wildlife Corridors or Nursery Sites

Potential Significant Impact: The DEIR evaluated and concluded that Project implementation could substantially affect the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery site.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant, but can be mitigated to a level of less than significant with the implementation of Mitigation Measure BIO-1. This mitigation measure, as discussed above, is incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein.

Facts in Support of the Finding: The major wildlife corridors in the City exist within the washes and creeks. While there is a potential for nesting birds to occur within the Project footprint due to the proximity of the Oro Grande Was, located in the western portion of the Project, development will not occur in the wash area and a

minimum 150-foot wide Conservation Easement and a drainage easement will be recorded. Although field surveys did not indicate the presence of the burrowing owl on site, the Project is within the migratory route for the burrowing owl. However, with the implementation of Mitigation Measure BIO-1 enumerated above, potentially significant impacts to the burrowing owl as well as migratory bird species are considered less than significant. (DEIR p. 3-38.).

c. Local Policies or Ordinances Protecting Biological Resources

Potential Significant Impact: The DEIR evaluated and concluded that Project implementation could substantially conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures BIO-2 and BIO-3. These mitigation measures enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein.

BIO-2 Prior to the issuance of grading permits, the property owner or the Project contractor shall submit an application and applicable fee paid to the City for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24 as required and schedule a pre-construction site inspection with the Planning Division and the Building Division. The application shall include certification from an appropriate tree expert or native desert plant expert to determine that proposed

removal or relocation of protected native desert plants are appropriate, supportive of a healthy environment, and in compliance with the City's Municipal Code. Protected plants subject to Hesperia Municipal Code Chapter 16.24 may be relocated on-site, or within an area designated as an area for species to be adopted later.

The application shall include a detailed Native Desert Transplant Plan for removal of all protected plants on the project site, including the 346 chaparral yucca, 12 cactus plants, and 577 Joshua trees to be potentially transplanted. The plan shall be prepared by an appropriate tree expert or desert native plant expert, and shall include but not be limited to the following measures:

- *Salvaged plants will be transplanted immediately to a permanent City approved off-site area if possible. If the plants cannot be immediately taken to the permanent relocation area at the time of excavation, they may be transplanted in a temporary area (stockpiled) prior to being moved to the permanent relocation area in an approved area within the project site, either a designated area within the parcels to be developed, or within the designated remainder parcel.*
- *Joshua trees shall be marked on the north facing side prior to excavation. Transplanted Joshua trees shall be planted in the same orientation as they occurred on the project site, with the marking on the north side of the trees facing north at the transplantation site.*
- *Transplanted plants will be watered at the time of transplantation, either to the permanent relocation site or the stockpile area, and monthly, as necessary. The schedule of watering will be determined by the tree expert or desert native plant expert to maintain plant health. Watering of the transplanted plants will continue until it has been determined that the transplants have*

become established in the permanent relocation area and no longer require supplemental watering.

BIO-3 *During Project grading activities, the limits of grading and construction activities within the Project footprint should be clearly delineated with temporary staking, flagging, or similar materials by the property owner or Project contractor. Grading of the Project footprint should be minimized to the greatest extent feasible and access to it should be via pre-existing/maintained access routes to the greatest extent possible.*

Facts in Support of the Finding: The Project site contains Joshua trees, chaparral yucca, and cactus, which are protected by the City of Hesperia's Protected Plant Ordinance, the County of San Bernardino Desert Native Plant Protection, and the State Desert Native Plants Act, and Project implementation will require removal of a significant number of these plants. In accordance with the City of Hesperia Protected Plant Ordinance, an application for a desert plant removal or relocation shall be filed with the City for review and processing. All chaparral yucca and cactus can be salvaged. Of the 647 Joshua trees potentially impacted, 577 are suitable for transplantation to an off-site area or stockpiled for transplantation once a city-approved area has been designated. (DEIR pp. 3-38 to 3-39.). With implementation of Mitigation Measures BIO-2 and BIO-3 enumerated above, this potentially significant impact will be reduced to a level of less than significant. (DEIR pp. 3-40 to 3-41.).

2. Cultural Resources

a. Archaeological Resources

Potentially Significant Impact: The DEIR evaluated and concluded that Project implementation could potentially cause a substantial adverse change in the significance of an archaeological resource as defined in Section 15064.5 of the State CEQA Guidelines.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures CR-1. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein.

CR-1 *Although the cultural resources survey was conducted in as thorough a manner as possible, there is always the possibility that previously unidentified archaeological and paleontological resources could be discovered during Project construction. Prior to the issuance of grading permits, the property owner or Project contractor will be responsible to retain the services of a qualified archaeologist and/or paleontologist who shall monitor grading activities during Project construction. In the event that any prehistoric or historic-period cultural resources (chipped or ground stone lithics, animal bone, ashy midden soil, structural remains, historic glass or ceramics, etc.) are discovered during the course of construction when a monitor is not present, the Project contractor will be responsible to cease all work in the vicinity and wait until the archaeologist and/or paleontologist has evaluated the significance of the find and has removed the resource as required by law.*

Facts in Support of the Finding: No known cultural resources of significance exist within the Project site, and materials identified are not considered to contain additional information important in prehistory or history. (DEIR p. 3-44.). Further, no comments were received from any Native American representative in regard to the Project. (DEIR p. 3-42.). Although the

cultural resources survey was conducted in as thorough a manner as possible, there is always the possibility that previously unidentified archaeological and paleontological resources could be discovered during Project construction. On this basis, the mitigation measures presented above shall be employed to ensure protection of resources which may not yet have been identified. (DEIR p. 3-44.). Accordingly, with implementation of Mitigation Measures CR-1 and CR-3, potential impacts to archaeological resources are determined to be less than significant.

b. Unique Paleontological Resources or Geological Features

Potentially Significant Impact: The DEIR evaluated and concluded that Project implementation could directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures CR-1 and CR-3. These mitigation measures enumerated above are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein.

Facts in Support of the Finding: The City's General Plan has identified the Project site as located in an area exhibiting "high" paleontological resource sensitivity. However, the records search and field survey conducted and discussed in the Cultural Resources Technical Letter Report support a conclusion that no unique paleontological resources or geological features exist on the Project site. Previously recorded cultural resources are not historically significant. Although the cultural resources survey was

conducted in as thorough a manner as possible, there is always the possibility that previously unidentified archaeological and paleontological resources could be discovered during Project construction. On this basis, the mitigation measures presented above shall be employed to ensure protection of resources which may not yet have been identified. (DEIR p. 3-44.). Accordingly, with implementation of Mitigation Measures CR-1 and CR-3, potential impacts to paleontological resources are determined to be less than significant.

c. Human Remains

Potentially Significant Impact: The DEIR evaluated and concluded that Project implementation could directly or indirectly disturb human remains, including those interred outside of formal cemeteries.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure CR-2. This mitigation measure enumerated below is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein.

CR-2 If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made necessary findings as to origin and disposition of the remains pursuant to Public Resources Code Section 5097.98. The following actions must be taken by the property owner or Project contractor in the event that human remains are discovered on private or State land.

- *Stop work immediately and contact the County Coroner. The County*

Coroner must be notified immediately of the find.

- *The Coroner has two working days to examine human remains after being notified by the responsible person. If the remains are determined to be prehistoric or Native American the coroner will notify the Native American Heritage Council within 24 hours.*
- *The Native American Heritage Council will immediately notify the person it believes to be the most likely descendent (MLD) of the deceased Native American. With the permission of the landowner or agency, or an authorized representative, the MLD may inspect the site of the discovery.*
- *The MLD makes recommendations to the owner, or representative, for the treatment or disposition, with proper dignity, of the human remains and grave goods.*

If the Council is unable to identify a descendent, the descendent identified fails to make a recommendation, or the landowner rejects the recommendations of the descendent and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with the Native American burial(s) with appropriate dignity on the property in a location not subject to further surface disturbance.

Facts in Support of the Finding: Based on survey results, the proposed Project will not disturb any human remains, including those interred outside of formal cemeteries. However, there is always the possibility that previously unidentified human remains could be uncovered during Project construction. On this basis, the mitigation measures presented above shall be employed to ensure protection of resources which may not yet have been identified. (DEIR p. 3-45.).

Accordingly, with implementation of Mitigation Measure CR-2, potential impacts to human remains are determined to be less than significant.

d. Cumulative Impacts Related to Cultural Resources

Potential Significant Impact: Whether implementation of the proposed Project could result in significant cumulative impacts related to cultural resources.

Finding: Potential impacts of the Project on cultural resources are discussed in Section 3.5 of the Draft EIR. In addition, Section 4.6 of the Draft EIR discusses cumulative impacts related to cultural resources in particular. Based on the entire record before us, this Council finds no significant cumulative impacts related to cultural resources.

Facts in Support of the Finding: Based upon cultural resources investigation, no cultural resources exist on the Project site. The City of Hesperia also does not have any registered historic buildings. Should cultural resources be uncovered during project development, the project shall cease and a city-approved professional archaeologic/paleontologic inspector shall collect resources of significance. Additionally, compliance with CEQA Guidelines, Public Resources Code Section 5097.98 and the City of Hesperia General Plan will ensure that any human remains discovered will be preserved. (DEIR p. 4-4.). Accordingly, with application of the proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to cultural resources is not considerable and the cumulative effects of the Project are determined to be less than significant.

3. Hydrology and Water Quality

a. **Water Quality Standards and Wastewater Discharge Requirements**

Potentially Significant Impact: The DEIR evaluated and concluded that Project implementation could violate water quality standards or waste discharge requirements.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of BMPs and Mitigation Measures WQHYDRO-1 through WQHYDRO-7. These mitigation measures enumerated below are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein. (DEIR pp. 3-69 to 3-72.).

WQHYDRO-1 Building plans submitted to and approved by the Building Division shall be designed so that infrastructure associated with the proposed Project is situated outside jurisdictional areas of streams and drainages (e.g., channels and banks). A drainage easement will be recorded as approved by the City Engineer, aligned consistent with the centerline of the wash. A conservation easement shall be recorded, which will ultimately become a trail down the middle of the Oro Grande Wash. No buildings or structures will be permitted within the easement, which shall be maintained as close to its natural state as possible.

WQHYDRO-2 The property owner and future building tenants shall provide employee training concerning water quality and site management (as is required in the WQMP). The employee training documents shall be submitted to the City Building Division prior to the issuance of final occupancy permits.

WQHYDRO-3 Landscape plans submitted for the Project shall be designed to include drought-tolerant or xeriscape landscaping. Plans will be reviewed and approved by the Hesperia Recreation and Park District and the City Planning Division prior to the issuance of final occupancy permits.

WQHYDRO-4 During project construction and operation, the property owner or Project contractor will be required to use or store hazardous materials in a safe manner and at an appropriate distance from known or identified natural drainages. Material Safety Data Sheets will be made available to all site workers for cases of emergency.

