

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: November 10, 2016

Time: 6:30 P.M.

COMMISSION MEMBERS

Tom Murphy, Chair

William A. Muller, Vice Chair

Jim Heywood, Commissioner

Joline Hahn, Commissioner

Cody Leis, 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.

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NOVEMBER 10, 2016

**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 Tom Murphy
 - Vice Chair William Muller
 - Commissioner Jim Heywood
 - Commissioner Joline Hahn
 - Commissioner Cody Leis

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 13, 2016, Planning Commission Meeting Draft Minutes.

PUBLIC HEARINGS

1. Consideration of Variance VAR16-00003, to reduce the street side yard setback along Poway Avenue from 10 feet to approximately 8 feet and the rear yard setback from 15 feet to approximately 11 feet at 12951 La Costa Street (Applicant: Patricia Pereira; APN: 3046-291-62) 1-1
2. Consideration of General Plan Amendment GPA16-00001, from Limited Agricultural with a minimum parcel size of 1 acre (A1), to General Commercial (C2) and Conditional Use Permit CUP16-00005, to construct a proposed 4,500 square foot convenience store which includes the sale of beer, wine and liquor for off-site consumption, an attached 1,800 square drive-thru restaurant and a 3,744 square foot fueling station with 10 fuel dispensers, on 1.75 gross acres located at the northwest corner of Ranchero Road and Seventh Avenue (Applicant: Maida Holdings LLC; APN: 0412-182-15) 2-1

- 3. Consideration of Conditional Use Permit CUP16-00008, to allow the sale of beer and wine in conjunction with a restaurant (Mr. D's Pizza) at 15555 Main Street, Suite D6 (Applicant: Tony K. Dahi; APN: 0413-111-51)

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
- 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, Denise Bossard, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, November 3, 2016, at 5:30 p.m. pursuant to California Government Code §54954.2.

Denise Bossard
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
October 13, 2016
MINUTES**

CALL TO ORDER:

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

PLEDGE OF ALLEGIANCE TO THE FLAG:

Pledge of Allegiance led by Commissioner Jim Heywood.

INVOCATION:

Invocation led by Vice Chair William Muller.

ROLL CALL:

Present: Chair Tom Murphy
Vice Chair William Muller
Commissioner Jim Heywood
Commissioner Cody Leis

Absent: Commissioner Joline Hahn

Motion by Vice Chair William Muller to excuse the absence of Commissioner Joline Hahn, Seconded by Chair Tom Murphy, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood and Commissioner Cody Leis

ABSENT: Commissioner Joline Hahn

JOINT PUBLIC COMMENTS:

Chair Tom Murphy opened the Joint Public Comments at 6:33 pm.

There were no Public Comments.

Chair Tom Murphy closed the Joint Public Comments at 6:34 pm.

CONSENT CALENDAR:

Approval of Minutes: September 8, 2016, Planning Commission Meeting Draft Minutes

Motion by Commissioner Jim Heywood to approve the September 8, 2016, Planning Commission Meeting Draft Minutes, Seconded by Commissioner Cody Leis, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood and Commissioner Cody Leis

ABSENT: Commissioner Joline Hahn

PUBLIC HEARING:

1. **Consideration of Tentative Tract Map No. TT16-00001 (TT-20046) to create 24 single-family residential lots on 7.8 gross acres zoned Single-Family Residence (R-1) located on the west side of Maple Avenue, 290 feet south of Muscatel Street (Applicant: Harris Homes; APNs: 3046-101-11, 12 & 13).**

Senior Planner Daniel Alcayaga gave a presentation on Tentative Tract, TT16-00001. The Commission asked questions of staff with discussions ensuing. Chair Tom Murphy opened the Public Hearing at 6:46 pm. Applicant Jeremy Salts, Civil Engineer, Harris Homes, spoke on the project. The Commission asked questions of Mr. Salts with discussions ensuing. Chair Tom Murphy closed the Public Hearing at 6:47 pm.

Motion by Commissioner James Heywood to adopt Resolution No. PC-2016-25, approving TT16-00001, Seconded by Vice Chair William Muller, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood, and Commissioner Cody Leis
ABSENT: Commissioner Joline Hahn.

2. **Consideration of Conditional Use Permit CUP16-00007, to construct a 3,645 square foot mini-mart including four fuel islands and the sale of beer, wine, and liquor, an automated 968 square foot carwash, and a 2,546 square foot drive-thru restaurant on approximately 5.0 gross acres located on the southeast corner of Rancho Road and Mariposa Road (Applicant: Michael Gallagher; Portion of APNs: 0357-561-73 thru 76).**

Principal Planner Dave Reno gave a presentation on Conditional Use Permit, CUP16-00007. The Commission asked questions of staff with discussions ensuing. Chair Tom Murphy opened the Public Hearing at 6:58 pm. Applicant Michael Gallagher spoke on the project. Chair Tom Murphy closed the Public Hearing at 6:59 pm. The Commission asked questions of Principal Planner Dave Reno with discussions ensuing.

Motion by Commissioner Cody Leis to adopt Resolution No. PC-2016-24, as amended, approving CUP16-00007, Seconded by Vice Chair William Muller, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood, and Commissioner Cody Leis
ABSENT: Commissioner Joline Hahn.

PRINCIPAL PLANNER'S REPORT:

Principal Planner Dave Reno reported on the November 10th Planning Commission Meeting which will include a Conditional Use Permit for a Pizza Restaurant, a Variance for an interior yard setback, and possibly a sign ordinance.

DRC Comments:

No update provided.

Major Project Update:

No update provided.

PLANNING COMMISSION BUSINESS OR REPORTS:

No update provided.

ADJOURNMENT:

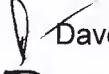
The meeting adjourned at 7:05 pm until November 10, 2016.

Tom Murphy,
Chair

By: Denise Bossard,
Commission Secretary

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DATE: November 10, 2016
TO: Planning Commission
FROM:  Dave Reno, Principal Planner
BY:  Stan Liudahl, AICP, Senior Planner
SUBJECT: Variance VAR16-00003; Applicant: Patricia Pereira; APN: 3046-291-62

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2016-26, approving VAR16-00003.

BACKGROUND

Proposal: A variance to allow a room addition to encroach within the minimum street side and rear yard setbacks (Attachment 1).

Location: 12951 La Costa Street (southwest corner of La Costa Street and Poway Avenue).

Current General Plan, Zoning and Land Uses: The site is within the Single-Family Residence with a minimum lot size of 4,500 square feet (R1-4500) designation in Mission Crest. The surrounding land is designated as noted on Attachment 2. The subject property and the properties to the north, east and west contain single-family residences (Attachment 3). The properties to the south are vacant.

ISSUES/ANALYSIS

Land Use: This Variance (VAR) has been filed to allow encroachment of a partially constructed 478 square foot room addition within the street side and rear yard setbacks of the 5,812 square foot lot (Attachment 4). The applicant initially obtained a building permit to construct a patio cover, which is allowed to encroach up to 10 feet within the minimum 15-foot rear yard setback. However, as construction of the patio cover progressed, the applicant decided to enclose the space instead. Room additions and enclosed patios are not permitted to encroach within the 10-foot street side and the 15-foot rear yard setbacks.

This corner lot is unique due to the curve along Poway Avenue, which reduces the width of the lot along the rear property line to 49.3 feet (Attachment 1). The Development Code requires that the lot meet the minimum 50-foot lot width requirement within the 20-foot front yard, but does not require that the lot meet the minimum 50-foot width beyond the minimum 20-foot front building setback. The proposed room addition meets the minimum 10-foot street side yard setback at the end of the house, but the curve causes a reduction in the street side yard to approximately eight feet near the rear property line.

A retaining wall is constructed between the subject property and the vacant lots to the south (Attachment 5). The vacant properties to the south are approximately two feet higher in elevation than the rear yard of the subject property. Therefore, the room addition will be two feet lower than the future single-story residences to be constructed to the south. Further, the Development Code allows two-story residences (up to 35 feet in height) to be constructed within 15 feet of the rear property line. The visual impact of the proposed single-story addition approximately 11 feet from the rear property line will be much less than a two-story addition 15 feet away. Therefore, the visual impact of the proposed room addition will not be as significant as a two-story residence meeting the Development Code.

Environmental: Approval of the Variance is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The project meets the standards of the Development Code with approval of the Variance.

FISCAL IMPACT

None.

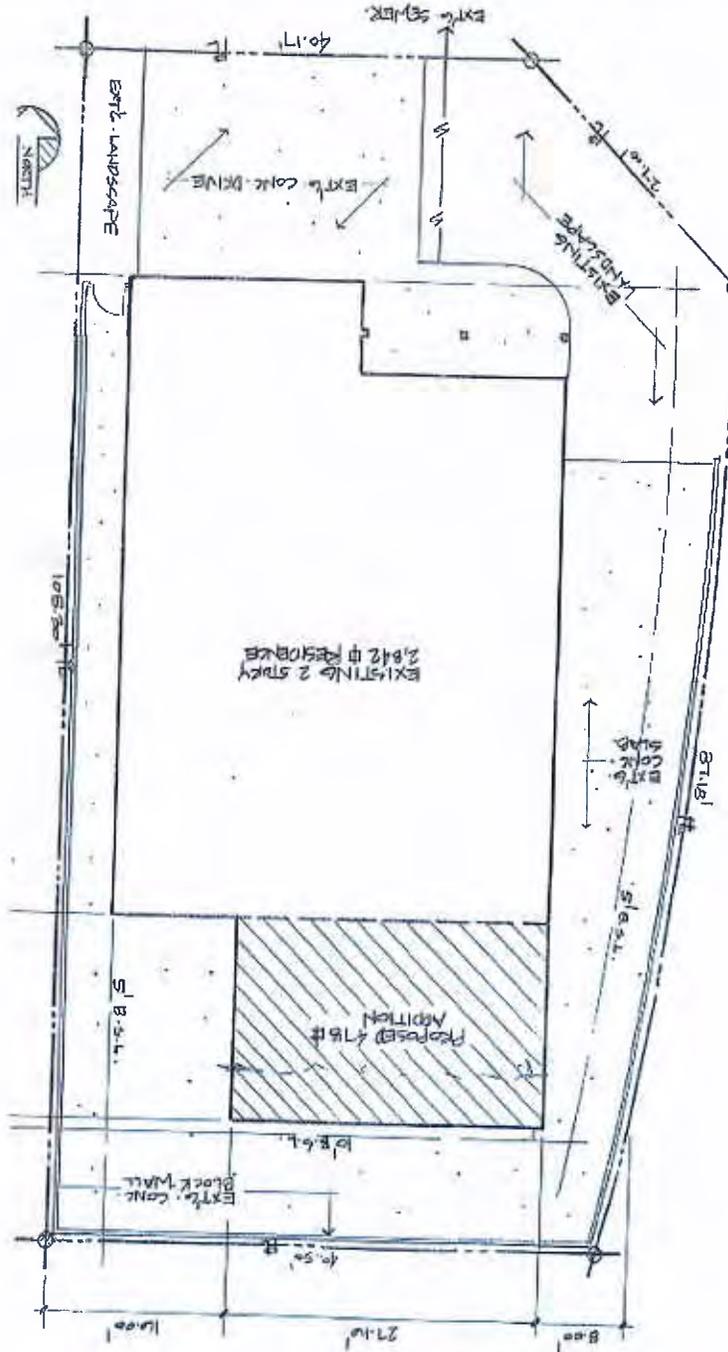
ALTERNATIVE(S)

1. The Planning Commission could restrict the variance to allow the reduction in the 10-foot street side yard setback, but not the 15-foot rear yard setback. Denial of the rear yard setback reduction will necessitate that the room addition be reduced in depth, posing a significant change in the structure of the room addition. The retaining wall along the rear property line mitigates any negative visual impact upon the adjacent property. Further, the visual impact of the single-story room addition approximately 11 feet from the rear property line is less than a two-story residence 15 feet away as permitted by the Development Code. Therefore, staff does not support this alternative.
2. Provide alternative direction to staff.

ATTACHMENT(S)

1. Site Plan
2. General Plan
3. Aerial Photo
4. Building Elevations
5. Photos
6. Resolution No. PC-2016-26, with list of conditions

ATTACHMENT 1



APPLICANT(S): PATRICIA PEREIRA

FILE NO(S): VAR16-00003

LOCATION: 12951 LA COSTA STREET (SOUTHWEST CORNER OF LA COSTA STREET AND POWAY AVENUE)

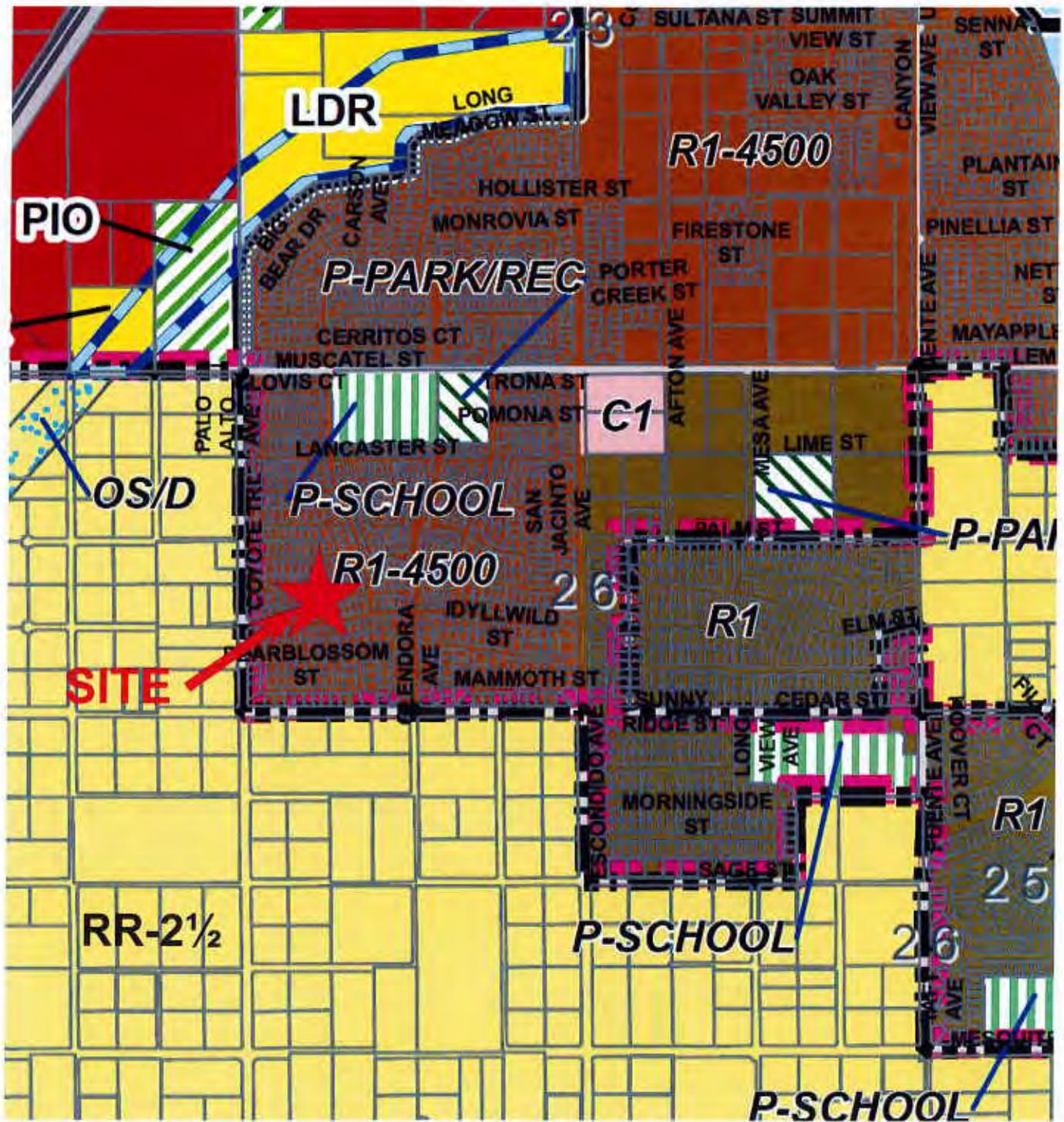
APN(S):
3046-291-62

PROPOSAL: CONSIDERATION OF A VARIANCE TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY STREET FROM 10 FEET TO APPXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET



SITE PLAN

ATTACHMENT 2



APPLICANT(S): PATRICIA PEREIRA FILE NO(S): VAR16-00003

LOCATION: 12951 LA COSTA STREET (SOUTHWEST CORNER OF LA COSTA STREET AND POWAY AVENUE) APN(S): 3046-291-62

PROPOSAL: CONSIDERATION OF A VARIANCE TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY STREET FROM 10 FEET TO APPXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET



GENERAL PLAN

ATTACHMENT 3



APPLICANT(S): PATRICIA PEREIRA

FILE NO(S): VAR16-00003

LOCATION: 12951 LA COSTA STREET (SOUTHWEST CORNER OF LA COSTA STREET AND POWAY AVENUE)

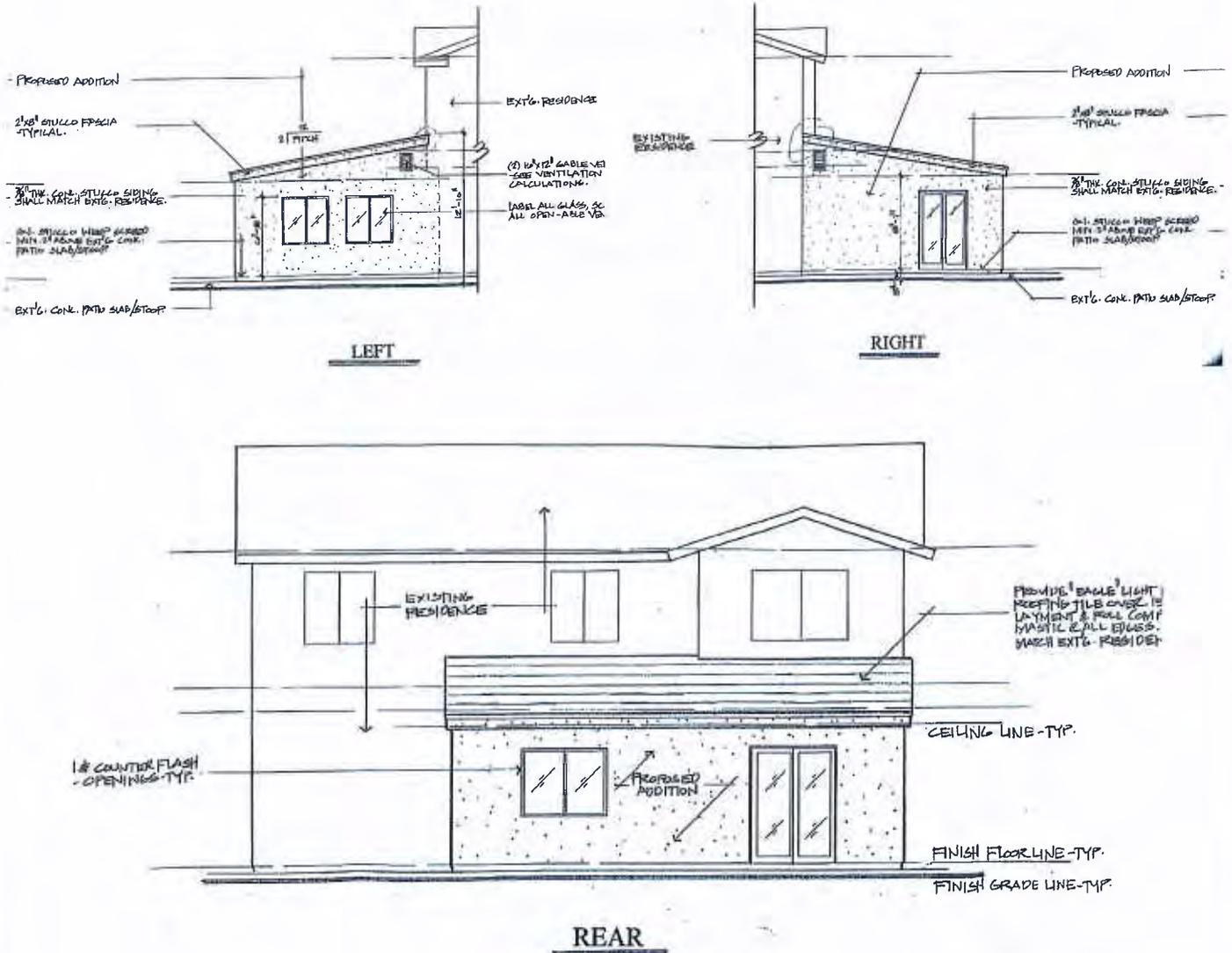
APN(S):
3046-291-62

PROPOSAL: CONSIDERATION OF A VARIANCE TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY STREET FROM 10 FEET TO APPXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET



AERIAL PHOTO

ATTACHMENT 4



APPLICANT(S): PATRICIA PEREIRA

FILE NO(S): VAR16-00003

LOCATION: 12951 LA COSTA STREET (SOUTHWEST CORNER OF LA COSTA STREET AND POWAY AVENUE)

APN(S):
3046-291-62

PROPOSAL: CONSIDERATION OF A VARIANCE TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY STREET FROM 10 FEET TO APPXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET



BUILDING ELEVATIONS

ATTACHMENT 5



**VIEW ON-SITE
FACING SOUTHEAST**



**VIEW ON-SITE
FACING EAST**



VIEW FACING NORTHWEST



VIEW ON-SITE FACING NORTH



VIEW ON-SITE FACING NORTH



VIEW ON-SITE FACING EAST



VIEW ON-SITE FACING NORTH

APPLICANT(S): PATRICIA PEREIRA

FILE NO(S): VAR16-00003

LOCATION: 12951 LA COSTA STREET (SOUTHWEST CORNER OF LA COSTA STREET AND POWAY AVENUE)

APN(S):
3046-291-62

PROPOSAL: CONSIDERATION OF A VARIANCE TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY STREET FROM 10 FEET TO APPXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET



PHOTOS

ATTACHMENT 6

RESOLUTION NO. PC-2016-26

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE, TO REDUCE THE STREET SIDE YARD SETBACK ALONG POWAY AVENUE FROM 10 FEET TO APPROXIMATELY 8 FEET AND THE REAR YARD SETBACK FROM 15 FEET TO APPROXIMATELY 11 FEET AT 12951 LA COSTA STREET (VAR16-00003)

WHEREAS, Patricia Pereira has filed an application requesting approval of Variance VAR16-00003 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 0.13-acre lot within the Single-family Residence with a minimum lot size of 4,500 square feet (R1-4500) designation located on the southwest corner of La Costa Street and Poway Avenue (12951 La Costa Street) and consists of Assessor's Parcel Number 3046-291-62; and

WHEREAS, the Application, as contemplated, proposes to reduce the street side yard setback along Poway Avenue from 10 feet to approximately 8 feet and the rear yard setback from 15 feet to approximately 11 feet to allow a 478 square foot room addition; and

WHEREAS, the Application applies to a developed 0.13-acre single-family residential property. The properties to the north, east and west also contain single-family residences. The properties to the south are vacant; and

WHEREAS, the site as well as all surrounding properties are within the Single-family Residence with a minimum lot size of 4,500 square feet (R1-4500) designation; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) per Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on November 10, 2016, 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 10, 2016 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulty or unnecessary physical

hardship inconsistent with the objectives of the development code because the location and size of the proposed expansion is confined by the shape of the lot, a retaining wall other existing improvements, and would pose less of a visual impact than a permitted two-story residence 15 feet from the rear property line. The encroachments would allow for the expansion to be feasibly located on the property; and without the encroachment, the Applicant would need to remove existing improvements;

- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same land use designation because the location, orientation, and size of the proposed expansion is confined by the lot shape, location of the existing house, land topography, a retaining wall, and other existing improvements. The width of the lot along the rear property line is reduced due to the curve along the street side yard, which further constrains the property. In addition, the property is situated at a lower elevation than the vacant properties to the south;
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same designation because other corner lots in the surrounding area would be allowed a similar room addition. The limitations of the property dictate the location, orientation, and size of the new accessory building;
- (d) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same designation because the property has specific limitations limited to the property that necessitate encroachment into the street side yard and rear yard setback; and dictate the location, orientation, and size of the room addition; and
- (e) The granting of the Variance will not be detrimental to the public health, safety, or welfare or be materially injurious to properties or improvements in the vicinity because the room addition will be behind the existing six-foot high masonry wall along the street side yard and will maintain a 10-foot setback from the south property line, which is an adequate distance from the neighboring property, considering the change in topography as well as posing a lessened visual impact than that of a permitted two-story residence 15 feet from the rear property line. The room addition will also be consistent with the location of the primary residence and will comply with the required Fire and Building Codes.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR16-00003, 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 on this 10th day of November 2016.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

ATTACHMENT "A"
List of Conditions for VAR16-00003

Approval Date: November 10, 2016
Effective Date: November 22, 2016
Expiration Date: November 22, 2019

This list of conditions applies to: Consideration of Variance VAR16-00003, to reduce the street side yard setback along Poway Avenue from 10 feet to approximately 8 feet and the rear yard setback from 15 feet to approximately 11 feet at 12951 La Costa Street (Applicant: Patricia Pereira; APN: 3046-291-62)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been completed by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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 Applicants 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 Citys election to defend itself, whether at the cost of the Applicant or at the Citys own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

UTILITY CLEARANCE AND C OF O. 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

EXTERIOR COLOR OF THE ROOM ADDITION. The exterior color of the room addition shall be complementary with the exterior color of the existing single-family residence. Any exceptions shall be approved by the Director of Development Services. (P)

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

| | |
|--|-----------------|
| (B) Building Division | 947-1300 |
| (E) Engineering Division | 947-1476 |
| (F) Fire Prevention Division | 947-1603 |
| (P) Planning Division | 947-1200 |
| (RPD) Hesperia Recreation and Park District | 244-5488 |



DATE: November 10, 2016
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY: Ryan Leonard, AICP, Associate Planner
SUBJECT: General Plan Amendment GPA16-00001 and Conditional Use Permit CUP16-00005; Applicant: Maida Holdings LLC; APN: 0412-182-15

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2016-27 and PC-2016-28, recommending that the City Council approve GPA16-00001 and CUP16-00005.

BACKGROUND

Proposal: A General Plan Amendment from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2) in conjunction with a Conditional Use Permit (CUP) to construct a proposed 4,500 square foot convenience store with five fuel islands and a 1,800 square drive-thru restaurant, on approximately 1.8 gross acres (Attachment 1). The convenience store will include the retail sale of beer, wine and liquor for off-site consumption. The proposed project will be constructed in two phases; the proposed convenience store and gas station will be constructed in phase 1 and the drive-thru restaurant will be constructed in phase 2.

Location: On the northwest corner of Seventh Avenue and Rancho Road.

Current General Plan, Zoning and Land Uses: The site is within the Limited Agricultural with a minimum lot size of one-acre (A1) designation. The surrounding land is designated as noted on Attachment 2. The subject property as well as the property to the south on the opposite side of Rancho Road is vacant. The properties to the north, east, and west contain single-family residences (Attachment 3).