WQHYDRO-5 The property owner or Project contractor will be required to provide a note on the Project grading plans to identify that any disturbed areas associated with temporary construction will be returned to original conditions (to the extent possible) after the completion of Project construction.

WQHYDRO-6 Drainage control features, including on-site retention facilities and stormwater protection measures such as filters to remove oils, grease and other contaminants, will be installed as part of the SWPPP and WQMP documents.

WQHYDRO-7 Stormwater drainage inside the Proposed Project boundaries will be designed to minimize soil erosion and provide for sediment control. Drainage control measures will be installed so that surface run-off will not be increased as it exits the site, to prevent erosion of down-slope properties. Final design of the site drainage shall be subject to all requirements of the grading permit.

Facts in Support of the Finding: The Project will be designed to not introduce new sources of pollutants into the Project area and will be developed and operate in compliance with the Lahontan Regional Water Quality Control Board (LRWQCB) regulations and water quality standards. (DEIR p. 3-69.). Water quality during the construction phase of the proposed Project is managed through the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). (*Id.*). In order to reduce

potential impacts during construction and post-construction, BMPs have been designed to address pollutants of concern and reduce impacts on water quality. (*Id.*) Construction BMPs include provisions that owners shall develop a SWPPP for the site to ensure compliance with applicable regulations and prevent off-site migration of contaminated stormwater or increased soil erosion; that roads shall be designed so that changes to surface water runoff are avoided and erosion is not initiated; owners shall obtain all applicable federal and state permits, as required; and existing drainage systems shall not be altered, especially in sensitive areas such as erodible soils or steep slopes. Potential soil erosion shall be controlled at culvert outlets with appropriate structures. Catch basins, roadway ditches, and culverts shall be cleaned and maintained regularly. Post-construction BMPs include owners developing a Water Quality Management Plan (WQMP), or meet the SWPPP LID guideline, for the site to ensure compliance with applicable regulations and prevent off-site migration of contaminated stormwater or increased soil erosion. (DEIR pp. 3-70 to 3-71.). Accordingly, with implementation of Mitigation Measures WQHYDRO-1 through WQHYDRO-7, potential impacts to hydrology and water quality resources are determined to be less than significant.

b. Cumulative Impacts related to Hydrology and Water Quality.

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to hydrology and water quality.

Finding: Potential impacts of the Project on Hydrology and Water Quality are discussed in detail in Section 3.9 of the Draft EIR. Furthermore, Section 4.9 of the Draft EIR assesses cumulative impacts related to Hydrology and Water Quality. Based on the entire record before us, this Council finds no significant cumulative impact related to Hydrology and Water Quality. (DEIR pp. 4-5 to 4-6.).

Facts in Support of the Finding: The proposed Project involves substantial ground disturbance during construction. Other regional residential and commercial developments may substantially increase impermeable surfaces, runoff, and surface water hydrology in the Project area. (DEIR p. 4-5). SWPPPs would be required to mitigate impacts to water quality during construction as it is with the Project. (*Id.*). The majority of the Project area will become impervious, and therefore, use of Low Impact Design (LID) measures, and above and underground retention basins are required and will be designed to control runoff. BMPs will also be utilized to ensure good water quality. (DEIR pp. 4-5 to 4-6.). Accordingly, with application of the proposed BMPs and mitigation measures, the Project's potential contribution to cumulative impacts in regard to hydrology and water quality is not considerable and the cumulative effects of the Project are determined to be less than significant.

4. Transportation and Traffic

a. Circulation System Performance

Potential Significant Impact: The DEIR evaluated and concluded that Project implementation could cause or contribute to potentially significant impacts regarding conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

Finding: Based on the entire record before us, this Council finds this impact is potentially significant, but will be mitigated to a level of less than significant with the implementation of Mitigation Measures TR-1 to TR-12. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein. (DEIR pp. 3-111 to 3-118.).

TR-1 Caliente Road and Project Driveway #1; Provide a stop sign for the project driveway exit and widen Caliente Road along the project frontage to provide turning lanes. The northbound direction is to be widened to include a left, an additional through lane, and a shared right-through lane. The northbound lane configuration would include a left, two through lanes, and a shared through-right lane. The southbound direction is to be widened to include a left and a shared through-right lane. The southbound configuration would include a left, a through, and a shared through-right lane. The eastbound direction is to provide a shared left-through lane and

a right turning lane. The westbound direction is to provide a left turning lane and a shared through-right lane.

TR-2 Caliente Road and Project Driveway #2; Provide a stop sign for the project driveway exit and widen Caliente Road along the project frontage to provide turning lanes. The northbound direction is to be widened to include a left and two additional through lane. The northbound lane configuration would include a left and three through lanes. The southbound direction is to be widened to include a shared right-through lane. The southbound configuration would include two through lanes, and a shared right-through lane. The eastbound direction is to provide a left turning lane and a right turning lane.

TR-3: Caliente Road and Project Driveway #3; Install a Traffic Signal at the intersection and widen Caliente Road along to provide turning lanes. The northbound direction is to be widened to include a left and two additional through lane. The northbound lane configuration would include a left and three through lanes. The southbound direction is to be widened to include an additional through lane and a shared right-through lane. The southbound configuration would include two through lanes, and a shared right-through lane. The eastbound direction is to provide a left turning lane and a right turning lane.

TR-4 Joshua Street and Caliente Road; Install a Traffic Signal at the intersection and widen the northbound to accommodate a right turning lane, the southbound to accommodate a left turning lane, and westbound to accommodate two additional left turning lanes. The northbound direction will be widened to provide a through and a right turning lane. The southbound direction will be widened to provide a through land and a left turning lane.

TR-5 Highway 395 and Joshua Street; Joshua Street is to be widened to the west of Highway 395. Joshua Street will be widened to provide two receiving lanes to accommodate the eastbound through traffic. The

westbound approach to the intersection of Highway 395 and Joshua Street is anticipated to be constructed by the Love's project as presented in mitigation measures TR-6 and TR-7 below.

Year 2016 Regional Mitigations

The following study intersections are anticipated to be impacted as a direct result of other area project development anticipated to be constructed by the Year 2016:

TR-6 Highway 395 and Joshua Street; All approaches are to be widened to accommodate additional lanes. The northbound direction is to be widened to include an additional through lane. The northbound lane configuration would include a left, three through lanes, and a right. The southbound direction to be widened to include an additional left turning lane. The southbound lane configuration would include two left turn lanes, two through lanes, and a right. The eastbound lane configuration would include a left and a shared through-right lane. The westbound direction to be widened to include an additional left and an additional through lane. The westbound lane configuration would include two left turn lanes, two through lanes, and a right turn lane. The improvements identified for this intersection are project specific mitigations for the proposed Love's Travel Center project and are to be constructed to the Ultimate design.

TR-7 Joshua Street and Outpost Road; install a traffic signal at the intersection to be coordinated with the Highway 395 and Joshua Street intersection, and widen the north, east, and westbound directions to accommodate additional lanes. The northbound direction is to be widened to accommodate a left and a right. The northbound lane configuration would include a left turning lane, a shared left-through lane, and a right turn lane. The southbound lane configuration would include a shared left-through lane and a right turn lane. The eastbound direction is to be widened to accommodate a left, an additional through lane, and a right. The eastbound lane configuration would include a left turning lane, two through lanes, and a right turning lane. The westbound direction is to be

widened to accommodate a left, an additional through lane, and a right. The westbound lane configuration would include two left turn lanes, two through lanes, and a right turning lane. The improvements identified for this intersection are project specific mitigations for the proposed Love's Travel Center project.

Year 2035 Regional Mitigation

Certain Project area intersections will be significantly impacted and require mitigation updates due to the increase in traffic from nearby development by the Year 2035. The following mitigation measures are required to achieve a less than significant impact:

TR-8 Joshua Street and Mariposa Road; Install a traffic signal at the intersection and improve the eastbound direction left turning lane to be restriped to a shared left-through lane. The north, south and westbound direction includes a shared left-through-right turning lane. The eastbound direction right turning lane is restriped to a shared through-right lane. The eastbound direction is to be constructed with development. The eastbound direction will include a left turning lane and a shared through-right turning lane. The southbound right, northbound left, and westbound through are to be constructed with development. This future improvement will be funded by City of Hesperia Development Impact Fees (DIF).

TR-9 Oak Hill Road and I-15 Southbound Ramps; Install traffic signal at the intersection and improve the eastbound direction to be widened to accommodate a free right. The southbound direction includes a shared left-through turning lane and a right. The eastbound direction is to be widened to accommodate a free right. The eastbound direction is to include a through lane and a free right turn lane. The westbound direction includes a shared left-through turning lane. This future improvement will be funded by a combination of City of Hesperia Developer Impact Fee (DIF) and State Funds.

TR-10 Main Street and I-15 Freeway Northbound Ramps; Widen the northbound direction to accommodate an additional right. The northbound direction is

to include a left turning lane, a shared through-right turning lane, and two right turn lanes. The eastbound direction includes three through lanes. The westbound includes three through lanes and a right turning lane. This future improvement will be funded by a combination of state and local funds.

TR-11 Main Street and Mesa Linda Road; signalized the intersection and the east and westbound directions are to be widened. The northbound direction shared left-right turning lane is to be restriped to a shared left-through-right turning lane. The eastbound direction is to be widened to accommodate a left turn lane. The eastbound direct includes a left, two through lanes, and a shared through-right. The westbound direction a through lane is to be restriped to a shared through-right. The westbound direction includes left, a through, and a shared through-right. The southbound direction is to be constructed with development of the property north of Main Street. The southbound direction will include a shared left-through-right turning lane. The eastbound left and westbound right are to be constructed with development. This future improvement will be funded by City of Hesperia Developer Impact Fee (DIF).

TR-12 Poplar Road and Three Flags Road; Install traffic signal at the intersection and widen all directions. The northbound direction is to be widened to accommodate a left. The northbound lane configuration would include a left turn lane and a shared through-right turn lane. The southbound lane configuration would include a left turn lane and a shared through-right turn lane. The eastbound direction is to be widened to include a through lane and a left turning lane. The eastbound lane configuration would include a left turning lane, a through lane, and a shared through-right lane. The westbound direction is to be widened to include a through lane and a right turning lane. The westbound lane configuration would include a left turning lane, a through lane, and a right turning lane. This future improvement will be funded by City of Hesperia Developer Impact Fee (DIF).

Facts in Support of the Finding: Section 3.16 of the Draft EIR discusses impacts related to traffic and circulation including construction and operations traffic. The maximum number of inbound and outbound construction traffic trips would be limited to the 36-month timeline and would not cause any significant impacts or delays upon the study area intersections or freeway segments. The Project is expected to generate 10,964 daily trips based upon a business park and high-cube warehouse use. The Project is also anticipated to have enough shared trips that a five percent Internal Capture is used to analyze traffic impacts. With implementation of Mitigation Measures TR-1 to TR-5, as well as regional Mitigation Measures TR-6 to TR-12 that will be implemented by other area projects by the year 2016 and through the payment of City of Hesperia Development Impact Fees (DIF) by the year 2035, a less than significant impact with regard to traffic would occur. (DEIR pp. 3-111 to 3-112.). Accordingly, potential traffic impacts are determined to be less than significant with appropriate mitigation.

b. Congestion Management Program

Potential Significant Impact: The DEIR evaluated and concluded that Project implementation could cause or contribute to potentially significant impacts regarding conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county

congestion management agency for designated roads or highways.