ISSUES/ANALYSIS

The proposed General Plan Amendment would change the land use designation of the subject property from Limited Agricultural with a minimum lot size of 1 acre (A1) to General Commercial (C2), to allow for the proposed commercial development. The properties to the north and west are also designated Limited Agricultural with a minimum lot size of one-acre (A1). The property to the east, on the opposite side of Seventh Avenue, is designated Limited Agricultural with a minimum lot size of 2 ½ acres (A1-2½). The property to the south on the opposite side of Rancho Road is designated single family residential with a minimum lot size of 18,000 square feet (R1-18,000).

The proposed General Commercial (C2) designation can be justified as the site fronts Rancho Road which is designed to link local traffic with Interstate 15 through the recently completed Rancho Road/Interstate-15 freeway interchange. Given the regional significance of Rancho Road, commercial uses along this roadway are certain to occur and are considered appropriate

land uses at certain key intersections. In addition, staff is currently processing a separate application for the property to the east of the site, at the northeast corner of Rancho Road and Seventh Avenue, to change its land use designation from Limited Agricultural with a minimum lot size of 2 ½ acres (A1-2½) to General Commercial (C2). Therefore the proposed project is consistent with planned future uses and will not create a “spot zone”.

The proposed General Commercial (C2) zone allows the convenience store, gas station, and drive-thru restaurant as permitted uses, but requires approval of a CUP for the sale of alcoholic beverages. The proposed development consists of a 4,500 square foot convenience store, an attached 1,800 square drive-thru restaurant and a 3,744 square foot fueling station with five fuel islands (Attachment 4). The CUP also includes the sale of beer, wine and liquor from the convenience store for off-site consumption (Type 21 License).

During the review of this application, staff noted that Municipal Code sub-section 16.16.365 (I) (1) states that new service stations "shall not adjoin a residential designation." This subsection was adopted in 1994 and is inconsistent with current city practice, as well as the adopted Main Street and Freeway Corridor Specific Plan (2008). Therefore, staff is recommending that this sub-section be deleted as part of the City Council's actions on the project.

The proposed development complies with all site development regulations, including the minimum building requirements, landscaping, and number of parking spaces. The parking ordinance requires a minimum of 36 parking spaces, based upon the requirements listed in Table 1. As proposed the project complies with the minimum number of parking spaces; 36 total parking spaces will be constructed during phase 1.

Table 1: Parking Spaces Required

| Use
(sq. ft.) | Parking Formula | Spaces
Required |
|--|--|----------------------------|
| Phase 1-Convenience Store
(4,500 sq. ft.) | 4.0 spaces per 1,000 square feet gross
floor area | 18 |
| Phase 2-Drive-thru Restaurant
(1,800 sq. ft.) | 10 spaces per 1,000 square feet gross
floor area | 18 |
| Total 6,300 sq. ft. | | 36 |

The proposed development complies with all building setback requirements including a 20-foot building setback along the northern and western boundary of the property, since these boundaries abut residential zones. In addition, the development code requires a 6-foot high block wall when a commercial development abuts a residential zone. As required, a six-foot high decorative block wall will be constructed along the northern and western boundary. Prior to development, a condition of approval requires a photometric study to be submitted, demonstrating that parking lot lighting will not exceed 0.5 foot-candles at the property lines.

The site design complies with the architectural guidelines in the City's Development Code. The exterior of the buildings utilize a stucco finish with varying accent colors and stone veneer columns on all sides. The buildings also incorporate changes in wall and roof planes, including other architectural features such as prefabricated wood awnings, cornices, trellises, sconces and decorative lighting on the walls of the buildings (Attachment 5). The project also provides a surplus of landscaping. The minimum required landscape coverage is 5% of the total site; the project provides 8,631 square feet (16.8%) of total landscape coverage.

The applicant will file an application for a Type 21 (Off-Sale Beer, Wine and Liquor) license with the California Department of Alcoholic Beverage Control (ABC). The Development Code requires approval of a CUP for the sale of alcoholic beverages. ABC authorizes this census tract to have three off-sale licenses. However, as shown in Table 2, there are currently eight active off-sale alcoholic beverage licenses within Census Tract 100.19 (Attachment 6). Therefore approval of CUP16-00009 will exceed the limitation of three licenses and ABC will require that the City make a finding of public convenience and necessity (Attachment 9).

Table 2: Existing Off-Sale Licenses in Census Tract 100.19

| Status | Business Name | Business Address | Type of License |
|--------|---------------------|------------------|---------------------------|
| Active | Stator Bros Markets | 15757 Main St. | 21-Beer, Wine, and Liquor |
| Active | Union 76 | 16307 Main St | 20-Beer and Wine |
| Active | Hesperia Fastrip | 16117 Main St | 21-Beer, Wine, and Liquor |
| Active | Hesperia Liquor | 16233 Main St | 21-Beer, Wine, and Liquor |
| Active | Cardenas Market | 15555 Main St | 21-Beer, Wine, and Liquor |
| Active | Tesoro Shell Gas | 16337 Main St | 20-Beer and Wine |
| Active | Hesperia Chevron | 15933 Main St | 20-Beer and Wine |
| Active | A Mart | 15853 Main St | 21-Beer, Wine, and Liquor |

Staff believes that a finding of public convenience and necessity can be made to obtain an additional license in an over-concentrated tract. Specifically, all of the existing licenses within this census tract are located along Main Street; there are no existing licenses located along Rancho Road. In addition, approval of GPA16-00005 will allow the first commercial use along this segment of Rancho Road, which has been designed to link local traffic with Interstate 15. It is the City's intent to attract commercial developments in this area that can serve pass-by traffic and commuters, and this will necessitate exceedence of ABC's standards for on-sale licenses.

Drainage: The development is required to handle the increase in storm water runoff as a result of construction of this project. The site plan proposes an underground drainage system to handle storm water runoff. Upon completion of the on-site drainage improvements, the impact of the project upon properties downstream is not considered significant. The site is also not impacted by existing drainage from upstream properties.

Water and Sewer: The development will be connected to an existing 16-inch water line along Rancho Road. The project is allowed to use an approved on-site septic waste system.

Traffic/Street Improvements: A Traffic Impact Study (TIS) was prepared for the project, to analyze its impact upon the Rancho Road and Seventh Avenue intersection. According to the TIA, the non-signalized intersection of Rancho Road and Seventh Avenue experiences between 25,760 and 32,200 average daily vehicle trips. Therefore, this intersection operates at a LOS B during the AM and PM peak hours. Construction of the project would result in LOS D during the AM and PM peak hour if a traffic signal is not constructed. However, installation of a traffic signal would result in LOS B. Although the intersection would operate at an LOS of D or better without a signal, consistent with the City's General Plan standard, the TIA recommends installation of a traffic signal.

According to the TIA, construction of the project at General Plan buildout would result in LOS F during the AM and PM peak hour if a traffic signal is not constructed. If a traffic signal is constructed, the signal would operate at LOS B.

This project is not required to entirely fund and construct a new traffic signal. The project will be subject to payment of the fair share cost of improving the intersection. This fair share cost will be offset by payment of required development impact fees. These fees will be collected at the time that building permits are issued, which will provide the City partial funding for the construction of signal improvements to reduce the impacts of additional vehicular traffic.

Noise Levels: An Acoustical Analysis was prepared to evaluate the noise impacts to the adjacent properties from the operation of the project. The applicable City noise criteria is a maximum noise level of 60 dB(A) for the daytime hours (7 a.m. to 10 p.m.) and a maximum noise level of 55 dB(A) for the nighttime hours (10 p.m. to 7 a.m.). The average ambient daytime noise levels measured at the project site were 62 dB(A) which is generated by traffic on Ranchero Road. The results of the study indicate that noise generated from the mechanical equipment associated with the proposed buildings would produce approximately 40 dB(A) at the western boundary of the site, while noise generated from air conditioning compressors would produce approximately 49 dB(A). This is in conformance with the City's most restrictive requirement of 55 dB(A) during the nighttime hours. In addition, a 6-foot high masonry wall is proposed along the western and northern property lines which will serve to reduce the relatively low level of noise anticipated from patrons utilizing the drive-thru restaurant. The noise study states that the operational activities associated with the project will comply with the City's Noise Ordinance. As an ongoing condition of approval, the project is required to be in conformance with the City's Noise Ordinance at all times.

Environmental: Approval of this project requires adoption of a mitigated negative declaration pursuant to the California Environmental Quality Act (CEQA). The mitigated negative declaration and initial study (Attachment 7) prepared for this project concludes that there are no significant adverse impacts resulting from development of the project with the mitigation measures provided. The biological assessment shows that the site does not contain habitat for the desert tortoise nor any other threatened or endangered species. A pre-construction survey for the burrowing owl will be conducted prior to the issuance of a grading permit. The site is in an area which has a low probability of containing archaeological/paleontological resources. As such, a cultural resource survey was not required.

Conclusion: The project conforms to the policies of the City's General Plan and meets the standards of the Development Code with adoption of the General Plan Amendment. Further, approval of the sale of beer, wine and liquor is appropriate, particularly to allow the convenience store to serve pass-by traffic and to meet customer demand.

FISCAL IMPACT

Development will be subject to payment of development impact fees and the developer's fair share cost of a future traffic signal. The City may choose to contribute a portion of the remaining costs to fully construct the traffic signal.

ALTERNATIVE(S)

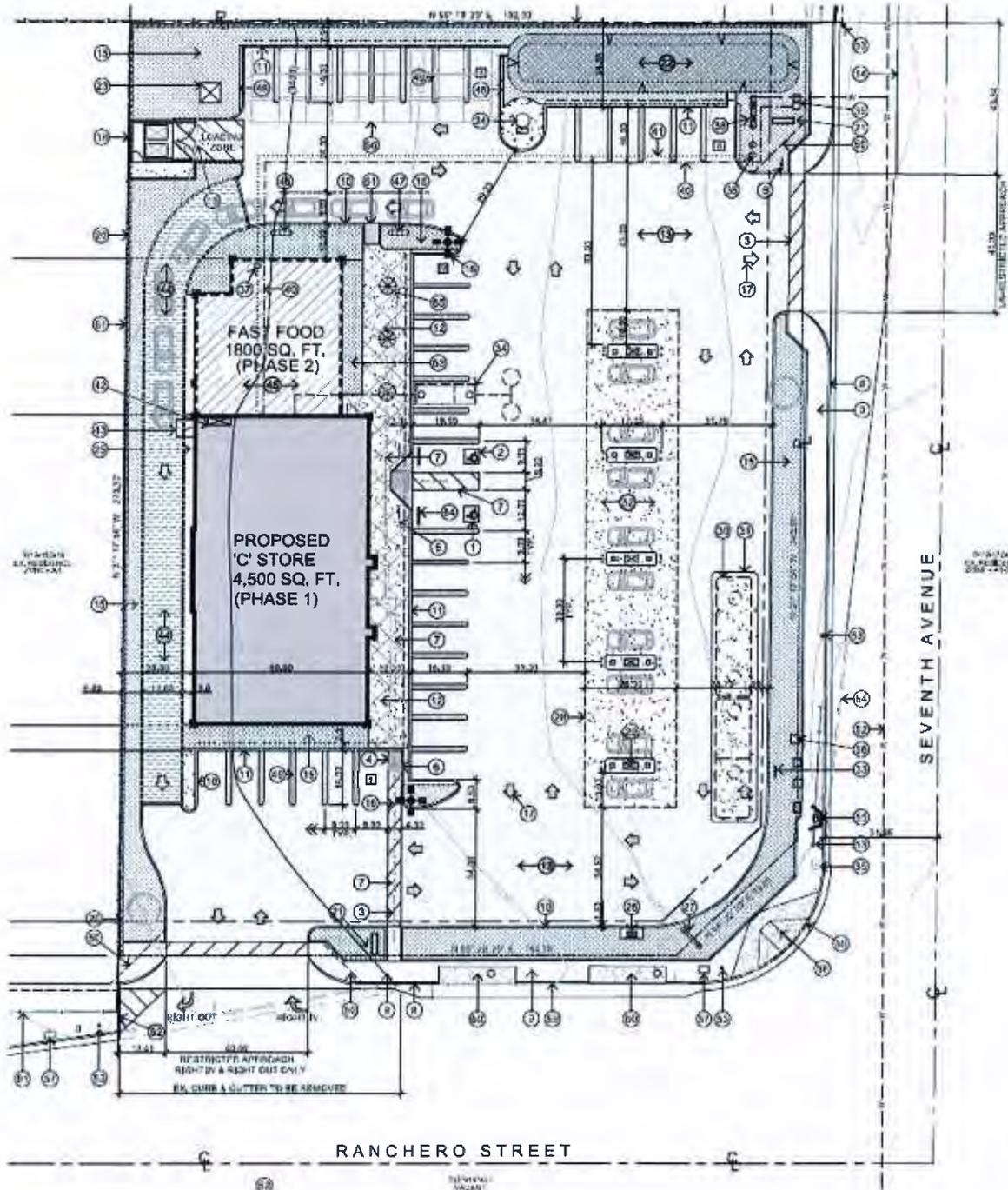
1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Site Plan
2. General Plan
3. Aerial photo

4. Floor plans
5. Color elevations
6. Census Tract Map
7. Negative Declaration ND16-00007 and its initial study
8. Resolution No. PC-2016-27 (GPA16-00001)
9. Resolution No. PC-2016-28, including conditions of approval (CUP16-00005)