Finding: Based on the entire record before us, this Council finds this impact is potentially significant, but will be mitigated to a level of less than significant with the implementation of Mitigation Measures TR-1 to TR-12. These mitigation measures, enumerated above, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein. (DEIR pp. 3-113 to 3-118.).

Facts in Support of the Finding: With the addition of Project traffic, the level of service (LOS) for most of the existing intersections will continue to operate at similar acceptable LOS "D" or better during the am/pm peak hours. (DEIR pp. 3-113.). The intersection of Highway 395 and Poplar Street is anticipated to operate at LOS "E" during the am peak hour. Mitigation is not necessary for the LOS E for this intersection since it is part of a major corridor. The intersections of Oak Hill Road and I-15 freeway southbound ramps and Mariposa Road and Oak Hill Road are anticipated to operate at a LOS "E" during the AM or PM Peak Hour. These intersections are identified as a part of a freeway interchange, and as such mitigation will not be required. The intersection of Caliente Road and Joshua Street is anticipated to operate at LOS "F" during the AM Peak Hour. However, when the Rancho Road Interchange with the I-15 Freeway is completed, area traffic will be redistributed and the identified mitigation at this intersection will not be necessary. To accommodate Project traffic, mitigation measures will be implemented, including

the recommended improvements for Caliente Road along the Project frontage. (DEIR p. 3-113.). Accordingly, potential traffic impacts are determined to be less than significant with appropriate mitigation.

c. Cumulative Impacts Related to Transportation and Traffic

Potential Significant Impact: Whether implementation of the proposed Project would result in significant cumulative impacts related to transportation and traffic.

Finding: Potential impacts of the Project on Transportation and Traffic are discussed in detail in Section 3.16 of the Draft EIR. Furthermore, Section 4.15 of the Draft EIR assesses cumulative impacts related to Transportation and Traffic. Based on the entire record before us, this Council finds no significant cumulative impact related to Transportation and Traffic. (DEIR pp. 4-7 to 4-8.).

Facts in Support of the Finding: As stated in the Traffic Study, under year 2015 conditions, which include the traffic from the Project and other area projects, most of the existing intersections are anticipated to continue to operate at similar LOS "D" or better during the AM/PM Peak Hours. Mitigation is anticipated for those intersections operating lower than LOS "E." The existing level-of-service for all the freeway segments are expected to continue to operate at LOS "D" or better during the AM/PM Peak Hours. The existing level-of-service for all the ramps are expected to continue to operating at LOS "E." Under year 2035 Conditions, which include the Project, the intersections are expected to continue to

operate at acceptable LOS "D" or higher, utilizing the recommended mitigations provided in Future Year 2035. The existing level-of-service for all the freeway segments are expected to continue to operate at similar LOS "D" or better during the AM/PM Peak Hour after mitigation as well. The existing level-of-service for all the ramps are expected to continue to operating at LOS "E." Mitigation outlined in the Traffic Study prepared for the Project and Chapter 3.16 would reduce the magnitude of impact to a level of no significance. (DEIR pp. 4-7 to 4-8.). Accordingly, with application of the proposed BMPs and mitigation measures, the Project's potential contribution to cumulative impacts in regard to transportation and traffic is not considerable and the cumulative effects of the Project are determined to be less than significant.

D. IMPACTS ANALYZED IN THE EIR AND DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE

With the implementation of all available and feasible mitigation measures recommended in the EIR, the following adverse impacts of the Project stated below are considered to be significant and unavoidable, based upon information in the EIR and in the administrative record. These impacts are considered significant and unavoidable despite the imposed mitigation measures which will reduce impacts to the extent feasible.

1. Air Quality

a. Construction Emissions

Significant Unavoidable Impact: The EIR evaluated and concluded that Project construction could generate VOC, NO_x, CO

(annual), and PM₁₀ emissions exceeding Mohave Desert Air Quality Management District (“MDAQMD”) regional thresholds after mitigation.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measures AQ-1 to AQ-2 are incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein, thereby reducing the potentially significant construction emissions impacts. However, the Council finds that the Project’s potential construction emissions impacts may be potentially significant after mitigation. Air Quality impacts are discussed in detail in Section 3.3 of the Draft EIR. The following mitigation measures will mitigate fugitive dust and construction vehicle exhaust emissions related to Project construction to the extent feasible, but the impacts will remain significant and unavoidable.

AQ-1 Prior to Project site construction activities, and prior to issuance of grading permits for each phase of the Project, a Dust Control Plan (DCP) shall be submitted to, and verified by, the City Building Division. The DCP shall identify actions that the property owner and/or the Project contractor shall utilize to reduce on- and off-site dust production consistent with MDAQMD guidelines. Dust Control mitigation measures for the Project shall include:

- *A Dust Control Plan shall be included as a component within the Storm Water Pollution Prevention Plan (SWPPP) and erosion control plan through the civil plans submitted to and approved by the Engineering Department and the grading plans submitted to and approved by the Building Division prior to the start of construction activities.*
- *Disturbed Areas: The construction contractor shall effectively*

stabilize for fugitive dust control all disturbed areas that are not being actively used for construction purposes, or using water or nontoxic chemical stabilizers/suppressants.

- *Storage Piles: The construction contractor shall apply water or nontoxic chemical stabilizers/suppressants for fugitive dust control, or cover storage piles with a tarp or other suitable cover or vegetative ground cover. Following the addition of materials to or the removal of materials from the surface of outdoor storage piles, said piles shall be effectively stabilized for fugitive dust emissions, using sufficient water or nontoxic chemical stabilizers/suppressant.*
- *Unpaved Roads: The construction contractor shall effectively stabilize for fugitive dust control all on-site unpaved roads and off-site unpaved areas using water or nontoxic chemical stabilizers/suppressants.*
- *General Watering: The construction contract shall control fugitive dust emissions during land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities by watering the construction site a minimum of two times daily when soil conditions are dry. More frequent watering shall occur as necessary during windy days.*
- *Dirt Hauls: When materials are transported off-site, the construction contractor shall ensure that all material is covered or effectively wetted to limit dust emissions, and at least 24 inches of freeboard space from the top of containers shall be maintained.*
- *Dirt Carryout/Trackout: The construction contractor shall install and maintain an approved carryout and trackout prevention procedure (e.g., grizzlies, gravel pads, paved interior roads) at the construction ingress/egress. The construction contractor shall remove mud or dirt that has accumulated on adjacent public streets at the end of each workday. In addition, carryout/trackout shall be immediately removed*

when it extends 50 feet or more beyond the site exit. Carryout/trackout shall be removed by manually sweeping , using a rotary brush broom accompanied or preceded by sufficient wetting, operating a PM10-efficient street sweeper with a minimum pick-up efficiency of 80 percent, or flushing with water if curbs or gutters are not present and where the use of water will not be a source of trackout material or result in adverse impacts on stormwater drainage systems.

- *Unpaved Road Speeds: The construction contractor shall limit traffic speeds on unpaved roads to 15 mph.*
- *Erosion Control: The construction contractor shall install gravel bags or other erosion-control measures to prevent silt runoff to public roadways from sites with a slope greater than one (1) percent during ground-disturbing activities.*
- *High Winds: The construction contractor shall suspend excavation and grading activity when winds exceed 20 miles per hour.*
- *Continuously mist the work area.*
- *Install wind barriers around the work area.*
- *Clean or decontaminate equipment and vehicles to ensure that no equipment or workers track soil out of the work area (a gravel pad, tire shaker, or wheelwash system may be used to clear soil from vehicles).*

AQ-2

During grading and construction activities, the property owner or Project contractor shall submit a signed 'Construction Materials and Equipment Report' once every three months to the City Building Division. This report shall document the past three months' performance, the planned performance for the next three months, and certify that the property owner and Project contractor are in compliance with the following:

- *Construction materials shall be received during off-peak travel periods; between 8:30 a.m. and 4:00 p.m. A written explanation for*

any non-compliance shall be submitted by the offending party to the City Building Division.

- *Lane closures and detours shall be limited to off-peak travel periods between 8:00 a.m. and 4:00 p.m., whenever possible.*
- *Verification by the property owner or Project contractor that the construction equipment that has been on the Project site during the preceding three months, that is currently on the site, and that is anticipated to be on the site during the next three months meets air quality standards as described herein. The property owner or Project contractor shall certify that all such equipment has been and shall be selected for use based on low emission and high-energy efficiency factors, including that such equipment has received a tune-up (or equivalent work) to assure low NO_x emissions within six months preceding delivery to the Project site, and at least once a year thereafter.*

Facts in Support of the Finding: The EIR found that unmitigated construction emissions of VOC, NO_x, CO, and PM₁₀ will exceed applicable Mohave Desert Air Quality Management District (MDAQMD) regional thresholds. (DEIR p. 3-21.). The EIR recommends implementation of Mitigation Measures AQ-1 to AQ-2 to reduce potentially significant construction emissions impacts. However, even after compliance with applicable MDAQMD Rules and application of all feasible mitigation measures, VOC, NO_x, CO and PM₁₀ emissions generated by Project construction will exceed applicable MDAQMD thresholds. The magnitude of exceedance would, however, be reduced. (DEIR p. 3-28.). Accordingly, the Project's construction VOC, NO_x, CO, and PM₁₀

emissions are determined to be significant and unavoidable.

b. Cumulative Impacts – Increase of a Criteria Pollutant in a Non-Attainment Area

Significant Unavoidable Impact: The EIR concluded that the Project could result in a cumulatively considerable net increase in ROC, NO_x, CO and PM₁₀ within a non-attainment area.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant. These impacts will be reduced to the extent feasible through the implementation of the air quality mitigation measures recommended in the EIR (as discussed above), but this impact will remain significant and unavoidable.

Facts in Support of the Finding: The Project area is designated as a non-attainment area for O₃, PM₁₀ and PM_{2.5} (DEIR p. 4-2.). With mitigation, SO₂ and PM_{2.5} will not exceed MDAQMD regional operational thresholds. However, even after application of all feasible mitigation measures, impacts of the Project are still significant on a regional basis for VOC, NO_x, CO, CO₂ and PM₁₀. (DEIR 3-24.). Accordingly, the Project's operational exceedance of PM₁₀ is considered to be cumulatively significant and unavoidable.

c. Cumulative Impacts - Operational Emissions

Significant Unavoidable Impact: The EIR evaluated and concluded that operations of the Project will result in long-term increases in VOC, NO_x, CO, PM₁₀ and CO₂ emissions levels which would exceed applicable MDAQMD regional thresholds.

Finding: Based on the entire record before us, this Council finds that this impact is cumulatively significant. These impacts can be reduced to the extent feasible through the implementation of the air quality mitigation measures recommended in the EIR (as discussed above) but that this cumulative impact will remain significant and unavoidable.

2. **Greenhouse Gas Emissions**

a. **Operational Emissions**

Significant Unavoidable Impact: The EIR evaluated and concluded that the Project would generate greenhouse gas emissions in the operational phase which would exceed MDAQMD's significance threshold.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Council finds that Mitigation Measure GHG-1 is incorporated into the Mitigation Monitoring and Reporting Program for the Project and will be implemented as specified therein, thereby reducing the potentially significant greenhouse gas emissions (GHG) impacts. However, the Council finds that the Project's potential GHG emissions impacts may be potentially significant after mitigation. Greenhouse gas emissions impacts are discussed in detail in Section 3.7 of the Draft EIR. The following mitigation measures will mitigate GHG emissions to the extent feasible, but the impacts will remain significant and unavoidable.

GHG-1 The property owner or Project contractor shall implement General Plan Policies CN-7.4, CN-7.7, VN-7.8, and VN-7.9 to the extent feasible during Project construction and operations. Specifically, construction drawings and building specifications submitted and approved by the Building and Planning Division shall include the following measures as applicable:

- *Passive day-lighting of facilities*

- *Cool roofs*
- *Cool pavement*
- *Xeriscaping*
- *Energy efficient appliances*
- *Carpooling program*
- *Installation and use of facility power instead of Transport Refrigeration Units (TRUs) if applicable*
- *Implementation of the EPA SmartWay Program for trucks to increase fuel savings through low resistance tires, improved aerodynamics, retrofit technologies and idle reduction technologies.*

Facts in Support of the Finding: At this time, the City of Hesperia has not adopted project-specific thresholds of significance for greenhouse gas emissions. MDAQMD thresholds are therefore used for impact analysis. (DEIR p. 3-56.). The Project's construction emissions and daily operational emissions satisfy MDAQMD's significance thresholds and would not significantly impact the environment, however, annual operational emissions exceed MDAQMD thresholds. (DEIR p. 3-57.). Because the Project's annual emissions would exceed MDAQMD's significance threshold, the Project results in a significant and unavoidable climate change impact.

b. Cumulative Impacts Related to Climate Change

Significant Unavoidable Impact: The EIR concluded that the Project could result in a cumulatively considerable contribution of GHG

emissions to climate change.

Finding: Based on the entire record before us, this Council finds that this impact is potentially significant. These impacts will be reduced to the extent feasible through the implementation of the greenhouse gas emissions measures recommended in the EIR (as discussed above), but this impact will remain significant and unavoidable.

Facts in Support of the Finding: While an individual project cannot substantially create climate change, the cumulative impact of human activities does result in a change in the atmospheric chemistry of the world and results in climate change. At this time, the City of Hesperia has not adopted project-specific thresholds of significance for greenhouse gas emissions. MDAQMD thresholds are therefore used for impact analysis. (DEIR pp. 3-56 and 4-3.). Because the Project's GHG emissions exceed MDAQMD's operational phase GHG significance thresholds, the Project will have a contribution of GHG emissions to climate change. (DEIR p. 4-4.). Accordingly, the Project's operational exceedance of the MDAQMD's GHG thresholds is cumulatively significant and unavoidable.

E. PROJECT ALTERNATIVES

Section 6.2 of the Draft EIR analyzed the following two alternatives to the Project as proposed and evaluated these alternatives for their ability to meet the Project's goals and objectives as described in Section II(B) above. While there are appropriately zoned properties in the northeastern quadrant of the City, there are no single large parcels of vacant land that can serve as alternative sites to the Project, and the Northeast Hesperia Industrial Area was rejected as infeasible for the proposed Project. (DEIR p. 6-6.). CEQA requires the evaluation of a "No Project Alternative" to assess a maximum net

change in the environment as a result of implementation of the Project. CEQA also requires evaluation of alternatives which would avoid or substantially lessen any of the significant environmental effects of the proposal and feasibly attain the basic Project objectives. (DEIR p. 6-1.). Thus, in order to develop a range of reasonable alternatives, the Project objectives must be considered when this Council evaluates the alternatives.

1. Specific Plan – Main Street/I-15 District Alternative

Based on the size of the Project, alternative sites for the Project will have to consist of vacant or available land approximately 200 acres in size, and should also have a Commercial/Industrial Business Park or General Industrial land use designation that can accommodate commercial/industrial business park uses consistent with the proposed Project. (DEIR pp. 6-1 to 6-2.). To this end, the EIR selected a currently vacant site zoned CIBP within the Main Street/I-15 District of the Specific Plan, north of the proposed Project for analysis. (DEIR p. 6-4.). Similar to the Project, the Main Street/I-15 District Alternative would involve similar mitigation measures and result in less than significant impacts in the following areas: Aesthetics, Agricultural Resources, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Transportation/Traffic, and Utilities and Service Systems. However, the more residences near the Alternative translates into increased noise impacts and potential land use incompatibility, which may pose a more significant impact to nearby sensitive receptors than development of the proposed Project. As the Alternative is farther from Fire Station 305, there would be a greater response time for public services than for the proposed Project. More intensive impacts on circulation may also result in the Alternative due to the distance from I-15 and Caliente Road than with the proposed Project. Utilities and Service Systems impacts may also increase under the Alternative, as development of the Alternative would require a major extension of the sewer line. Further, no substantive reductions in significant and unavoidable Air Quality and GHG impacts would be achieved through relocation of the Project. As the Project site is in proximity to fewer residences than on the land adjacent to the alternative sites, the Air Quality impact for the proposed Project is less than the impact of the Alternative. (DEIR pp. 6-3 to 6-6.).

Finding

Based on the entire record, this Council finds that most of the stated Project objectives identified in Section II(B) above could be achieved under the Main Street/I-15 District Alternative. (DEIR p. 6-6.). However, no substantive reductions in significant and unavoidable Air Quality and GHG impacts would be achieved through relocation of the Project. (*Id.*). Furthermore, development of this alternative would not utilize existing sewer systems, or the new freeway interchange on I-15 currently under construction at Ranchero Road just south of the Project. (*Id.*). Accordingly, this alternative is not feasible and there is no environmental benefit for or rationale for locating the Project at the Alternative site. (*Id.*).

2. No Project Alternative

The No Project Alternative would retain the site in its current undeveloped condition, no physical changes would occur on the site, and authorized on-site activities would be confined to routine property maintenance. (DEIR p. 6-6.). Under the No Project Alternative, the Project's significant and unavoidable air quality impacts and GHG emission impacts would not occur. (DEIR pp. 6-6 to 6-7.).

Finding

Based on the entire record, this Council finds that the No Project Alternative would not fulfill any of the Project objectives identified in Section II(B) above. Because the No Project Alternative will not fulfill any of the Project objectives, this alternative is rejected.

3. Environmentally Superior Alternative

The determination of an environmentally superior alternative is based on the consideration of how the alternative fulfills the project objectives and how the alternative either reduces significant unavoidable impacts or substantially reduces the impacts to the surrounding environment. Here, the environmentally superior alternative is the No Project Alternative. CEQA Guidelines section 15126.6 indicates that if the No Project Alternative is the environmentally superior alternative then another alternative must also be identified.

As the Main Street/I-15 District Alternative does not reduce impacts associated with the Project, including significant and unavoidable Air Quality and GHG impacts, and may actually increase impacts due to Noise, Air Quality, Transportation/Traffic, Public Services, and Utilities and Service Systems. (DEIR p. 6-6.). Accordingly, the proposed Project is environmentally superior to the Main Street/I-15 District Alternative.

F. GROWTH INDUCING IMPACTS

CEQA requires a discussion of ways in which a Project could be growth inducing. This topic is discussed in Section 5.1 of the Draft EIR. The CEQA Guidelines, specifically Section 15126(d), identify a Project as growth inducing if it fosters economic or population growth, or the construction of additional housing, either directly (such as the provision of urban services and the extension of infrastructure to an undeveloped area), or indirectly (such as growth induced by additional demands for housing, employment, and goods and services associated with population increase caused by, or attracted to new development) in the surrounding environment.

The Project will include infrastructure and utility improvements, which are considered to be growth-inducing as they are extending public utilities and other public services (police and fire, etc.), and are “removing an impediment to growth.” However, the Project will accommodate the City’s General Plan by constructing a development consistent with the Industrial and Community Center Development land use designations, and which is consistent with the CIBP District of the Main Street and Freeway Corridor Specific Plan. The Project also ensures that a portion of the site within the Wash Protection Overlay remains open space. The majority of properties with I-15 Freeway frontage are a mix of large and small parcel sizes, giving the City opportunities to attract business development. (DEIR pp. 5-2 and 5-3.).

Project and future buildout within the City will cause expansion and diversification of the local economic base, creating both direct and indirect economic growth. The Project will create construction jobs during the construction period, increased business and job opportunities, and increased property tax revenue. While the Project may be considered growth-inducing by fostering economic growth, the Project is consistent with the City’s General Plan and the Main Street and Freeway Corridor

Specific Plan's goal to encourage commercial and industrial development in the Specific Plan area. (DEIR p. 5-2.).

Project development is consistent with the growth identified in the City's General Plan. The Project's potential fostering of economic growth is also consistent with the City's General Plan and Specific Plan. Additionally, the infrastructure needed for the Project is largely in place. Accordingly, these secondary growth-inducing effects do not represent a significant environmental impact. (DEIR pp. 5-2 and 5-3.).

G. SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

The CEQA *Guidelines* Section 15126.2(c) requires that the EIR identify significant irreversible environmental changes that would occur should the Project be implemented. Implementation of the proposed Project and associated land uses will entail construction activities that commit non-renewable and/or slowly renewable energy resources, natural resources, and human resources. Increased motor vehicle travel associated with the Project will be accompanied by an increase in demand for petroleum products. An increased commitment of social services and maintenance services such as police, fire, and water services will be required, as will an increased commitment of public maintenance services such as waste disposal and treatment. The energy, social service commitments, and maintenance service commitments will be irreversible obligations. (DEIR p. 5-4.).

The Project applicant and construction contractor will use typical prudent construction techniques included in standard construction specifications to reduce the potential for overuse of nonrenewable resources and reduce the potential of accidental spills. No significant impacts concerning nonrenewable resources are expected to occur. (DEIR p. 5-4.). Further, efforts will be taken during the construction phase as well as the operational life of the Project to reduce fossil fuel consumption associated with the Project. (DEIR p. 5-5.). During building construction, natural resources including water, sand and gravel, and asphalt would be consumed. Some of these material will become construction and demolition waste. However, compliance with AB 939 and AB 341 source reduction and recycling requirements would ensure that a minimal amount of

renewable and nonrenewable construction and demolition wastes will be transported to landfills and that the wastes will be reused or recycled to the maximum extent practicable. (DEIR p. 5-5.).