ATTACHMENT 1



APPLICANT(S): MAIDA HOLDINGS LLC

FILE NO(S): GPA16-00001 & CUP16-00005

LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE

APN(S):
0412-182-15

PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE



SITE PLAN

ATTACHMENT 2



APPLICANT(S): MAIDA HOLDINGS LLC

FILE NO(S): GPA16-00001 & CUP16-00005

LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE

APN(S):
0412-182-15

PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE



GENERAL PLAN MAP

ATTACHMENT 3



APPLICANT(S): MAIDA HOLDINGS LLC

FILE NO(S): GPA16-00001 & CUP16-00005

LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE

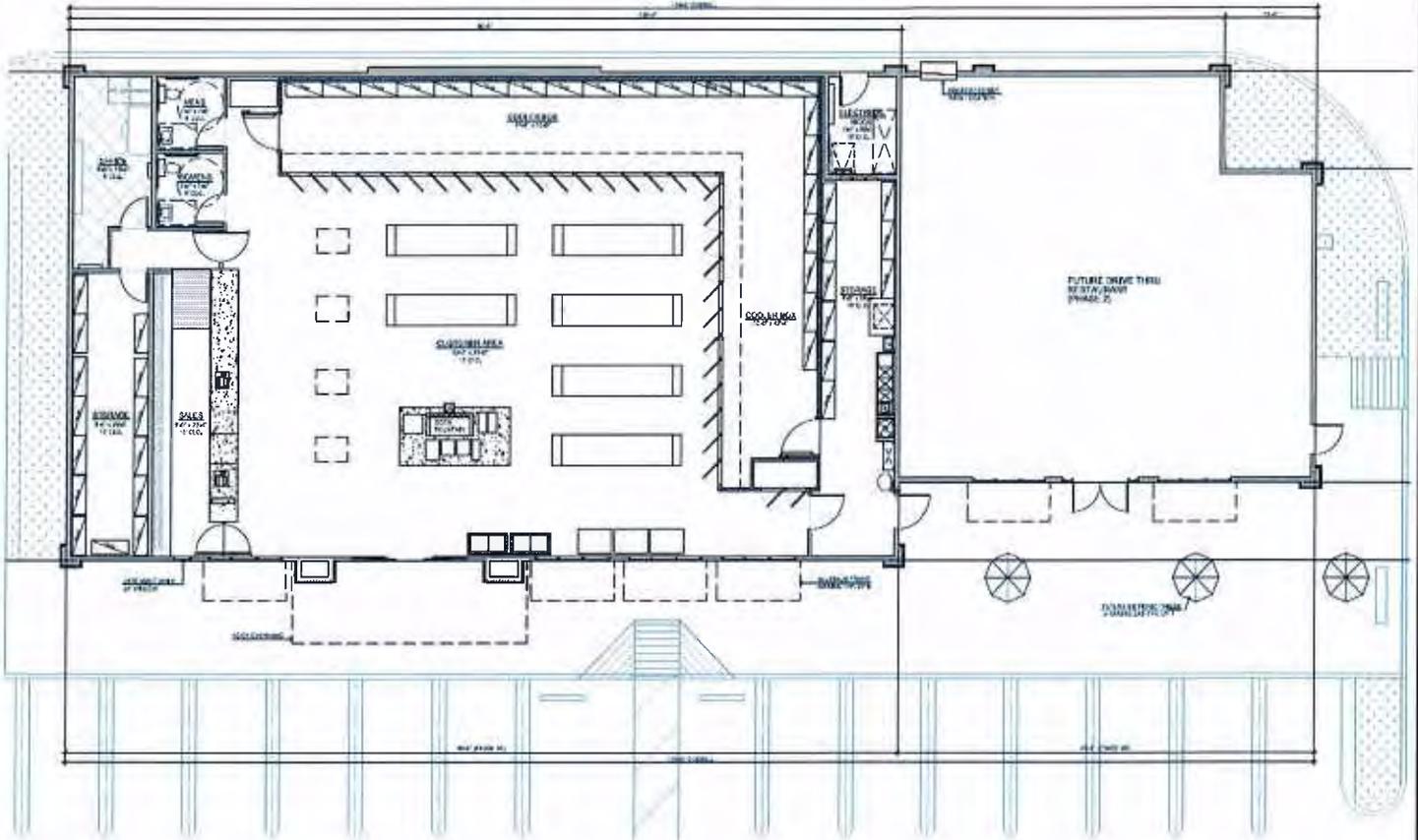
APN(S):
0412-182-15

PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE



AERIAL PHOTO

ATTACHMENT 4



APPLICANT(S): MAIDA HOLDINGS LLC

FILE NO(S): GPA16-00001 & CUP16-00005

LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE

APN(S):
0412-182-15

PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE



FLOOR PLANS

ATTACHMENT 5



APPLICANT(S): MAIDA HOLDINGS LLC

FILE NO(S): GPA16-00001 & CUP16-00005

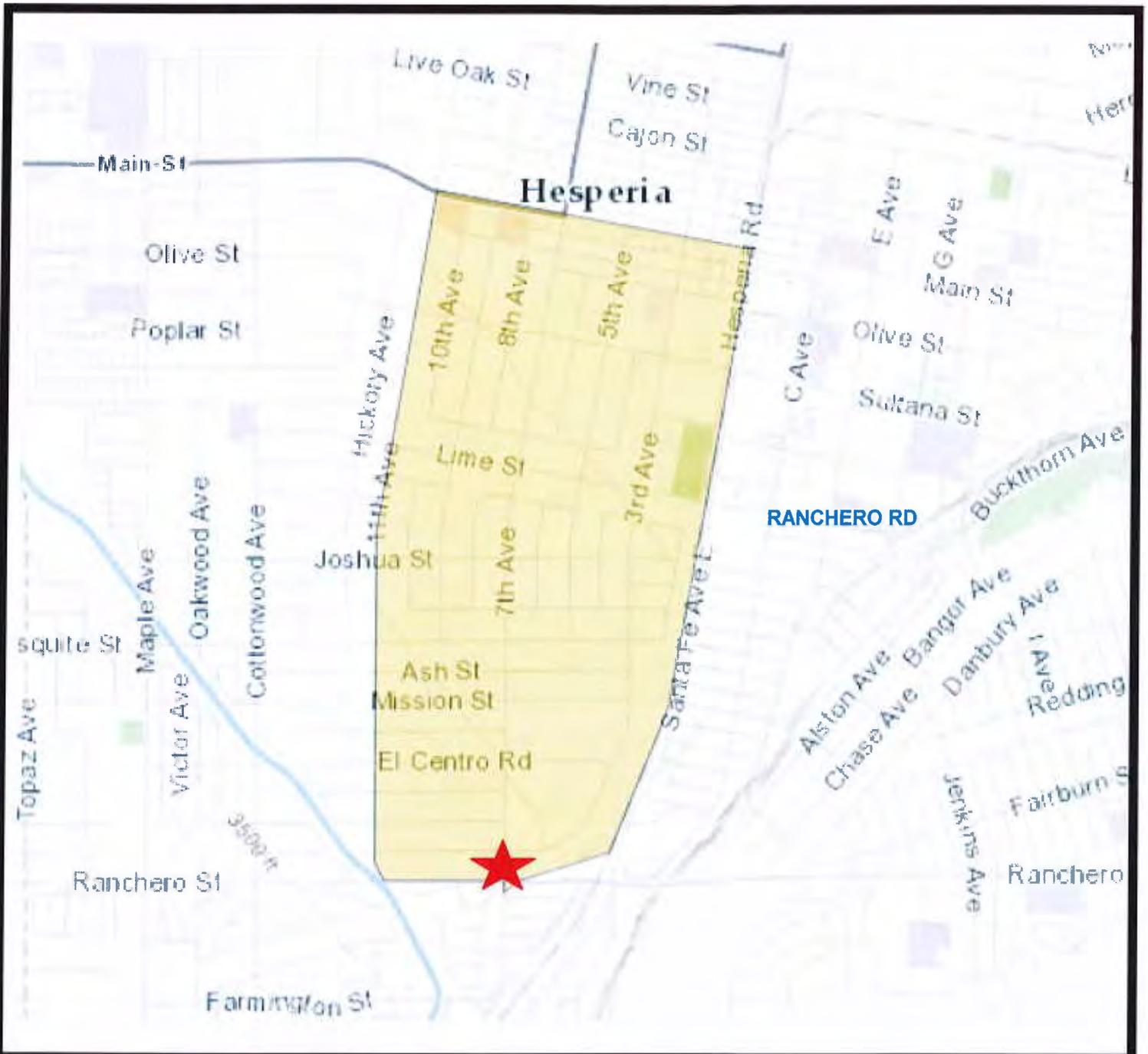
LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE

APN(S):
0412-182-15

PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE

COLOR ELEVATION

ATTACHMENT 6



| | | |
|--|--|--|
| APPLICANT(S): MAIDA HOLDINGS LLC | | FILE NO(S): GPA16-00001 & CUP16-00005 |
| LOCATION: NORTHWEST CORNER OF RANCHERO RD AND SEVENTH AVE | | APN(S):
0412-182-15 |
| <p>PROPOSAL: CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) AND A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED AT THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE</p> | | <p>N</p> <p>↑</p> |

CENSUS TRACT MAP

PLANNING DIVISION
9700 Seventh Avenue, Hesperia, California 92345
(760) 947-1224 FAX (760) 947-1221

NEGATIVE DECLARATION ND-2016-07
Preparation Date: October 19, 2016

Name or Title of Project: General Plan Amendment GPA16-00001 and Conditional Use Permit CUP16-00005

Location: On the northwest corner of Seventh Avenue and Ranchero Road. (APN: 0412-182-15).

Entity or Person Undertaking Project: Maida Holdings, LLC.

Description of Project: A General Plan Amendment from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2) in conjunction with a Conditional Use Permit to construct a proposed 4,500 square foot convenience store with five fuel islands, and an attached 1,800 square drive-thru restaurant on an approximately 1.8 gross acre parcel. The CUP will also allow the retail sale of beer, wine and liquor for off-site consumption.

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

Mitigation Measures:

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.

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

Public Review Period: November 1, 2016 through November 20, 2016.

Adopted by the Planning Commission: November 10, 2016

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

**CITY OF HESPERIA INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM**

PROJECT DESCRIPTION

1. **Project Title:** General Plan Amendment GPA16-00001 and Conditional Use Permit CUP16-00005
2. **Lead Agency Name:** City of Hesperia Planning Division
Address: 9700 Seventh Avenue, Hesperia, CA 92345.
3. **Contact Person:** Ryan Leonard, AICP, Associate Planner
Phone number: (760) 947-1651.
4. **Project Location:** On the northwest corner of Rancho Road and Seventh Avenue (APN: 0412-182-15).
5. **Project Sponsor:** Maida Holdings, LLC
Address: 13302 Rancho Road, Oak Hills, CA 92344
6. **General Plan & zoning:** The site is currently within the Limited Agricultural with a minimum lot size of one-acre (A1) General Plan Land Use designation.

7. **Description of project:**

The project consists of General Plan Amendment GPA16-00001, to change the designation of the subject property from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2). GPA16-00001 is being processed in conjunction with Conditional Use Permit CUP16-00005, to construct a 4,500 square foot convenience store with five fuel islands and a 1,800 square drive-thru restaurant, on approximately 1.8 gross acres. The convenience store will include the retail sale of beer, wine and liquor for off-site consumption. The proposed project will be constructed in two phases; the proposed convenience store and gas station will be constructed in phase 1 and the drive-thru restaurant will be constructed in phase 2. The site is currently vacant and is accessed by Rancho Road and Seventh Avenue.

8. **Surrounding land uses and setting:** (Briefly describe the project's surroundings.) The properties to the north and west are within the General Plan Limited Agricultural with a minimum lot size of one-acre (A1) land use designation and are improved with single family residences. The property to the east, on the opposite side of Seventh Avenue is designated Limited Agricultural with a minimum lot size of 2 ½ acres (A1-2½) and also contains a single family residence. The property to the south, on the opposite side of Rancho Street is designated single family residential with a minimum lot size of 18,000 square feet (R1-18,000) and is currently vacant as shown on Attachment "A."

Other public agency whose approval is required (e.g., permits, financing approval, or participation agreement.) Review and approval is required from the City.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

| | | | | | |
|--------------------------|--------------------------|--------------------------|----------------------------------|--------------------------|------------------------------------|
| <input type="checkbox"/> | Aesthetics | <input type="checkbox"/> | Agriculture & Forestry Resources | <input type="checkbox"/> | Air Quality |
| <input type="checkbox"/> | Biological Resources | <input type="checkbox"/> | Cultural Resources | <input type="checkbox"/> | Geology / Soils |
| <input type="checkbox"/> | Greenhouse Gas Emissions | <input type="checkbox"/> | Hazards & Hazardous Materials | <input type="checkbox"/> | Hydrology / Water Quality |
| <input type="checkbox"/> | Land Use / Planning | <input type="checkbox"/> | Mineral Resources | <input type="checkbox"/> | Noise |
| <input type="checkbox"/> | Population / Housing | <input type="checkbox"/> | Public Services | <input type="checkbox"/> | Recreation |
| <input type="checkbox"/> | Transportation / Traffic | <input type="checkbox"/> | Utilities / Service Systems | <input type="checkbox"/> | Mandatory Findings of Significance |

DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

| | | |
|-------------------------------------|--|--------------|
| <input type="checkbox"/> | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. | "De minimis" |
| <input checked="" type="checkbox"/> | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. | |
| <input type="checkbox"/> | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. | |
| <input type="checkbox"/> | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. | |
| <input type="checkbox"/> | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required. | |

Signature
 Ryan Leonard, AICP, Associate Planner, Hesperia Planning Division

Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a. Earlier Analysis Used. Identify and state where they are available for review.
 - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting information sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a. The significance criteria or threshold, if any, used to evaluate each question; and
 - b. The mitigation measure identified, if any, to reduce the impact to less than significance.

| I. AESTHETICS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista (1 & 2)? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway (1 & 2)? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings (1, 2, 3 & 4)? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (5)? | | | X | |

Comments.

The subject property is currently vacant and is adjacent to Rancho Road, Seventh Avenue and existing single-family residences to the north, east and west (1 & 2). Given the site's proximity to existing residences, the site is not considered a scenic resource. Further, the site contains frontage on Rancho Road and Seventh Avenue. Neither roadway is a scenic highway nor is the site in close proximity to any scenic resources or historic buildings.