After Project construction, future residents will be encouraged to recycle both renewable and nonrenewable materials. Pursuant to AB 939 and AB 341, the City is required to take such actions as may be necessary to attain the recycling goal of diverting 75 percent of all wastes generated within the City from local landfills by 2020. Currently, roughly 70 percent of trash is currently being diverted within the City. Municipal and private efforts toward the attainment of that goal would minimize, to the extent practicable, the consumption of nonrenewable resources. (DEIR p. 5-5.). Therefore, the consumption of nonrenewable resources would result in a less than significant impact. (DEIR pp. 5-4 to 5-5.).

During construction, limited quantities of gasoline and/or diesel fuels may be used and stored on the Project site. Should fuels accidentally be released into the environment, the contractor or responsible party would be obligated to assess the magnitude of the hazard, notify appropriate agencies, and mitigate any environmental hazards associated with the release of those fuels. The limited use of such fuels would not create a significant potential for an environmental accident, and adequate regulatory controls are in place to minimize any environmental accidents that may be associated with this type of event. During operations, petroleum products and other hazardous materials (household hazardous wastes) would be used and stored on the Project in various quantities. These materials are typically associated with household activities and many are provided for sale to retail patrons. In the event of an accidental release, materials would not be discharged in sufficient quantities to create potential environmental risks because these hazardous materials are sold in small quantities. (DEIR p. 5-6.).

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Hesperia City Council hereby declares that, pursuant to CEQA Guidelines Section 15093, the City Council has balanced the benefits of the proposed Project against any significant and unavoidable environmental impacts in determining whether to approve the proposed Project. If the benefits of the proposed Project outweigh the

unavoidable adverse environmental impacts, those impacts are considered “acceptable.”

The City Council hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impacts discussed in Section V(D) herein. (*See also*, DEIR §5.2 “Unavoidable Impacts”.)

The City Council hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The City Council hereby declares that to the extent any mitigation measures recommended to the City are not incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this City Council finds outweigh the unmitigated impacts.

The City Council further finds that except for the Project, all other alternatives set forth in the EIR are infeasible because they would prohibit the realization of the Project objectives and/or specific economic, social or other benefits that this City Council finds outweigh any environmental benefits of the alternatives.

The City Council hereby declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighed the benefits of the Project against its unavoidable significant impacts after mitigation, the City Council has determined that the social, economic and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based upon the following considerations:

- The Project will promote the City of Hesperia’s economic development;
- The Project will create jobs for area residents;
- The Project will increase the City of Hesperia’s tax base;

- The Project will create a Project that utilizes and/or enhances existing infrastructure, including the proximity to major roadways and freeways, railroad service corridors, and other similar infrastructure that will help promote the site and its use as an industrial business park development;
- The Project will fulfill the growing demand for distribution and light industrial uses in the region;
- The Project will develop the land to the highest and best allowable land use compatible with the City's General Plan, Main Street and Freeway Corridor Specific Plan, and planning guidelines; and
- The Project site should be located accessible to both I-15 and US Highway 395.

As the CEQA Lead Agency for the proposed action, the City of Hesperia has reviewed the Project description and the alternatives presented in the EIR, and fully understands the Project and Project alternatives proposed for development. Further, this Council finds that all potential adverse environmental impacts and all feasible mitigation measures to reduce the impacts from the project have been identified in the Draft EIR, the Final EIR and public testimony. This Council also finds that a reasonable range of alternatives was considered in the EIR and this document, Section V(E) above, and finds that approval of the Project is appropriate.

This Council has identified economic and social benefits and important policy objectives, above, which result from implementing the Project. The Council has balanced these substantial social and economic benefits against the unavoidable significant adverse effects of the Project. Given the substantial social and economic benefits that will accrue from the Project, this Council finds that the benefits identified herein override the unavoidable environmental effects.

California Public Resource Code section 21002 provides: "In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof." Section 21002.1(c) provides: "In the event that economic,

social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency...” Finally, California Code of Regulations, Title 4, 15093 (a) states: “If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

The City Council hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweigh the identified significant adverse environmental impacts of the Project that cannot be mitigated. The City Council finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the DEIR and therefore, finds those impacts to be acceptable.

VII. CERTIFICATION OF EIR

The Council finds that it has reviewed and considered the Final EIR evaluating the proposed Project, that the Final EIR is an accurate and objective statement that fully complies with CEQA and the State CEQA Guidelines, and that the Final EIR reflects the independent judgment of the City of Hesperia City Council.

The Council declares that no new significant information as defined by the State CEQA Guidelines section 15088.5 has been received by the Council after circulation of the Draft EIR that would require recirculation.

The Council certifies the Environmental Impact Report based on the following findings and conclusions:

1. Findings

The Project would have the potential for creating significant adverse impacts. These significant adverse environmental impacts have been identified in the EIR and will require mitigation as set forth in the Findings. Significant adverse impacts which cannot be mitigated to a level of insignificance after mitigation include air quality and greenhouse gas emissions as discussed in the Findings.

2. Conclusions

- a. Except as to those impacts stated above relating to air quality and greenhouse gas emissions, all other significant environmental impacts from the implementation of the proposed Project have been identified in the EIR and, with implementation of the mitigation measures identified will be mitigated to a level of insignificance.
- b. Alternatives to the proposed Project, which could potentially achieve the basic objectives of the proposed Project, have been considered and rejected in favor of the proposed Project.

Environmental economic, social and other considerations and benefits derived from the development of the proposed Project override and make infeasible any alternatives to the proposed Project or further mitigation measures beyond those incorporated into the proposed Project.

VIII. RESOLUTION ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts a Mitigation Monitoring and Reporting Program attached hereto as Exhibit A. In the event of inconsistencies between the mitigation measures set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

IX. RESOLUTION REGARDING CUSTODIAN OF RECORD

The documents and material that constitute the final record of proceedings on which these Findings have been based are located at the City of Hesperia. The custodian for these records is the City Clerk of the City of Hesperia. This information is provided in compliance with Public Resources Code section 21081.6.

X. RESOLUTION REGARDING STAFF DIRECTION

The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original records.

ATTACHMENT 7

RESOLUTION NO. PC-2013-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A CONDITIONAL USE PERMIT TO CONSTRUCT A 3.5 MILLION SQUARE FOOT DISTRIBUTION CENTER AND INDUSTRIAL PARK ON 232 GROSS ACRES WITHIN THE COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE EAST AND WEST SIDE OF CALIENTE ROAD BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR STREET (CUP11-10229)

WHEREAS, Covington Group, Inc. (Applicant) has filed an application requesting approval of Conditional Use Permit CUP11-10229 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to 232 acres of vacant property zoned Commercial Industrial Business Park (CIBP) and Wash Protection Overlay within the Main Street and Freeway Corridor Specific Plan (Specific Plan), located on the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street and consists of Assessor's Parcel Numbers 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04; and

WHEREAS, the Application, as contemplated, proposes to construct a 3.5 million square foot distribution center / industrial park in five phases on 232 gross acres. The proposed use is consistent with the Specific Plan, although approval of a CUP is required to approve the distribution warehouses in excess of 200,000 square feet; and

WHEREAS, the Applicant also proposes to subdivide the 232-acre property into 13 parcels and a remainder as well as to create a non-residential condominium overlay, allowing for ownership of individual units within the development under Tentative Parcel Map TPM11-10230; and

WHEREAS, the subject properties are currently vacant. All surrounding properties are also vacant, except the properties to the east, which are occupied by Hesperia Fire Station 305, Commercial Engine Service, and Interstate 15. The properties to the north are also zoned CIBP. The properties to the south are zoned Automobile Sales Commercial (ASC), the properties to the east are CIBP and Public Institutional Overlay (PIO), and the properties to the west are zoned Rural Estate Residential (RER); and

WHEREAS, on November 14, 2013, the Planning Commission of the City of Hesperia adopted Resolution PC-2013-14, recommending that the City Council adopt the environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH # 2012081016), and adopting a Mitigation Monitoring and Reporting Plan; and

WHEREAS, on November 14, 2013, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced November 14, 2013, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based on adoption of Resolution PC-2013-14, the Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and the Final Environmental Impact Report (SCH # 2012081016) has been certified pursuant to the California Environmental Quality Act (CEQA) for this project.
- (b) The site for the proposed use is adequate in size and shape to accommodate the proposed use. The site is approximately 232 acres in size and can accommodate the 3.5 million square foot distribution center / industrial park. On-site improvements required by the Hesperia Development Code can be constructed on the property including the minimum 1,980 parking spaces, 26-foot wide drive aisles, landscaping, trash enclosures, building setbacks, and maximum floor area ratio. The development also meets all of the San Bernardino County Fire Department standards including fire lanes, two-points of access, fire truck turn-around, fire department connection / post indicator valve (FDC/PIV), and fire hydrant requirements. The proposed development also complies with all state and federal regulations, including the Americans with Disability Act (ADA). The project is designed with on-site retention facilities to retain the additional stormwater created by the development in a 100-year storm event. The site contains 647 Joshua trees, 346 chaparral yucca, and 12 cacti, which are subject to the City's Desert Native Plant Protection Ordinance. The Ordinance requires that healthy specimens capable of surviving be either protected in place, transplanted within the development's landscaping, or placed in an adoption program to an off-site location.
- (c) The proposed development will not have a substantial adverse effect on abutting properties, or the permitted use thereof because the proposed project is consistent with the City's General Plan and the Main Street and Freeway Corridor Specific Plan. In addition, each of the uses envisioned under the proposed project is permitted or conditionally permitted in the Commercial Industrial Business Park (CIBP) Zone of the Specific Plan. The project is on the fringe of an area which is also zoned CIBP and contains truck-related uses. A Traffic Impact Analysis (TIA) was submitted as part of the land use application, which identifies improvements needed to mitigate the

additional traffic from this project. Further, the developer shall participate in the Traffic Impact Mitigation Fee Program to fund construction of traffic improvements to maintain adequate levels of service. The developer is also required to pay City Development Impact Fees.

- (d) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code, Main Street and Freeway Corridor Specific Plan and all applicable codes and ordinances adopted by the City of Hesperia because each of the uses envisioned under the proposed project is permitted within the CIBP Zone. The development shall be constructed pursuant to the California Building and Fire Codes as well as adopted amendments. Further, the project shall comply with the conditions of approval for both off-site and on-site improvements. The conditions of approval shall be met based upon specific milestones. Some conditions shall be met prior to grading, some prior to building construction and prior to issuance of a Certificate of Occupancy.
- (e) The site for the proposed use will have adequate access based upon the site's current accessibility to Caliente Road. Caliente Road is designated a Major Arterial roadway with access to Highway 395 on the west and I-15 freeway to the east. Nine driveway approaches and four private streets are provided along Caliente Road. A new traffic signal will be installed at driveway #3 as a traffic mitigation measure. A traffic signal will also be installed on the corner of Caliente Road and Joshua Street. The mitigation also includes widening of specified roadways as listed within the conditions of approval for this project. The City has established a Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service. The developer is required to pay all applicable City development impact fees towards these improvements.
- (f) The proposed project is consistent with the adopted General Plan of the City of Hesperia because an objective in the City's General Plan seeks to "...Promote industrial development within the City which will expand its tax base and provide a range of employment activities, while not adversely impacting the community or environment." The proposed project will expand employment opportunities for City residents.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends that the City Council approve Conditional Use Permit CUP11-10229, subject to the Conditions of Approval as set forth in ATTACHMENT "A."