Approval of the proposed project will not pose a significant adverse impact to the aesthetics of the area as the development is subject to Title 16 regulations (6), which limit the building height and provide for minimum yard and lot coverage standards. Although commercial development will produce additional light and glare, any light or glare produced would be subject to Title 16 regulations which requires that all exterior lighting fixtures to be hooded and directed downward to minimize light and glare impacts on neighboring properties (1 & 5). While commercial development of the site will have the potential to negatively impact the residentially designated properties to the north, east and west, implementation of the Title 16 zoning regulations will assure that adjacent residential land uses are buffered through the incorporation of setbacks, landscaping buffers, site planning, and other design techniques (1). Consequently, development of the site will not substantially degrade the existing visual character or quality of the site and its surroundings. As such, development of the project would have a less than significant impact upon aesthetics.

| II. AGRICULTURE AND FOREST RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and State Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use (2 & 8)? | | | | X |

| | | | | |
|--|--|--|--|---|
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract (8, 9 & 10) ? | | | | X |
| c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)) (10) ? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use (1, 10 & 11) ? | | | | X |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use (1, 9 & 10) ? | | | | X |

Comments.

The project site is not presently, nor does it have the appearance of previous agricultural uses. The soil at this location is classified by the U.S. Soil Conservation Service as *Hesperia loamy fine sand, two to five percent slopes*. These soils are limited by high soil blowing hazard, high water intake rate, low available water capacity, and low fertility **(12)**. Further, the proximity of residential uses does not make this site viable for agriculture. The U.S. Department of Agriculture, Soil Conservation Service (SCS) Soil Survey of San Bernardino County California Mojave River Area states that “Urban and built-up land and water areas cannot be considered prime farmland...” The project site does not contain any known agricultural activities or any known unique agricultural soils. Based on the lack of designated agricultural soils on the project site, it is concluded that the project will not result in significant adverse impacts to agriculture or significant agricultural soils. The project is located within an urbanized area which, according to the SCS, is not considered prime farmland. Further, the site is not within the area designated by the State of California as “unique farmland.”

The City and its Sphere Of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes **(13)**. The southernmost portions of the City and SOI contain a narrow distribution of land within the shrub and conifer woodland bioregions. These bioregions do not contain sufficient forest land for viable timber production and are ranked as low priority landscapes **(14)**. The project site is located in the central portion of the City within the suburban area and is substantially surrounded by large lot single-family residential development **(1)**. During the nineteenth century, juniper wood from Hesperia was harvested for use in fueling bakery kilns. Use of juniper wood was discontinued when oil replaced wood in the early twentieth century **(11)**. Local timber production has not occurred since that time. Therefore, this project will not have an impact upon forest land or timberland.

The limited size of the property (1.8 gross acres), as well as the proximity of residential uses, do not make this site viable for agriculture. In addition, the site is presently zoned Limited Agricultural with a minimum lot size of one-acre (A1), which permits single family residential development. According to the City of Hesperia General Plan, no agriculture-specific land use exists within the project site and the land is not within a Williamson Act contract. **(10)**. This project has no potential to conflict with existing zoning for agricultural uses or a Williamson Act contract and will not have an impact upon agricultural resources. As such, approval of the proposed project would not have an impact upon agricultural resources.

| III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan (15, 16 & 17)? | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation (15, 16 & 17)? | | | X | |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) (15, 16 & 17)? | | | X | |
| d) Expose sensitive receptors to substandard pollutant concentrations (2, 15 & 16)? | | | X | |
| e) Create objectionable odors affecting a substantial number of people (1, 2, 15 & 16)? | | | | X |

Comments.

The General Plan Update and its Environmental Impact Report (EIR) address the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors **(15 & 16)**. Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. The closest sensitive receptors are the occupants of the single-family residences located immediately adjacent to the north and west of the site **(1)**. These adjacent residences are currently within the Limited Agricultural with a minimum lot size of one-acre (A1) designation.

The Mojave Desert Air Quality Management District (MDAQMD) has published a number of studies that demonstrate that the Mojave Desert Air Basin (MDAB) can be brought into attainment for particulate matter and ozone, if the South Coast Air Basin (SCAB) achieves attainment under its adopted Air Quality Management Plan. The High Desert and most of the remainder of the desert has been in compliance with the federal particulate standards for the past 15 years **(15)**. The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of SCAQMD to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards **(15 & 16)**.

All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD **(17)**. Programs have been established in the Air Quality Attainment Plan which address emissions caused by area sources. Both short-term (construction) emissions and the long-term (operational) emissions associated with the development were considered. Short-term airborne emissions will occur during the construction phase related to site preparation, land clearance, grading, excavation, and building construction; which will result in fugitive dust emissions. Also, equipment emissions, associated with the use of construction equipment during site preparation and construction activities, will generate emissions. Construction activities generally do not have the potential to generate a substantial amount of odors. The primary source of odors associated with construction activities are generated from the combustion petroleum products by equipment. However, such odors are part of the ambient odor environment of urban areas. In addition, the contractor will be required to obtain all pertinent operating permits from the Mojave Desert Air Quality Management District (MDAQMD) for any equipment requiring AQMD permits.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The General Plan Update Environmental Impact Report (GPUEIR) analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts (7). As part of the GPUEIR, the impact of commercial and residential development to the maximum allowable intensity permitted by the Land Use Plan was analyzed. The projected number of vehicles trips and turning movements associated with this project is analyzed within Section XV. Transportation/Traffic. Although the proposed development will increase traffic in the area it will not result in the creation of an unacceptable level of service (LOS). Therefore approval of this project will not result in a significant impact upon air quality.

| IV. BIOLOGICAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (10, 18 & 21)? | | | | X |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (1, 10, 18 & 23)? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (1, 10, 18 & 23)? | | | | X |
| d) Interfere substantially with 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 native wildlife nursery sites (1, 10 & 18)? | | X | | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (10, 18 & 19)? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan (10, 21 & 23)? | | | | X |

Comments.

The site is not expected to support the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the project site is outside the area considered suitable habitat for the species (21). The desert tortoise is also not expected to inhabit the site, given its proximity to Seventh Avenue, Ranchero Road and neighboring residences (1). The site is outside the range of the arroyo toad, which has been documented to inhabit a portion of the Tapestry Specific Plan and adjacent areas (22).

A General Biological Resources Assessment was conducted by RCA Associates, LLC to determine the presence of desert tortoise, Mojave ground squirrel, burrowing owls, or any other special-status species (18). The biological report states that none of these or any other threatened or endangered species inhabit the site. Since the burrowing owl is not sensitive to development, and may occupy the site at any time, a mitigation measure requiring another biological survey to determine their presence shall be

submitted no more than 30 days prior to commencement of grading activities. The mitigation measure is listed on page 24.

The site is highly disturbed and supports a non-native grassland community consisting primarily of Russian thistle (*Salsola tragus*) bromes grasses (*Bromus* sp.), and yellow-green matchweed (*Gutierrezia sarothrae*). Two California junipers were also present. The biological report concluded that the site does not support any sensitive plant or wildlife species or sensitive habitats **(18)**.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest communities, exist within Tapestry Specific Plan and vicinity **(23)**. The project site is located approximately six miles to the north within a developed portion of the City. Consequently, approval of the conditional use permit and General Plan Amendment will not have an impact upon biological resources, subject to the enclosed mitigation measure.

| V. CULTURAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 (24 & 26) ? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (24 & 26) ? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature (24) ? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries (27) ? | | | | X |

Comments.

Based upon a site visit and review of the aerial photos **(1)**, there is no evidence that historic resources exist within the project site. In addition, the site is not on the list of previously recorded cultural resources **(25)**. This list, which was compiled as part of the 2010 General Plan Update; was created from the inventory of the National Register of Historic Properties, the California Historic Landmarks list, the California Points of Historic Interest list, and the California State Resources Inventory for San Bernardino County. Paleontological resources are not expected to exist on the project site inasmuch as the Cultural Resources Sensitivity Map indicates that the site has a low sensitivity potential for containing cultural resources **(26)**. Since this project is not exempt from the California Environmental Quality Act (CEQA), and the proposed General Plan Amendment requires that Native American tribes be contacted as per SB18 and AB52, the City sent a letter dated September 1, 2016 giving all interested tribes the opportunity to consult pursuant to Section 21080.3.1 of the California Public Resources Code (AB 52) **(28)**. The City will also notify the tribes in writing of the Planning Commission and City Council meeting dates. As of the date of preparation of this document, staff has not received a consultation request. In the event that human remains are discovered during grading activities, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) **(27)**. Should the Coroner determine that the remains are Native American, the Native American Heritage Commission (NAHC) shall be contacted and the remains shall be handled in accordance with Public Resources Code Section 5097.98. Consequently, this project is not expected to have an impact upon cultural resources.

| VI. GEOLOGY AND SOILS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 (29, 30 & 31). | | | | X |
| ii) Strong seismic ground shaking (32 & 33)? | | | X | |
| iii) Seismic-related ground failure, including liquefaction (12 & 32)? | | | | X |
| iv) Landslides (32)? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil (12)? | | | X | |
| c) 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 (12 & 32)? | | | | X |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property (12)? | | | | X |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater (12)? | | | | X |

Comments.

The project site contains generally flat topography with slopes of two to five percent. No large hills or mountains are located within the project site. The state geologist has identified (zoned) several faults in California for which additional geologic studies are required. According to Exhibit SF-1 of the General Plan Safety Element, no active faults are known or suspected to occur adjacent to or within the project site or within its vicinity and the site is not within an Alquist-Priolo Special Studies Zone or Earthquake Fault Zone (29). The City and Sphere of Influence (SOI) is near several major faults, including the San Andreas, North Frontal, Cleghorn, Cucamonga, Helendale, and San Jacinto faults (29 & 30). The nearest fault to the site is the North Frontal fault, located approximately five miles to the east of the City.

The Alquist-Priolo Earthquake Fault Zoning Act prohibits structures designed for human occupancy within 500 feet of a major active fault and 200 to 300 feet from minor active faults (34). The project site is not located in an Alquist-Priolo Earthquake Fault Zone or within 500 feet of a fault (29 & 30). Further, the soil at this site does not have the potential for landslides, lateral spreading, subsidence, liquefaction, or collapse (12).

The soil at this location is identified as Hesperia loamy fine sand, two to five percent slopes (12). This soil is limited by high soil blowing hazard, high water intake rate, and moderate to high available water capacity. The site's shallow slope and moderately rapid permeability negates the potential for soil instability.

Because the project disturbs more than one acre of land area, the project is required to file a Notice of Intent (NOI) and obtain a general construction National Pollution Discharge Elimination System

(NPDES) permit prior to the start of land disturbance activities. Issuance of these permits requires preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) which specifies the Best Management Practices (BMP) that will be implemented to prevent construction pollutants from contacting stormwater. Obtaining the NPDES and implementing the SWPPP is required by the State Water Resources Control Board (WRCB) and the California Regional Water Quality Control Board (RWQCB). These are mandatory and NPDES and SWPPP have been deemed adequate by these agencies to mitigate potential impacts.

As a function of obtaining a building final, the proposed development will be built in compliance with the Hesperia Municipal Code (6) and the 2013 Building Code, which ensures that the structures will adequately resist the forces of an earthquake. In addition, prior to issuance of a grading permit, a soil study is required, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be performed in accordance with all development codes to assure that all structures will not be negatively affected by the soil. Regardless of the General Plan Land Use designation, each lot shall meet these standards. Consequently, the impact upon geology and soils associated with the proposed development is considered less than significant.

| VII. GREENHOUSE GAS EMISSIONS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (35)? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (35, 36 & 37)? | | | X | |

Comments.

Assembly Bill 32 requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions to 1990 levels by 2020. In addition, Senate Bill 97 requires that all local agencies analyze the impact of greenhouse gases under CEQA and task the Office of Planning and Research (OPR) to develop CEQA guidelines “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions...”

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 (37). This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project’s incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)(35). The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 28 percent below business as usual by 2020, consistent with AB 32 (36).

Development of the proposed General Plan Amendment and Conditional Use Permit will not significantly increase greenhouse gas (GHG) emissions beyond that analyzed within the GPUEIR. The additional job

creation from this development will also reduce the number of residents commuting to other communities for work, reducing vehicle miles traveled and resulting in additional GHG reductions. All buildings will be equipped with energy efficient mechanical systems for heating and cooling. That, in combination with use of dual pane glass and insulation meeting current Building Code regulations (35) will cause a reduction in GHG emissions from use of less efficient systems, resulting in additional community emission reduction credits. The building size is below the allowable floor area ratio.

Approval of the proposed project would result in an increase in vehicular trips. The proposed project is projected to generate a total of approximately 2,521 daily vehicle trips. However, many of the trips generated by the proposed land uses would not be new trips, but instead would be trips already traveling on the surrounding roadway network and pass-by the project before proceeding to their original destination (77). This increase in traffic impact is analyzed further within Section XV. Transportation/Traffic.

Development of the proposed project will not significantly increase greenhouse gas (GHG) emissions beyond that analyzed within the GPUEIR. Additionally, the use will provide additional jobs to the area, creating a reduction in the number of commuters into the Inland Empire. Consequently, the impact upon GHG emissions associated with the proposed project is less than significant.

| VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials (2 & 38)? | | | X | |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (2 & 38)? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school (2)? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment (2)? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area (39)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area (39)? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (40)? | | | | X |
| h) 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 (41)? | | | | X |

Comments.

The property is a vacant site and has no history of commercial development. There is no evidence that hazardous materials have been used on the property. A component of the proposed project will involve the construction of a vehicle fueling station, which entails handling of hazardous materials. Prior to

storing hazardous materials on-site, a Hazardous Materials Business Plan (HMBP) shall be approved **(38)**, which shall be subject to review and approval by the San Bernardino County Fire Department. These materials shall be stored and transported/disposed of in accordance with the HMBP. Although these issues pose a potential health risk, compliance with the HMBP will reduce the possibility of an accidental release to an acceptable level.

The project site is not listed in any of the following hazardous sites database systems, so it is unlikely that hazardous materials exist on-site:

- National Priorities List www.epa.gov/superfund/sites/query/basic.htm. List of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. There are no known National Priorities List sites in the City of Hesperia.
- Site Mitigation and Brownfields Reuse Program Database www.dtsc.ca.gov/database/Calsites/Index.cfm. This database (also known as CalSites) identifies sites that have known contamination or sites that may have reason for further investigation. There are no known Site Mitigation and Brownfields Reuse Program sites in the City of Hesperia.
- Resource Conservation and Recovery Information System www.epa.gov/enviro/html/rcris/rcris_query_java.html. Resource Conservation and Recovery Information System is a national program management and inventory system of hazardous waste handlers. There are 53 Resource Conservation and Recovery Act facilities in the City of Hesperia, however, the project site is not a listed site.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) (<http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm>). This database contains information on hazardous waste sites, potentially hazardous waste sites, and remedial activities across the nation. There is one Superfund site in the City of Hesperia, however, the project site is not located within or adjacent to the Superfund site.
- Solid Waste Information System (SWIS) (<http://www.ciwmb.ca.gov/SWIS/Search.asp>). The SWIS database contains information on solid waste facilities, operations, and disposal sites throughout the State of California. There are three solid waste facilities in the City of Hesperia, however the project site is not listed.
- Leaking Underground Fuel Tanks (LUFT)/ Spills, Leaks, Investigations and Cleanups (SLIC) (<http://geotracker.waterboards.ca.gov/search/>). This site tracks regulatory data about underground fuel tanks, fuel pipelines, and public drinking water supplies. There are fourteen LUFT sites in the City of Hesperia, six of which are closed cases. The project site is not listed as a LUFT site and there are no SLIC sites in the City of Hesperia.
- There are no known Formerly Used Defense Sites within the limits of the City of Hesperia. Formerly Used Defense Sites <http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

The site is 1.75 miles from the nearest school (Krystal Elementary School) at 17160 Krystal Drive **(1)**. Any use which includes hazardous waste as part of its operations is prohibited within 500 feet of a school **(78)**. Consequently, HMBP compliance will provide sufficient safeguards to prevent health effects. The project will not pose a significant health threat to any existing or proposed schools.

The proposed project will not conflict with air traffic nor emergency evacuation plans. The site is approximately 0.5 miles north of the Hesperia Airport, and is not within a restricted use zone associated with air operations **(39)**. Consequently, implementation of the project will not cause safety hazards to air operations. The site is located along Ranchero Road which is designated in the General Plan as an emergency evacuation route, however implementation of the project will not interfere with emergency

operations. The site is not located on or near a potential emergency shelter **(40)** and will not interfere with emergency evacuation plans.

The project's potential for exposing people and property to fire and other hazards was also examined. The site is located within an urbanized area and is not in an area susceptible to wildland fires. The southernmost and westernmost portions of the City are at risk, due primarily to proximity to the San Bernardino National Forest **(41 & 42)**. All new structures associated with this project will be constructed to the latest building standards including applicable fire codes. Consequently, approval of the proposed project will not have any impact upon or be affected by hazards and hazardous materials.

| IX. HYDROLOGY AND WATER QUALITY. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements (43 & 44) ? | | | | X |
| b) 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 (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted) (45 & 46) ? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (47) ? | | | | X |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site (5 & 47) ? | | | | X |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff (48) ? | | | | X |
| f) Otherwise substantially degrade water quality (48) ? | | | X | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map (2, 41, 49 & 50) ? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows (2, 41 & 50) ? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam (2, 10 & 50) ? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow (41) ? | | | | X |

Comments.

Development of the site will disturb more than one-acre of land area. Consequently, the project will be required to file a Notice of Intent (NOI) and obtain a general construction National Pollution Discharge Elimination System (NPDES) permit prior to land disturbance **(52)**. Issuance of a Storm Water Pollution Prevention Plan (SWPPP) will also be required, which specifies the Best Management Practices (BMP) that will be implemented to prevent construction pollutants from contacting storm water **(52)**. Obtaining

the NPDES and implementing the SWPPP is required by the State Water Resources Control Board (WRCB) and the California Regional Water Quality Control Board (RWQCB). These are mandatory and NPDES and SWPPP have been deemed adequate by these agencies to mitigate potential impacts to water quality during project construction.

The development may change absorption rates and potential drainage patterns, as well as affect the amount of surface water runoff **(2)**. Therefore, the project shall retain the drainage created on-site beyond that which has occurred historically within an approved drainage system in accordance with City of Hesperia Resolution 89-16 **(51)**. The site is also not within a Flood Zone, based upon the latest Flood Insurance Rate Maps **(50)**. The retention facility required by the City will ensure that no additional storm water runoff impacts the area and that any contaminants will be filtered from storm water runoff prior to any release into a street.

The City is downstream of three dams. These are the Mojave Forks, Cedar Springs, and Lake Arrowhead Dams. In the event of a catastrophic failure of one or more of the dams, the project site would not be inundated by floodwater **(51)**. The areas most affected by a dam failure are located in the low lying areas of southern Rancho Las Flores, most of the Antelope Valley Wash, and properties near the Mojave River. The City of Hesperia is located just north of the Cajon Pass at an elevation of over 2,500 feet above sea level, which is over 60 miles from the Pacific Ocean. As such, the City is not under threat of a tsunami, otherwise known as a seismic sea wave **(53)**. Similarly, the potential for a seiche to occur is remote, given the limited number of large water bodies within the City and its sphere. The subject property exhibits a two percent slope. In addition, the water table is significantly more than 50 feet from the surface. The area north of Summit Valley contains steep slopes which have the potential to become unstable during storm events **(54)**. Therefore, the mechanisms necessary to create a mudflow; a steep hillside with groundwater near the surface, does not exist at this location.

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(55)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere of Influence (SOI). The UWMP indicates that the City is currently using available water supply, which is projected to match demand beyond the year 2030 **(46)**. The HWD has maintained a water surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts. Therefore, the impact upon hydrology and water quality associated with the proposed project is considered less than significant.

| X. LAND USE AND PLANNING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Physically divide an established community (1) ? | | | | X |
| b) 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 (10) ? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan (23) ? | | | | X |

Comments.

The project consists of a General Plan Amendment to change the designation of the subject property from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2). The proposed project is consistent with the proposed General Commercial (C2) zone **(6)** and complies with all development standards in the Development Code, including buffering the proposed uses from the existing adjacent residential uses with a 20' setback, a 6' high block wall, and 5' landscape buffer. The project also complies with the maximum Floor Area Ratio (FAR) of 1.0 by proposing a FAR of 0.14 **(2)**.

The proposed General Commercial (C2) designation can be justified, as the site is adjacent to Rancho Road which is described in the General Plan as a special arterial roadway and is designed to link local traffic with Interstate 15. Given the regional significance of Rancho Road, commercial uses along this roadway are certain to occur and are considered appropriate land uses at various locations.

Approval of the proposed project would result in an increase in vehicular trips. The proposed project is projected to generate a total of approximately 2,521 daily vehicle trips. However, many of the trips generated by the proposed land uses would not be new trips, but instead would be trips already traveling on the surrounding roadway network and pass-by the project before proceeding to their original destination **(77)**.

The project site is currently vacant and implementation of the proposed project will not physically divide an established community. The project is compatible with the adjacent land uses through the use of buffering techniques and through compliance with the Municipal Code and the development review process **(6)**. The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community, exist within the Tapestry Specific Plan and vicinity **(23)**. The project site is located approximately 3.5 miles northwest of this specific plan within the developed portion of the City. Therefore, the proposed project would have a less than significant impact upon land use and planning.

| XI. MINERAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state (55) ? | | | | X |

| | | | | |
|--|--|--|--|---|
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan (55)? | | | | X |
|--|--|--|--|---|

Comments.

According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the project site (55). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. The project contain does not contain a wash and/or unique mineral resources. Consequently, the proposed project would not have an impact upon mineral resources.

| XII. NOISE. Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies (1, 2 & 56)? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (56 & 57)? | | | | X |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project (55 & 59)? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (59)? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels (10 & 60)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels (10 & 60)? | | | | X |

Comments.

Approval of the proposed project will result in both construction noise and operational noise, mostly associated with trucks and vehicular traffic to and from the site, but also including noise from the operation of the facility, in particular from mechanical equipment associated with the convenience store and fast food restaurant.

Construction noise levels associated with any future construction activities will be slightly higher than the existing ambient noise levels in the vicinity of the project site. Noise generated by construction equipment, including trucks, graders, backhoes, well drilling equipment, bull-dozers, concrete mixers and portable generators can reach high levels and is typically one of the sources for the highest potential noise impact of a project. However, the construction noise would subside once construction is completed. The proposed project must adhere to the requirements of the City of Hesperia Noise Ordinance (58). The Noise Ordinance contains an exemption from the noise level regulations during grading and construction activities occurring between 7:00 A.M. and 7:00 P.M., Monday through Saturday, except federal holidays.

An Acoustical Analysis was prepared by P. A. Penardi & Associates to evaluate the noise impacts from the operation of the proposed facility (55). The results of the study indicate that noise from the mechanical equipment would not exceed 55 dB(A) at the western boundary of the site (55). The City's Development Code restricts noise impacting residentially designated property to a limit of 55 dB(A) at the property line during nighttime hours (58). With regard to air conditioning compressors, two units near each other on the roof of the store were assumed to be operating simultaneously with result of a combined noise impact at the west property line of 49 dB(A). This, again, is in conformance with the City's 55 dB(A) nighttime requirement. A 6-foot high masonry wall is proposed along the west property line which will serve to reduce the relatively low level of noise anticipated from patrons utilizing the drive-thru restaurant. The noise study states that the facility will comply with the City's Noise Ordinance (55). In addition, as an ongoing condition of approval, the project is required to be in conformance with the City's Noise Ordinance at all times (76). Therefore, the impact of this facility upon the adjacent residential properties is less than significant.

The project site is located approximately 0.5 miles north of the Hesperia Airport. However, the project is not impacted by any safety zones associated with this private airport (60). The project site is much farther from the Southern California Logistics Airport (SCLA) and the Apple Valley Airport and will not be affected by any safety zones for these airports.

| XIII. POPULATION AND HOUSING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) 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) (1 & 2)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (1)? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (1)? | | | | X |

Comments.

The project consists of a General Plan Amendment to change the designation of the subject property from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2) (2). Since residential development at a maximum density of one dwelling unit per gross acre was assessed as part of the General Plan Environmental Impact Report (EIR). Although this project would allow for commercial development, its impact potential as a growth-inducing factor is less than significant as the use will not generate a significant increase in traffic. Most customers will stop on their way to or from there residence. The proposed action will remove 1.8-acres (gross) of residential uses from the General Plan Land Use and zoning map (2). Therefore, approval of the proposed project would eliminate one single family residence in this area with approval of this General Plan Amendment. The site is currently vacant and the proposed project will not displace any existing housing.

In regards to the project's growth inducing impacts, the site is currently served by water and other utility systems (62). Therefore, development of the project would not require the extension of major improvements to existing public facilities. Consequently, the proposed project will not have a significant impact upon population and housing.

| XIV. PUBLIC SERVICES. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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 any of the public services (63) : | | | X | |
| Fire protection? (63) | | | X | |
| Police protection? (63) | | | X | |
| Schools? (63) | | | X | |
| Parks? (63) | | | X | |
| Other public facilities? (63) | | | X | |

Comments.

The proposed project will create an increase in demand for public services however, that increase is not significantly greater than that analyzed by the GPUEIR. The development will be connected to an existing 16-inch water line in Rancho Road within the City's water system **(62)**. The proposed project is allowed to use an approved on-site septic waste system. Full street improvements comprised of curb, gutter, and sidewalk will be constructed along the project frontage as part of development of the use **(2)**. Additionally, the project will be subject to payment of the fair share cost of improving the intersection at Seventh Avenue and Rancho Road to install a traffic signal. This fair share cost will be offset by payment of required development impact fees. These fees will be collected at the time that building permits are issued, which will provide the City partial funding for the construction of signal improvements to reduce the impacts of additional vehicular traffic. **(64)**. These fees are designed to ensure that appropriate levels of capital resources will be available to serve any future development. Therefore, the impact of the proposed project upon public services is less than significant.

| XV. RECREATION. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated (2) ? | | | | X |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment (2) ? | | | | X |

Comments.

Approval of the proposed project will not induce population growth, as commercial uses are proposed **(2)**. Therefore, the proposed project will not have an impact upon recreation.

| XVI. TRANSPORTATION / TRAFFIC. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) 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 (65 & 77) ? | | | X | |
| b) 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 (66 & 67 & 77) ? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks (39 & 77) ? | | | | X |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) (1, 2 66 & 77) ? | | | | X |
| e) Result in inadequate emergency access (2) ? | | | | X |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities (68) ? | | | | X |

Comments.

The project consists of a General Plan Amendment to change the designation of the subject property from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2). Approval of the proposed project would allow for construction of a 4,500 square foot convenience store with five fuel islands and a 1,800 square drive-thru restaurant, on approximately 1.8 gross acres **(2)**. A Traffic Impact Analysis (TIA) was prepared to assess the traffic impacts resulting from the proposed project **(77)**. Based on the TIA, the development would generate a total of 2,521 daily vehicle trips, 81 of which will occur during the morning peak hour and 88 of which will occur during the evening peak hour. This represents a significant increase from the General Plan Environmental Impact Report (EIR) which assumed residential development at a maximum density of one dwelling unit per gross acre.