Section 4. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 14th day of November 2013.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP11-10229

Approval Date: December 3, 2013
Effective Date: December 3, 2013
Expiration Date: December 3, 2016*

This list of conditions apply to a Conditional Use Permit to construct a 3.5 million square foot industrial park on 232 gross acres zoned Commercial Industrial Business Park (CIBP), located on the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Covington Capital, LLC; APNs: 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within the effective date of an approved development agreement*, which may extend the project's expiration date beyond December 3, 2016.

Development Agreement*. These conditions are concurrent with Development Agreement DA13-00001 becoming effective. (P)

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- 1. Final Map. A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)
2. Traffic Study. The applicant shall be required to provide a traffic study prepared by a California licensed traffic engineer. (E)
3. Drainage Study. The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)
4. Geotechnical Report. The Developer shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)

- _____ 5. **Title Report.** The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)

- _____ 6. **NPDES.** The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)

- _____ 7. **Storm Water Pollution Prevention Plan.** The Developer shall provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off control during construction. (E)

- _____ 8. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **The improvement plans will not be accepted without the required documents and approval from the affected agencies.** (E)

- _____ 9. **Plan Check Fees.** Along with improvement plan submittal, the Developer shall pay applicable plan-checking fees. **Improvement Plans and requested studies shall be submitted as a package.** (E)

- _____ 10. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)

- _____ 11. **Building Construction Measures.** All office buildings within the development shall be constructed with walls and windows with the minimum STC rating to provide noise attenuation resulting in a maximum interior noise level of 50 dB(A). Noise attenuation to provide a maximum 65 dB(A) interior noise level shall apply for all industrial buildings. (B, P)

- _____ 12. **Reciprocal Access and Parking Easement.** Irrevocable reciprocal access easements shall be recorded, allowing for the perpetual use of the private streets, driveways, drive aisles, trash enclosures, and off-street parking spaces for the benefit of all properties within the development. These easements may be shown on the recorded parcel map or by a separate instrument as required by the Engineering Division. If the easement will be provided as a separate document, then the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

- _____ 13. **Fuel Modification Zone.** A Fuel Modification Zone (FMZ) plan designed specifically for the subject project is required and shall be designed by a consultant approved by the Fire Department. The FMZ plan shall be submitted to the Fire Department for review and approval in compliance with County standards. [F-53]

- _____ 14. **Fire Sprinklers.** An automatic fire sprinkler system complying with NFPA Pamphlet #13 and Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Building and Safety Department for review and approval. The plans (minimum 1/8" scale) shall include hydraulic calculations and manufacturer's specification sheets. The contractor shall submit plans showing the type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal.
- _____ 15. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY:

- _____ 16. **Assessment District 91-1.** The Developer shall pay all buy-in fees for Assessment District 91-1. (E)
- _____ 17. **Approval of Improvement Plans.** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)
- _____ 18. **Dedication(s).** The Developer shall grant to the City an Irrevocable Offer of Dedication for Caliente Road. The right-of-way full-width for Caliente Road shall be one-hundred-twenty (120') feet, except where Caliente Road fronts Interstate 15. The Developer shall also grant to the City an Irrevocable Offer of Dedication for any part of the Path of Travel located behind any commercial drive approaches that encroach onto private property. **Corner cut-off right of way dedication per City standards is required at all intersections.** (E)

- _____ 19. **Grant of Easement for Double Detector Check Valve.** The Developer shall grant to the City an easement for *any* part of a required double-detector check valve that encroaches onto private property. (E)
- _____ 20. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and/or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **Grading permits will not be issued until the required documents are reviewed and approved by all applicable agencies. Any fees associated with the required documents are the Developer's responsibility.** (E)
- _____ 21. **NPDES.** The Developer shall provide a copy of the approved original NPDES (National Pollutant Discharge Elimination System) permit from the Regional Water Quality Control Board and provide a copy of fees paid. The copies shall be provided to the City's Engineering Department. (E)
- _____ 22. **Storm Water Pollution Prevention Plan.** All of the requirements of the Storm Water Pollution Prevention Plan shall be incorporated and be in place prior to issuance of a grading permit. (E)
- _____ 23. **Grading Plan.** The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw), top of footing (tf), and the finish grade (fg) elevations. (E)
- _____ 24. **Off-Site Grading Letter(s).** It is the Developer's responsibility to obtain signed Off-Site Grading Letters from *any* adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)
- _____ 25. **On-site Retention.** The Developer shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter elements. All dry wells / injection wells shall have a minimum depth of 30' with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Developer shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet**

City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems. (E)

- _____ 26. **Street Improvement Plan.** The Developer shall design street improvements, for each phase of construction, in accordance with City standards and as indicated below. (E)
- _____ 27. **Caliente Road.** The Developer shall construct full-width street improvements on Caliente Road across both sides of the project frontage, based on City's 120-foot Major Arterial Roadway Standard, and shall be constructed in sequence with the approved Phasing Map, (a modified section shall be constructed adjacent to Interstate 15). At locations where there are existing improvements on the east side of Caliente Road, the Developer shall construct the needed improvements which provide the adequate section depth and tie into existing. The curb face is to be located at 46' from the approved *construction* centerline. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:
- A. 8" Curb and Gutter per City standards.
 - B. Separated sidewalk (width = 6 feet) per City standards, (except adjacent to Interstate 15).
 - C. Raised center median per City standards.
 - D. Roadway drainage device(s).
 - E. Streetlights per City standards.
 - F. Intersection improvements including handicapped ramps per City standards.
 - G. Commercial driveway approaches per City standards.
 - H. Pavement transitions per City Standards.
 - I. Design roadway sections per approved street sections and per "R" value testing with a traffic index of 12 and per the soils report.
 - J. Cross sections every 50 feet per City standards.
 - K. Signage and striping per City standards and 2012 CA M.U.T.C.D.
 - L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards at no cost to the City.
 - M. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.
- _____ 28. **Caliente Road and Joshua Street Intersection.** The Developer shall construct full intersection improvements including roadway widening and installation of the complete traffic signal per the approved Traffic Impact Analysis and the City Engineer.
- _____ 29. **Utility Plan.** The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. All on-site water and sewer services shall be private. **Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development shall be removed / replaced or relocated and shall be**

constructed per City standards at the Developer's expense. (E)

- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer. (E).
- B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the existing 16" PVC water line in Caliente Road per City Standards. (E).
- C. It is the Developer's responsibility to connect to sewer and pay the appropriate fees. The Developer will be required to connect to the existing 8" or 10" and the proposed 8" PVC sewer main in Caliente Road per City standards. (E).
- D. Complete V.V.W.R.A.'s "Wastewater Questionnaire for Commercial / Industrial Establishments" and submit to the Engineering Department. Complete the "Certification Statement for Photographic and X-ray Processing Facilities" as required. (E).

_____ 30. **Water / Sewer Improvement Plan.** The Developer shall design water and sewer improvements in accordance with City standards, and as indicated below. (E)

_____ 31. **Water Improvement Plan.** All on-site services, both domestic and fire, shall be through a looped, private system. The City water system shall be protected by a double detector check at all points of connection. The private system shall be metered by one or several "master meters" which will remain adjacent to Caliente Road and within the City right of way. Each phase of construction may be served by a separate "master meter" with the approval of the Hesperia Water District and the City Engineer. (E)

_____ 32. **Sewer Improvement Plan.** The Developer shall design and construct an 8" PVC SDR 35 sewer main in Caliente Road from the most southern point of the project and extend sewer across the entire project frontage and tie into the existing 8" PVC SDR 35 sewer main approximately 350' north of Mesquite Street. Design shall consist of plan and profile per City standards. All on-site sewer shall be private. Connections to the City sewer main being constructed within Caliente Road shall be through a City standard manhole located at the property line within City right of way. It is recommended that the sewer main in Caliente be designed to accommodate a "manhole to manhole" connection from the private systems. Each phase of construction may have its own connection to the mainline, and the mainline construction may be phased provided it does not conflict with the phasing of the roadway construction. (E)

_____ 33. **Storm Drain Improvement Plan.** The Developer shall design and construct storm drain improvements in sequence with the approved Phasing Map or as needed to lessen any off-site impact. The Developer shall design storm drain improvements in accordance with City standards. (E)

- _____ 34. **Fire Protection.** Plans for fire protection requirements shall be submitted to the Building Division as follows: (F)
- A. Applicant shall annex the site into Community Facilities District CFD 94-01 and insure the reapportionment of all existing obligations affecting the property.
- _____ 35. **Fish & Game Fee.** The applicant shall submit a check to the City in the amount of \$3,045.25 (\$3,079.75 effective January 1, 2014) payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)
- _____ 36. **Cultural Resources.** A qualified archaeological and paleontological monitor shall be present during grading operations so that any resources discovered during grading will be collected in accordance with CEQA. A copy of an executed contract with a qualified archaeologist and paleontologist for monitoring during grading operations shall be submitted for Planning Division review and approval prior to issuance of a grading permit. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)
- _____ 37. **Pre-construction Survey.** A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)
- _____ 38. **Protected Plants.** Three copies of a protected plant plan shall be submitted to the Planning Division showing the present location and proposed treatment of species in the Dalea and Spinosa (smoketree); Agavaceae (century plants, nolinias, and yuccas, including Joshua Trees); Prosopis (mesquites); Larrea (Creosote rings ten feet or greater in diameter); and all plants protected by the State Desert Native Plants Act, which shall be handled in accordance with the provisions of the Development Code and State law. The grading plan shall be consistent with the approved protected plant plan. Ground disturbing activities shall not commence until the protected plant plan is approved and the site is inspected and approved for clearing. (P)
- _____ 39. **Conservation/Drainage.** A 40-foot wide lettered parcel shall be dedicated to the City in fee title to establish a public trail to be used by hikers, bikers and equestrians. This lettered parcel shall be created within the remainder parcel across the project frontage abutting the Oro Grande Wash to establish the required recreational trail in accordance with the General Plan. The trail shall be linked to a public right-of-way or the project in order to enable its use by the public. In addition, a lettered parcel shall be established within the remainder parcel that shall be called out as Wash Protection Overlay in fee title to the City. The width and location of both lettered parcels shall be subject to staff review and approval. (P)

- _____ 40. **Mitigation Measures.** All applicable mitigation measures identified within the Environmental Impact Report for the Hesperia Commerce Center shall be met prior to issuance of a grading permit. (P)
- _____ 41. **Pre-construction Meetings.** Pre-construction meetings shall be held between the City, the Developer, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, P)
- _____ 42. **Design for Required Improvements.** Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this conditional use permit application with the following revisions made to the improvement plans: (E, P)
- A. Each phase shall be served by retention facilities sufficient to collect the additional amount of stormwater runoff created by the development as approved by the City Engineer.
 - B. Phase 2 of the approved conditional use permit site plan for Option A shall be amended to provide 32 additional parking spaces, resulting in 448 parking spaces for Phases 1 and 2 as approved by Planning staff; and
 - C. Each phase boundary shall be reconfigured so that the full width of the 26-foot and 30-foot wide drive aisles along phase boundaries is provided. Construction of half-width will not provide sufficient access for emergency vehicles. The phase boundary of any drive aisle intended for truck traffic shall be a minimum of 30 feet wide. The phase boundaries shall be consistent with the approved conditional use permit site plan as amended by this condition.
 - D. All trash enclosures shall be located to provide adequate sanitation access. The location of each trash enclosure shall be subject to approval by Planning staff;
 - E. A four-foot wide handicapped accessible route of travel shall be provided from Caliente Road, through the parking lot, and connecting to all buildings consistent with state and federal law;
 - F. A minimum four-foot wide landscaped area and a one-foot sidewalk in addition to the six-inch concrete curb shall be installed at the end of all parking space rows as approved by Planning staff;
- _____ 43. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. **[F-1]**
- _____ 44. **Access.** The development shall have a minimum of two points of vehicular access for each phase. These are for fire/emergency equipment access and for evacuation routes.