The City's Circulation Plan is consistent with the Congestion Management Program (CMP) for San Bernardino County **(67)**. The CMP requires a minimum Level of Service (LOS) standard of "E." When a jurisdiction requires mitigation to a higher LOS, then the jurisdiction's standard takes precedence. The following implementation policies from the General Plan Circulation Element establish the LOS standard in the City.

Implementation Policy CI-2.1: Strive to achieve and maintain a LOS D or better on all roadways and intersections: LOS E during peak hours shall be considered acceptable through freeway interchanges and major corridors (Bear Valley Road, Main Street/Phelan Road, Highway 395).

Therefore, any roadway segments and intersections operating at a LOS of E to F is considered deficient unless located on freeway interchanges and major corridors. Roadway segments and intersections located within freeway interchanges and major corridors operating at Level LOS of F are considered deficient. A TIA was prepared to assess the traffic impacts resulting from the proposed

project. The information below is a summary of the TIA and provides the existing and future Average Daily Traffic (ADT) and LOS that will result from the proposed project:

Summary of Roadway Operation LOS, Existing Conditions

| Roadway | Segment | | Roadway Capacity | | | Existing | | |
|-------------|----------------------|----------------------|------------------|-------|----------|-----------------------|--------------------|------------------|
| | From | To | Classification | Lanes | Capacity | Average Daily Traffic | Volume to Capacity | Level of Service |
| Ranchero Rd | East of Seventh Ave | Seventh Ave | Super Arterial | 4D | 32,200 | 13,400 | 0.416 | A |
| | Seventh Ave | West of Seventh Ave | Super Arterial | 4U | 25,760 | 12,500 | 0.485 | A |
| Seventh Ave | North of Ranchero Rd | Ranchero Rd | Secondary | 2U | 15,300 | 5,600 | 0.366 | A |
| | Ranchero Rd | South of Ranchero Rd | Secondary | 2U | 15,300 | 2,100 | 0.137 | A |

Future Daily Traffic Volumes, General Plan Build-out With Project

| Roadway | Segment | | Roadway Capacity | | | Existing | | |
|-------------|----------------------|----------------------|------------------|-------|----------|-----------------------|--------------------|------------------|
| | From | To | Classification | Lanes | Capacity | Average Daily Traffic | Volume to Capacity | Level of Service |
| Ranchero Rd | East of Seventh Ave | Seventh Ave | Super Arterial | 4D | 32,200 | 20,960 | 0,651 | B |
| | Seventh Ave | West of Seventh Ave | Super Arterial | 4U | 25,760 | 18,290 | 0,710 | C |
| Seventh Ave | North of Ranchero Rd | Ranchero Rd | Secondary | 2U | 15,300 | 8,890 | 0,581 | A |
| | Ranchero Rd | South of Ranchero Rd | Secondary | 2U | 15,300 | 2,910 | 0,190 | A |

Summary of Intersection Operations, Existing Conditions

| Intersection | Traffic Control | Peak Hour | | | |
|--|-----------------|-----------|-----|---------|-----|
| | | Morning | | Evening | |
| | | Delay | LOS | Delay | LOS |
| Seventh Ave (NS) at:
Ranchero Rd (EW) | AWS | 13.2 | B | 13.5 | B |

AWS= All Way Stop

Summary of Intersection Operations, Opening Year (2020) Conditions With Project

| Intersection | Traffic Control | Peak Hour | | | |
|---|-----------------|-----------|-----|---------|-----|
| | | Morning | | Evening | |
| | | Delay | LOS | Delay | LOS |
| Project South Access (NS) at:
Ranchero Road (EW) | CSS | 11.5 | B | 10.6 | B |
| Seventh Avenue at:
Project Access-East (EW) | CSS | 11.5 | B | 12.3 | B |
| Seventh Ave (NS) at:
Ranchero Rd (EW)
-Without Improvements | AWS | 27.7 | D | 30.9 | D |
| -With Improvements | TS | 11.5 | B | 12.1 | B |

CSS=Cross Street Stop; AWS= All Way Stop; TS=Traffic Signal

Summary of Intersection Operations, General Plan Build-out With Project

| Intersection | Traffic Control | Peak Hour | | | |
|---|-----------------|-----------|-----|---------|-----|
| | | Morning | | Evening | |
| | | Delay | LOS | Delay | LOS |
| Project South Access (NS) at:
Ranchero Road (EW) | CSS | 11.8 | B | 10.6 | B |
| Seventh Avenue at:
Project Access-East (EW) | CSS | 13.6 | B | 15.1 | C |
| Seventh Ave (NS) at:
Ranchero Rd (EW)
-Without Improvements | AWS | 70.8 | F | 61.3 | F |
| -With Improvements | TS | 14.2 | B | 15.2 | B |

CSS=Cross Street Stop; AWS= All Way Stop; TS=Traffic Signal

As shown in the tables above, the study area roadways are projected to operate within capacity for General Plan Buildout with project traffic conditions.

As also shown in the tables above, development of the project (2020) will result in the Seventh Avenue/Ranchero Road intersection operating at an LOS of D during peak hour without construction of a traffic signal; if the traffic signal is installed the intersection is projected to operate at an LOS of B. Under the General Plan buildout scenario, the study area intersection is projected to operate at an unacceptable LOS of F during the peak hour if the signal is not constructed; and an LOS of B with the installation of a traffic signal. The TIA recommends that the development be subject to payment of the fair share cost of installing a traffic signal at the intersection (77). This fair share cost will be offset by payment of required development impact fees. These fees will be collected at the time that building permits are issued, which will provide funding for the construction of signal improvements to reduce the impacts of additional vehicular traffic (64).

The project will not conflict with City’s General Plan Circulation Element or the Hesperia Municipal Code. As a condition of approval, ‘Ranchero Road and Seventh Avenue will be required to be constructed to ultimate across the project frontage. Both streets will include curb, gutter, and sidewalk across the project frontages and pavement tapers beyond the frontage. These improvements will not conflict with the Transportation Plan and are consistent with City ordinances or policies establishing measures of effectiveness for the performance of the circulation system.

The project site is located 0.5 miles north of the Hesperia Airport and is not within an airport safety zone (63). Consequently, the project will not cause a change in air traffic patterns nor an increase in traffic levels or location. The project site will also not impact the air traffic patterns for the Southern California Logistics Airport nor the Apple Valley Airport.

| XVII. UTILITIES AND SERVICE SYSTEMS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (70)? | | | | X |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (71)? | | | | X |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (47 & 66)? | | | | X |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (45 & 46)? | | | | X |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments (72)? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs (73 & 75)? | | | | X |
| g) Comply with federal, state, and local statutes and regulations related to solid waste (75)? | | | | X |

Comments.

The proposed project will increase the amount of wastewater. However, the additional amount is slightly greater than that accounted for as part of the GPUEIR. The development will be connected to the existing 16-inch water line in Ranchero Road within the City’s water system (62). The proposed project is allowed to use an approved on-site septic waste system. Therefore, water and sewage capacity will be sufficient for the use. As part of construction of the project, the City requires installation of an on-site retention facility which will retain any additional storm water created by the impervious surfaces developed as part of the project (76). A drainage system will be installed on the north side of the property to prevent impacting downstream properties. Consequently, based upon a 100-year storm event, development of this project will not increase the amount of drainage impacting downstream properties beyond that which would occur prior to its development. Additionally, the retention facility will contain a filtration system preventing contamination of the environment.

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al.

vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment “to secure supplemental water as necessary to fully implement the provisions of this Judgment.” Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City’s Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, in a letter dated May 21, 1997 from the MWA’s legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(56)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere of Influence (SOI). The UWMP evidences that the City is currently using its available water supply and that supply is projected to match demand beyond the year 2030 **(72)**. The HWD has maintained a surplus water supply through purchase of water transfers, allocations carried over from previous years, and recharge efforts.

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 **(75)**. Currently, approximately 75 percent of the solid waste within the City is being recycled **(73 & 74)**. The waste disposal hauler for the City has increased the capacity of its Materials Recovery Facility (MRF) to 1,500 tons per day in order to accommodate future development. Therefore, the proposed project will not cause a significant negative impact upon utilities and service systems.

| XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | X | | |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | | | X |

Comments.

Based upon the analysis in this initial study, a Mitigated Negative Declaration may be adopted. Development of this project will have a minor effect upon the environment. These impacts are only significant to the degree that mitigation measures are necessary.

XIV. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case a discussion identifies the following:

The Certified General Plan Environmental Impact Report.

- a) **Earlier analyses used.** Earlier analyses are identified and stated where they are available for review.
- b) **Impacts adequately addressed.** Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.
- a) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.

The following mitigation measures are recommended as a function of this project.

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.

Authority: Public Resources Code Sections 21103 and 21107.

REFERENCES

- (1) Aerial photos of the City of Hesperia taken in Spring 2016 and on-site field investigations conducted in September 2016.
- (2) General Plan Amendment GPA16-00001 and Conditional Use Permit CUP16-00005 applications and related materials.
- (3) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-7.
- (4) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-8.
- (5) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-9.
- (6) Section 16.16.350 - Development standards of the Hesperia Municipal Code.
- (7) Resolution No. 2010-057, making the environmental findings pursuant to the California Environmental Quality Act, adopting a statement of overriding considerations, certifying the final environmental impact report, and adopting a mitigation monitoring and reporting plan adopting the 2010 Hesperia General Plan Update (GPA10-10185).
- (8) Residential Designations within the Hesperia General Plan Land Use Element, Pages LU-29 thru LU-40.
- (9) Williamson Act map within Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Exhibit 3.2-2.

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- (10) Official Maps showing the General Plan Land Use and zoning of the City of Hesperia and its sphere of influence.
-
- (11) Conservation Element of the 2010 City of Hesperia General Plan Update, Page CN-34.
-
- (12) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area Map 31 and Page 44.
-
- (13) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
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- (14) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
-
- (15) Air Quality Section of the 2010 City of Hesperia General Plan Update, pages CN-47 thru CN-50.
-
- (16) Section 3.3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.3-1 thru 3.3-30.
-
- (17) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
-
- (18) General Biological Resources Assessment for the site prepared June 16, 2016 by RCA Associates, LLC.
-
- (19) Chapter 16.24 of the City of Hesperia Municipal Code, Article II. Desert Native Plant Protection.
-
- (20) Conservation Element of the 2010 City of Hesperia General Plan Update, Page CN-34
-
- (21) Section 3.0 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-5.
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- (22) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, Exhibit CN-7.
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- (23) Section 3.0 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-3.
-
- (24) Appendix C of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, C-1 thru C-34.
-
- (25) Section 5 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, Exhibit 5h.
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- (26) Section 5 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report.
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- (27) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
-
- (28) Native American Heritage Commission (NAHC) letter dated September 9, 2016 in response to SB-18 consultation and to provide a list of tribes for consultation.
-
- (29) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, Exhibit SF-1.
-
- (30) Section 1.2.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, pages 1-4 thru 1-79.
-
- (31) Section 1.3 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, pages 1-12 thru 1-13.
-
- (32) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-11.
-
- (33) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, pages 1-23 thru 1-36.
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- (34) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
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- (35) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
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- (36) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
-
- (37) Table 5 of Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, pages 20 and 21.
-
- (38) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, pages SF-31 thru SF-33.
-
- (39) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
-
- (40) Potential Emergency Shelters and Evacuation Routes shown within the 2010 Hesperia General Plan Safety Element, Exhibit SF-4.
-
- (41) Map showing very high fire hazard areas, flood zones, and significant hazardous materials sites of the 2010 City of Hesperia General Plan Update Safety Element, Exhibit SF-2.
-
- (42) Fire Hazard Section of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.7-9.
-
- (43) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-13.
-
- (44) Section 3.8.5 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-20 thru 3.8-22.
-
- (45) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
-
- (46) Mojave Water Agency letter dated March 27, 1996.
-
- (47) Hydrology/Drainage Study for the site prepared May 2016 by ALR Engineering and Testing.
-
- (48) Section 4.3.8 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 4-8 thru 4-9.
-
- (49) 1992 Hesperia Master Plan of Drainage Volume III, identifying future drainage improvements for the area.
-
- (50) FEMA flood map, City of Hesperia General Plan Update Safety Element background technical report, page 3-9.
-
- (51) Section 3.8.2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-1 thru 3.8-7.
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- (52) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-15.
-
- (53) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-11.
-
- (54) Table 3.6-2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.6-24.
-
- (55) Preliminary Acoustical Analysis prepared for the site on July 6, 2016 by P.A. Penardi & Associates..
-
- (56) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10 and CN-20.
-
- (57) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4 thru NS-12.
-
- (58) Section 16.20.125 of the Hesperia Municipal Code, pages 467 thru 468.
-
- (59) Section 3.11 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.11-25 thru 3.11-51.
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- (60) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, Exhibit LU-3.
-
- (61) Table 3.11-9 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.11-36.
-
- (62) Current Hesperia water and sewer line maps.
-
- (63) Section 4 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 4-13 thru 4-18.
-
- (64) 1991 City of Hesperia Ordinance 180 entitled "An Ordinance of the City Council of the City of Hesperia, California, Establishing a Development Impact Fee for all New Residential, Commercial, and Industrial Structures" and Resolution No. 2007-110 on November 20, 2007, updated November 16, 2014.
-
- (65) Table 4-4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, page 70.
-
- (66) Section 2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 2-19.
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- (67) Section 2.2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 4 thru 6.
-
- (68) Sections 6.3 and 6.4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 74 thru 76.
-
- (69) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element, figure 6-1.
-
- (70) Section 3.8 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-8 thru 3.8-14.
-
- (71) 2013 California Plumbing Code.
-
- (72) Hesperia Water District's Urban Water Management Plan (UWMP).
-
- (73) Quarterly data of the San Bernardino County Disposal Reporting System for the 3rd quarter 2014.
-
- (74) 2014 California Department of Resources, Recycling and Recovery Annual AB939 Report.
-
- (75) California Integrated Waste Management Act (AB 939).
-
- (76) Conditions of Approval for GPA16-00001 and CUP16-00005
-
- (77) Traffic Impact Analysis prepared for the site, prepared August 10, 2016 by Kunzman Associates, Inc.
-
- (78) California Health and Safety Code Section 25232 (b) (1) (A-E).
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ATTACHMENT 8