- A. **Single Story Road Access Width.** All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.
- B. **Multi-Story Road Access Width.** Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. [F-41]
- C. **Maximum length of Roadways.** Dead-End roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department.

_____ 45. **Combustible Protection.** Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy. [F-44]

_____ 46. **Water System.** Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined using the California Fire Code.

_____ 47. **Water System Commercial.** A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure. [F-54]

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

_____ 48. **Construction Waste.** The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

_____ 49. **Landscape Plans.** The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and a completed landscape packet to the Building Division. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number, size, type

and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)

- _____ 50. **Solid Masonry Wall/Fencing.** The Developer shall submit four sets of masonry wall/wrought iron fencing plans to the Building Division with the required application fees for all proposed walls. A combination solid two-foot high split-face masonry wall or other approved decorative wall with a four-foot high wrought iron fence shall be provided along the perimeter of the above-ground retention basin within the remainder parcel as approved by the City. Likewise, all other walls shall be composed of split-face block or other decorative block with a decorative cap and shall be constructed with columns at regular intervals or other means to avoid construction of long, monotonous walls. The height of all walls shall be in accordance with the Development Code. (P)
- _____ 51. **Development Fees.** The Developer shall pay required development fees as follows:
- A. School Fees (B)
- _____ 52. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
- _____ 53. **Light and Landscape District Annexation.** All on-site lighting and landscaping shall remain private. Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District for the street lights along Caliente Road. Developer is responsible for all landscaping behind the sidewalk on Caliente Road. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)
- _____ 54. **Haz-Mat Approval.** The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials. [F94]
- _____ 55. **High-Piled Storage.** The applicant shall submit an application for high-piled storage (internal storage over 12' in height), three (3) sets of detailed plans and a commodity analysis report to the Fire Department for review and approval. The applicant shall submit the approved plan to Building and Safety for review with building plans. If the occupancy classification is designated as S-2, commodities to be stored will be limited to products of light hazard classification only. The required fees shall be paid at the time of plan submittal.
- _____ 56. **Fire Alarm.** A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets

of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

- _____ 57. **Smoke Ventilation.** An automatic smoke ventilation system (fusible link type) complying with the California Fire Code, NFPA and all applicable codes is required. Roof vent, venting ratios and draft curtains shall be provided in accordance with these standards. The applicant shall submit three (3) sets of detailed smoke removal system plans to the Building and Safety Department for review and approval. The required fees shall be paid at the time of plan submittal.
- _____ 58. **Standpipe System.** A Class I standpipe system is required. A Fire Department approved fire sprinkler contractor shall submit three (3) sets of hydraulic calculations and detailed plans to the Fire Department for review and approval, showing type of storage and use with the applicable protection system. Commercial and industrial buildings in excess of two hundred thousand (200,000) square feet with an interior area less than four hundred (400) feet in width, shall be equipped with a Class I standpipe system, located at every other access door with a maximum of three hundred (300) feet spacing. Buildings with an interior area greater than four hundred (400) feet in width shall be equipped with a Class I standpipe system located at every access door maximum of one hundred (100) foot spacing. Standpipe connections shall be configured to reach any portion of interior space within two hundred (200) feet in any direction of travel. This system shall be calculated to provide two hundred and fifty (250) gpm @ 100 psi per hose outlet from an adjacent fire sprinkler riser with two hand lines flowing. The two most hydraulically remote outlets are to be included in the design for a total flow of 500 gpm minimum per system. The required fees shall be paid at the time of plan submittal.

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 59. **As-Built Plans.** The Developer shall provide as-built plans. (E)
- _____ 60. **Public Improvements.** All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 61. **Electronic Copies.** The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2010, or later, to the City's Engineering Department. (E)
- _____ 62. **Development Fees.** The Developer shall pay required development fees as follows:
- A. Development Impact Fees (B)
 - B. Utility Fees (P)

- _____ 63. **Utility Clearance(s)/Certificate of Occupancy.** The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)
- _____ 64. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The building shall be designed consistent with the design shown upon the approved materials board, color exterior building elevations, and rendering identified as Exhibit "A." Any exceptions shall be approved by the Director of Development Services. (P)
- _____ 65. **Directory Addressing.** Apartments, condominiums and commercial or industrial complexes with more than three separate buildings on site shall have a building directory. Directories are to be posted at the main entrance(s) to the complex on the entry driveway side. Directories shall not be located in the public right-of-way or clear sight triangle areas. Directories shall be of sufficient size to be clearly visible from the public roadway serving the entrance driveway, but in no case less than two feet in either dimension or six square feet. The directory shall be lighted from a power source dedicated to the general premises. In addition, directional signs shall be erected, directing service vehicles to the areas designed to accept large vehicles. (B)
- _____ 66. **Private Road Maintenance.** The applicant shall construct and maintain all such roads. In addition, the applicant shall provide to the Fire Department a signed maintenance agreement as detailed in the General Requirement conditions for ongoing road maintenance and snow removal (where applicable). This shall include all primary and secondary access routes that are not otherwise maintained by a public agency.
- _____ 67. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. [F80]
- _____ 68. **KNOX Box[®].** An approved Fire Department key box is required. The KNOX Box[®] shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. [F85]
- _____ 69. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. [F88]

_____ 70. **Additional Requirements.** An approved Fire Lane is required per Fire Department Standards.

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

| | | |
|-------|---------------------------------------|----------|
| (P) | Planning Division | 947-1200 |
| (B) | Building Division | 947-1300 |
| (E) | Engineering Division | 947-1414 |
| (F) | Fire Prevention Division | 947-1012 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

ATTACHMENT 8

RESOLUTION NO. PC-2013-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A TENTATIVE PARCEL MAP TO CREATE 13 PARCELS AND A REMAINDER WITH A NON-RESIDENTIAL CONDOMINIUM OVERLAY ON 232 GROSS ACRES LOCATED ON THE EAST AND WEST SIDE OF CALIENTE ROAD BETWEEN THE UNION PACIFIC RAILROAD AND CEDAR STREET (TPM11-10230/PM-19339)

WHEREAS, Covington Group, Inc. (Applicant) has filed an application requesting approval of Tentative Parcel Map TPM11-10230/PM-19339, described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to 232 acres of vacant property zoned Commercial Industrial Business Park (CIBP) and Wash Protection Overlay within the Main Street and Freeway Corridor Specific Plan (Specific Plan), located on the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street and consists of Assessor's Parcel Numbers 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04; and

WHEREAS, the Application, as contemplated, proposes to subdivide the 232-acre property into 13 parcels and a remainder as well as to create a non-residential condominium overlay, allowing for ownership of individual units within the development under Tentative Parcel Map TPM11-10230; and

WHEREAS, the Applicant also proposes to construct a 3.5 million square foot distribution center / industrial park in five phases on 232 gross acres under Conditional Use Permit CUP11-10229. The proposed use is consistent with the Specific Plan, although approval of a CUP is required to approve the distribution warehouses in excess of 200,000 square feet; and

WHEREAS, the subject properties are currently vacant. All surrounding properties are also vacant, except the properties to the east, which are occupied by Hesperia Fire Station 305, Commercial Engine Service, and Interstate 15. The properties to the north are also zoned CIBP. The properties to the south are zoned Automobile Sales Commercial (ASC), the properties to the east are CIBP and Public Institutional Overlay (PIO), and the properties to the west are zoned Rural Estate Residential (RER); and

WHEREAS, on November 14, 2013, the Planning Commission of the City of Hesperia adopted Resolution PC-2013-14, recommending that the City Council adopt the environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH # 2012081016), and adopting a Mitigation Monitoring and Reporting Plan; and

WHEREAS, on November 14, 2013, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced November 14, 2013, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based on adoption of Resolution PC-2013-14, the Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and the Final Environmental Impact Report (SCH # 2012081016) has been certified pursuant to the California Environmental Quality Act (CEQA) for this project.
- (b) The proposed map is consistent with the City's General Plan of the City of Hesperia, because the subdivision is consistent with the intent of the adopted land use element.
- (c) The design or improvement of the proposed subdivision is consistent with the General Plan of Hesperia, as the project supports the existing land use and circulation pattern in the area.
- (d) The site is physically suitable for the type of development because there are no known physical constraints to nonresidential development and the site has adequate area to accommodate the proposed parcels.
- (e) The site is physically suitable for the proposed development intensity because the parcels are adequate in size and shape and all Development Code regulations for the permitted and conditional uses can be met, with approval of Conditional Use Permit CUP11-10229.
- (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems because all construction will require necessary permits and will conform to the City's adopted building and fire codes.
- (g) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends that the City Council approve Tentative Parcel Map TPM11-10229, subject to the Conditions of Approval as set forth in ATTACHMENT "A."

Section 4. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 14th day of November 2013.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Tentative Parcel Map TPM11-10230 (PM-19339):

Approval Date: December 3, 2013
Effective Date: December 3, 2013
Expiration Date: December 3, 2016

This list of conditions apply to a Tentative Parcel Map to create 13 parcels and a remainder with a non-residential condominium overlay on 232 gross acres within the Commercial Industrial Business Park (CIBP) District of the Main Street and Freeway Corridor Specific Plan, located on the east and west side of Caliente Road between the Union Pacific Railroad and Cedar Street (Applicant: Covington Group, Inc.; APNs: 3039-311-03 thru 06, 3039-341-01 thru 07, 3039-351-08, and 3039-431-02 & 04)

This approval shall become null and void if a Parcel Map is not recorded within three (3) years of the effective date. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

Conditional Use Permit. These conditions are concurrent with Conditional Use Permit CUP11-10229 becoming effective. (P)

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

PRIOR TO RECORDATION OF THE PARCEL MAP:

- _____ 1. **Parcel Map.** A Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Map Standards. (E)

- _____ 2. **Title Report.** The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)

- _____ 3. **Plan Check Fees.** A customer request form from Engineering shall be completed and submitted to the Engineering Department. Upon receipt of form, plan-checking fees will be provided to the developer. Fees must be paid along with submittal. Map, CDP, Improvement Plans, requested studies, and CFD annexation must be submitted as a package. (E)

- _____ 4. **All Easements of Record.** It shall be the responsibility of the Developer to provide all Easements of Record per recent title report. (E)

- _____ 5. **Access Easement(s)**. The Developer shall grant an Access Easement if required to provide reciprocal access to and from parcels. Said easements shall be indicated on the Map. (E)

- _____ 6. **Off-Site Offers of Dedication and Easements**. Should off-site offers of dedication or easements be required for off-site improvements, it shall be the responsibility of the Developer to obtain such dedications or easements at no cost to the City, pursuant to section 66462.5 of the Subdivision Map Act. (E)

- _____ 7. **Dedication(s)**. The Developer shall grant to the City an Irrevocable Offer of Dedication for Caliente Road. The right-of-way full-width for Caliente Road shall be one-hundred-twenty (120') feet, except where Caliente Road fronts Interstate 15. The Developer shall also grant to the City an Irrevocable Offer of Dedication for any part of the Path of Travel located behind any commercial drive approaches that encroach onto private property. **Corner cut-off right of way dedication per City standards is required at all intersections.** (E)

- _____ 8. **Grant of Easement for Double Detector Check Valve**. The Developer shall grant to the City an easement for *any* part of a required double-detector check valve that encroaches onto private property. (E)

- _____ 9. **Vacation(s)**. The developer shall offer to vacate Los Banos Avenue and Sage Street across the area identified on the map. The vacations shall be indicated on the Final Parcel Map and the appropriate certificate shall be included on the signature sheet of the map per the Subdivision Map Act and the latest revision of the San Bernardino County Parcel Map Standards.

- _____ 10. **CFD Annexation**. The applicant shall annex the property into Community Facilities District CFD 94-01 concurrent with recordation of the final map. (F)

- _____ 11. **Reciprocal Access and Parking Easement**. Irrevocable reciprocal access easements shall be recorded, allowing for the perpetual use of the private streets, driveways, drive aisles, trash enclosures, and off-street parking spaces for the benefit of all properties within the parcel map. These easements map be shown on the recorded parcel map or by a separate instrument as required by the Engineering Division. If the easement will be provided as a separate document, then the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

- _____ 12. **Fish & Game Fee**. The applicant shall submit a check to the City in the amount of \$3,045.25 (\$3,079.75 effective January 1, 2014) payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

- _____ 13. **Street Name Approval.** The developer shall submit a request for naming the four private streets within the development. The private street names shall be subject to review and approval by the Building Division. (B)
- _____ 14. **Lighting and Landscaping District Annexation.** Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District (HRPD) for public lighting, landscaping and detention/retention basin maintenance. Provide the District with the number of streetlights and their locations as shown upon the approved improvement plans. (RPD)
- _____ 15. **Lettered Parcels for Conservation/Drainage.** A 40-foot wide lettered parcel shall be dedicated to the City in fee title to establish a public trail to be used by hikers, bikers and equestrians. This lettered parcel shall be created within the remainder parcel across the project frontage abutting the Oro Grande Wash to establish the required recreational trail in accordance with the General Plan. In addition, a lettered parcel shall be established within the remainder parcel that shall be called out as Wash Protection Overlay in fee title to the City. The width and location of both lettered parcels shall be subject to staff review and approval. (P)
- _____ 16. **Conditions, Covenants and Restrictions (CC&Rs).** CC&Rs shall be submitted for review and approval by the City prior to recordation. The required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. The CC&Rs shall contain the following provisions at a minimum:
- A. Establishment of an association, including membership requirements, members' and association rights (powers and obligations), selection of officers, and meetings, which shall occur at least once per quarter with special meetings to occur on an as needed basis, due to special circumstances.
 - B. Maintenance provisions for common areas shall be created to ensure that the project is maintained satisfactorily. The provisions shall include, but need not be limited to the driveways, drive aisles and parking areas; retention/detention and other drainage facilities; open areas and landscaped areas; walls, gates, fences and signage; and maintenance of buildings (or common walls for condominiums).
 - C. All lettered lots shall be owned in fee title by the Association for drainage, storm drain, retention basin, slope maintenance, and open space purposes.
 - D. Provisions for architectural controls and variances shall be included. Only an architectural review board composed of members of the association shall exercise judgments in these matters.
 - E. The CC&Rs shall be enforced by the association. Should the CC&Rs be deemed invalid in part by court action, the provisions required as part of this condition shall remain in full force and effect.
 - F. The CC&Rs or the common amenities addressed therein shall not be terminated, amended, or removed without the prior written authorization of the City of Hesperia.

- _____ 17. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

PRIOR TO DEVELOPMENT OF ANY PARCEL OF THE PARCEL MAP:

- _____ 18. **Recordation of Map.** Map shall be recorded with the San Bernardino County Recorder's Office. (E)
- _____ 19. **Utilities.** Each parcel shall be served by a separate water meter, service line, and sewer lateral connection where available. A "Fire Fly" automatic meter reader to be included on all meter connections. (E)
- _____ 20. **Drainage Study.** The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of any tributary flows from off-site as well as the method of control for increased run-off generated on-site. The Developer shall design street improvements, as identified in the Hydrology study or per the City's Engineering and Building and Safety Department requirements upon review of the grading plan. Street design shall be in accordance with City standards. (E)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY:

- _____ 21. **Approval of All Required Improvement Plans.** All improvement plans shall be prepared by a registered Civil Engineer per City standards and shall be approved and signed by the City Engineer. (E)

PRIOR TO OCCUPANCY OF ANY UNIT:

- _____ 22. **CDP Conformance.** All "Special Requirements" as outlined on the approved CDP (Composite Development Plan) shall be completed, inspected and approved through the appropriate department. (E)
- _____ 23. **As-Built Plans.** The Developer shall provide as-built plans. (E)
- _____ 24. **Public Improvements.** All public improvements shall be completed by the developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 25. **Electronic Copies.** The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2013 to the City's Engineering Department. (E)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:

| | | |
|-------|---------------------------------------|----------|
| (P) | Planning Division | 947-1200 |
| (B) | Building Division | 947-1300 |
| (E) | Engineering Division | 947-1414 |
| (F) | Fire Prevention Division | 947-1012 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

City of Hesperia



CITY OF HESPERIA DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, OCTOBER 9, 2013

A. PROPOSALS:

1. ROCIO PRADO (CUP12-10177)

Proposal: Consideration of a revised conditional use permit to establish a large recycling facility.

Location: 16728 Smoketree Street (APN: 0410-101-01)

Planner: Daniel Alcayaga

Action: Administrative approval

2. MIKE PETERSEN (SPR13-00004)

Proposal: Consideration of a site plan review to construct two commercial buildings totaling 4,995 square feet on 0.7 acres zoned Neighborhood Commercial.

Location: The terminus of 1st Avenue just North of Walnut Street (APN: 0413-072-14 & 15)

Planner: Lisette Sanchez-Mendoza

Action: Administrative approval

3. JANICE AND JAMES SLOAN (ME13-00001)

Proposal: Consideration of a minor exception to allow a 320 Square foot shed which exceeds the 5% accessory structure limitation.

Location: 15142 Cactus Street (APN: 0409-142-03)

Planner: Lisette Sanchez-Mendoza

Action: Administrative approval

4. COVINGTON CAPITAL, LLC (CUP11-10229)

Proposal: Consideration of a conditional use permit to construct a 3.5 million square foot industrial park and a tentative parcel map to create 13 parcels and a remainder on 232 gross acres zoned Commercial Industrial Business Park (CIBP).

Location: East and west side of Caliente Road between the Union Pacific Railroad and Cedar Street (APN: 3039-311-03 thru 06, 3039-341-01, 02 & 05 thru 07, 3039-351-08, and 3039-431-02 & 04)

Planner: Stan Liudahl

Action: Forwarded to November 14, 2013 Planning Commission Meeting

City of Hesperia

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, OCTOBER 23, 2013



A. PROPOSALS:

1. FRESH UP, INC. (CUP13-10005)

Proposal: Consideration of a conditional use permit to allow the onsite sale of beer and wine in conjunction with a restaurant.

Location: 13529 Main Street (APN: 3057-011-19)

Planner: Daniel Alcayaga

Action: Forwarded to November 14, 2013 Planning Commission Meeting

2. RANDAL GLASER (ME13-00002)

Proposal: Consideration of a minor exception to allow up to a six-foot reduction in the minimum 30-foot metal accessory building side yard setback to allow a 1,800 square foot detached garage.

Location: 8261 First Avenue (APN: 0412-054-08)

Planner: Stan Liudahl

Action: Administrative approval

3. LOVE'S TRAVEL STOPS & COUNTRY STORES, INC. (CUP12-10189 / SPLA13-00004)

Proposal: Consideration of a conditional use permit to construct a 12,712 square foot travel center, including a convenience store and vehicle service center, fuel islands for both semi-trucks and passenger vehicles, a drive-thru restaurant and the sale of beer and wine for off-site consumption and a specific plan amendment from the Neighborhood Commercial to the Commercial Industrial Business Park District of the Main Street and Freeway Corridor Specific Plan

Location: Southeast corner of Outpost Road and Joshua Street
(APN: 3039-361-01)

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to November 21, 2013 Planning Commission Meeting



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, NOVEMBER 6, 2013**

A. PROPOSALS:

1. HESPERIA PROFESSIONAL BUILDING (SPRE13-00007)

Proposal: Consideration of a second extension for an approved Site Plan Review to construct a 137,523 square foot professional/medical condominium development on 11.7 gross acres within the Regional Commercial District of the Main Street and Freeway Specific Plan.

Location: East side of the logical extension of Cataba Road, approximately 1,130 feet north of Amargosa Road (APN: 3064-461-05 & 3064-481-01)

Planner: Daniel Alcayaga

Action: Administrative approval

2. KIRSIO CRUZ (CUP13-00004)

Proposal: Consideration of conditional use permit to construct a 3-bay, 2,200 square foot vehicle repair facility on 0.5 gross acres within the Neighborhood Commercial (NC) Zone of the Main Street and Freeway Corridor Specific Plan.

Location: West side of Hesperia Road 50 feet north of Yucca Street (APN: 0413-062-15 & 16)

Planner: Stan Liudahl

Action: Forwarded to December 12, 2013 Planning Commission Meeting

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