RESOLUTION NO. PC-2016-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE OFFICIAL GENERAL PLAN LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY FROM LIMITED AGRICULTURAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (A1) TO GENERAL COMMERCIAL (C2) ON 1.8 GROSS ACRES LOCATED ON THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE (GPA16-00001)

WHEREAS, on May 15, 1991, the City Council of the City of Hesperia adopted the City's General Plan, currently applicable in regards to development within the City; and

WHEREAS, Maida Holdings, LLC have filed an application requesting approval of GPA16-00001 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to 1.8 gross acres within the Limited Agricultural with a minimum lot size of one-acre (A1) designation located on the northwest corner of Rancho Road and Seventh A and consists of Assessor's Parcel Number 0412-182-15; and

WHEREAS, the Application, as contemplated, proposes to change the General Plan Land Use designation of the subject property and the expanded application from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2); and

WHEREAS, Maida Holdings LLC has also filed an application requesting approval of Conditional Use Permit CUP16-00005 to construct a 4,500 square foot convenience store with five fuel islands, which includes the sale of beer, wine and liquor for off-site consumption, and an attached 1,800 square drive-thru restaurant on 1.8 gross acres located at the northwest corner of Rancho Road and Seventh Avenue (APN: 0412-182-15); and

WHEREAS, the subject site is vacant. Single-family residences exist to the north, east and west. The property to the south is also vacant; and

WHEREAS, the subject property is currently within the A1 designation, which is proposed to be changed to C2. The properties to the north and west are also within the A1 designation, the properties to the east are designated Limited Agricultural with a minimum lot size of 2 ½ acres (A1-2½), and the properties to the south are designated Single Family Residential with a minimum lot size of 18,000 square feet (R1-18,000); and

WHEREAS, an environmental Initial Study for the proposed project was completed on October 19, 2016, which determined that no significant adverse environmental impacts to either the man-made or physical environmental setting would occur with the inclusion of mitigation measures. Mitigated Negative Declaration ND16-00007 was subsequently prepared; and

WHEREAS, on November 10, 2016, 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 10, 2016 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon Negative Declaration ND16-00007 and the initial study which supports the Mitigated Negative Declaration, the Planning Commission finds that there is no substantial evidence that the proposed General Plan Amendment will have a significant effect on the environment;
- (b) The Planning Commission has independently reviewed and analyzed the Negative Declaration, and finds that it reflects the independent judgement of the Commission, and that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment.
- (c) The area of the proposed General Plan Amendment is suitable for the land uses permitted within the proposed Land Use designation. The proposed General Commercial (C2) designation is appropriate at this location as the site is located at a prominent intersection and fronts Rancho Road, which is designed to link local traffic with Interstate 15. The proposed commercial uses will serve pass-by traffic along Seventh Avenue and Rancho Road and are considered appropriate land uses.
- (d) The proposed General Plan Amendment is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (e) The proposed General Plan Amendment is capable of utilizing existing supporting infrastructure and municipal services, as directed by the City's adopted General Plan.
- (f) The development within the proposed General Plan Amendment is consistent with the goals and policies of the General Plan, specifically Land Use Goal L.G.10 that promotes policies that will ensure maximum utilization of existing facilities and infrastructure within the City because the proposed development will utilize the streets and services available to existing development in the area.

Section 3. Based on the findings and conclusions set forth in this Resolution, the Planning Commission hereby recommends that the City Council adopt General Plan Amendment GPA16-00001, amending the General Plan map of the City of Hesperia as shown on Exhibit "A," and Negative Declaration ND16-00007, which is attached to the staff report for this item, and further recommends that Municipal Code Section 16.16.365(l)(1) be deleted from the code.

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

ADOPTED AND APPROVED this 10th day of November 2016.

Tom Murphy, Chair, Planning Commission

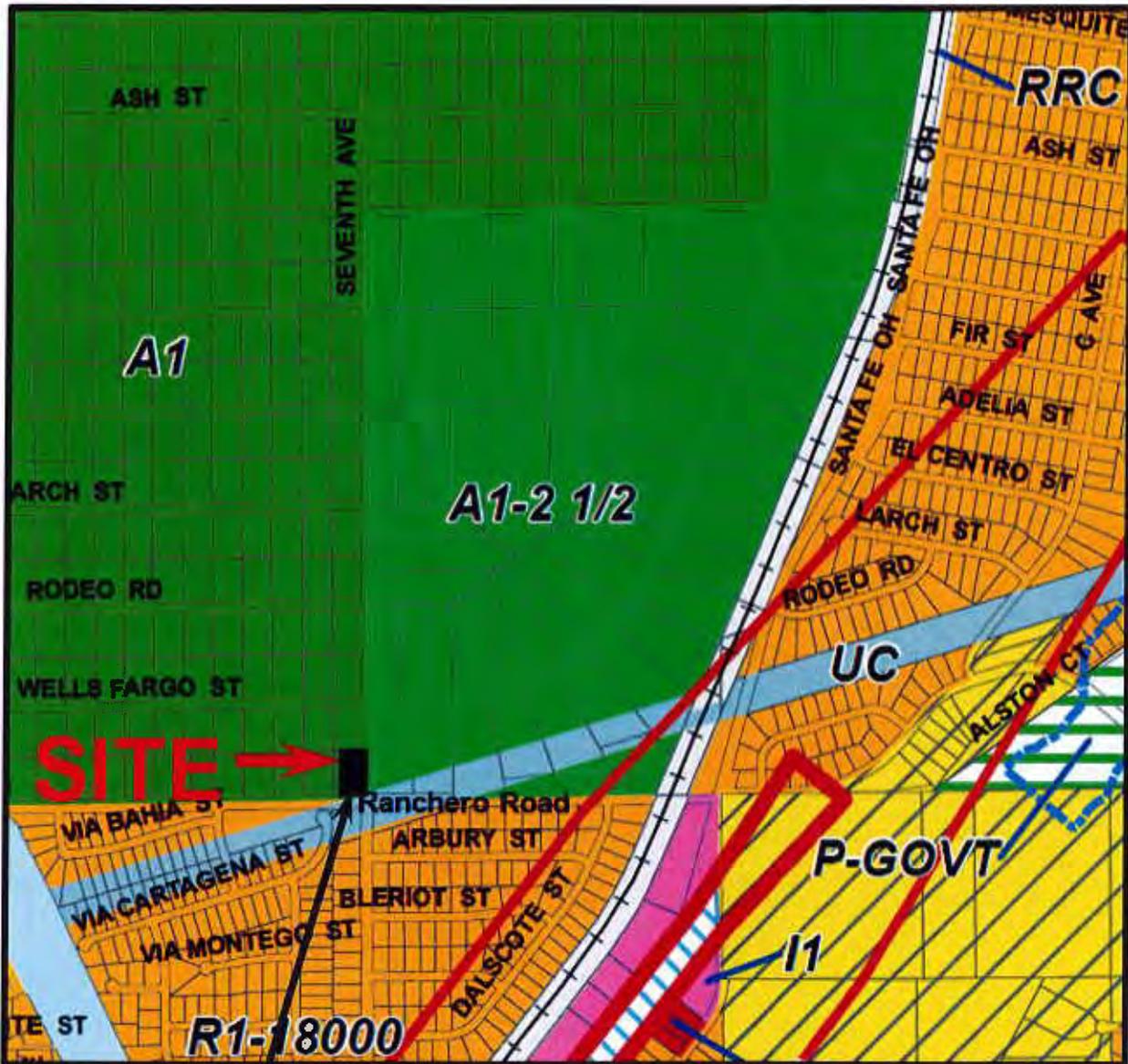
ATTEST:

Denise Bossard, Secretary, Planning Commission

EXHIBIT "A"

GPA16-00001

Applicants: Maida Holdings, LLC



PROPERTY PROPOSED
TO BE CHANGED FROM
A1 TO C2

ATTACHMENT 9

RESOLUTION NO. PC-2016-28

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 4,500 SQUARE FOOT CONVENIENCE STORE WITH FIVE FUEL ISLANDS, WHICH INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND AN ATTACHED 1,800 SQUARE DRIVE-THRU RESTAURANT ON 1.8 GROSS ACRES LOCATED ON THE NORTHWEST CORNER OF RANCHERO ROAD AND SEVENTH AVENUE (CUP16-00005)

WHEREAS, Maida Holdings, LLC has filed an application requesting approval of CUP16-00005 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to 1.8 gross acres within the Limited Agricultural with a minimum lot size of one-acre (A1) designation located on the northwest corner of Rancho Road and Seventh Avenue and consists of Assessor's Parcel Number 0412-182-15; and

WHEREAS, the Application, as contemplated, proposes to construct a proposed 4,500 square foot convenience store with five fuel islands, which includes the sale of beer, wine and liquor for off-site consumption, and an attached 1,800 square drive-thru restaurant on 1.8 gross acres located at the northwest corner of Rancho Road and Seventh Avenue (APN: 0412-182-15; Applicant: Maida Holdings LLC); and

WHEREAS, Maida Holdings, LLC has also filed an application requesting approval of a General Plan Amendment GPA16-00001 to change the General Plan land use designation from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2); and

WHEREAS, the subject site is vacant. Single-family residences exist to the north, east and west. The property to the south is also vacant; and

WHEREAS, the subject property is currently within the A1 designation, which is proposed to be changed to C2. The properties to the north and west are also within the A1 designation, the properties to the east are designated Limited Agricultural with a minimum lot size of 2 ½ acres (A1-2½), and the properties to the south are designated Single Family Residential with a minimum lot size of 18,000 square feet (R1-18,000); and

WHEREAS, an environmental Initial Study for the proposed project was completed on October 19, 2016, which determined that no significant adverse environmental impacts to either the man-made or physical environmental setting would occur with the inclusion of mitigation measures. Mitigated Negative Declaration ND16-00007 was subsequently prepared; and

WHEREAS, on November 10, 2016, 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 10, 2016 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon Negative Declaration ND16-00007 and the initial study which supports the Mitigated Negative Declaration, the Planning Commission finds that there is no substantial evidence that the proposed Conditional Use Permit will have a significant effect on the environment;
- (b) The Planning Commission has independently reviewed and analyzed the Negative Declaration, and finds that it reflects the independent judgement of the Commission, and that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment.
- (c) The site for the proposed use is adequate in size and shape to accommodate the proposed use because the site can accommodate all proposed improvements in conformance with the Development Code.
- (d) The proposed sale of beer, wine and liquor for off-site consumption is consistent with the objectives, policies, general land uses and programs of the General Plan and Development Code. The sale of alcoholic beverages at this location supports the public convenience and necessity and is consistent with the allowable uses within the General Commercial (C2) designation with approval of a conditional use permit.
- (e) The proposed use will not have a substantial adverse effect on abutting properties or the permitted use thereof because the proposed project is consistent with the General Commercial (C2) zone of the Development Code, with approval of this Conditional Use Permit. The proposed use would not create noise exceeding that allowed by the municipal code, or result in traffic exceeding the design capacity of Ranchero Road or Seventh Avenue, or cause other conditions or situations that may be objectionable or detrimental to other uses allowed in the vicinity or be adverse to the public convenience, health, safety or general welfare. Further, the sale of alcoholic beverages (beer, wine and liquor) as part of the convenience store will not have a detrimental impact on adjacent properties.
- (f) The proposed project is consistent with the goals, policies, standards and maps of the adopted zoning and Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the project is consistent with the regulations allowing nonresidential uses within the General Commercial (C2) zone of the Development Code. The development complies with the standards for landscaping, driveway aisles, parking stall dimensions, building heights, trash enclosure, loading areas, and all other applicable development standards. The project also complies with the Americans with Disabilities Act (ADA), as the

required accessible parking spaces and paths of travel meet the standards within the ADA as well as state and federal handicapped accessible regulations. The development will be constructed pursuant to the California Building and Fire Codes and subsequent adopted amendments.

- (g) The site for the proposed use will have adequate access based upon its frontage along Rancho Road and Seventh Avenue. There are also general services for sanitation, water and public utilities to ensure the public convenience, health, safety and general welfare. Additionally, the building will have adequate infrastructure to operate without a major extension of infrastructure.
- (h) The proposed project is consistent with the adopted General Plan of the City of Hesperia. A gas station, convenience store, drive-thru restaurant and the sale of alcoholic beverages are allowable uses with approval of the General Plan Amendment and Conditional Use Permit.

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 CUP16-00005, subject to the conditions of approval as shown in Attachment "A".

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

ADOPTED AND APPROVED on this 10th day of November 2016.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

ATTACHMENT "A"
List of Conditions for CUP16-00005

Approval Date: December 20, 2016
Effective Date: December 20, 2016
Expiration Date: December 20, 2019

This list of conditions applies to: Consideration of a General Plan Amendment GPA16-00001 to change the designation of the subject property from Limited Agricultural with a minimum lot size of one-acre (A1) to General Commercial (C2) in conjunction with Conditional Use Permit CUP16-00005 to construct a 4,500 square foot convenience store with five fuel islands, which includes the sale of beer, wine and liquor for off-site consumption, and an attached 1,800 square drive-thru restaurant located on the northwest corner of Ranchero Road and Seventh Avenue (APN: 0412-182-15; Applicant: Maida Holdings, LLC)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been completed by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

SPECIALTY PLANS. The following additional plans/reports shall be required for businesses with special environmental concerns: (B)

A. Restaurants and food handling facilities shall submit plans to the San Bernardino County Department of Environmental Health Services. One set of the approved plans shall be submitted to the Building Division with the required application fees.

B. Three sets of plans for underground fuel storage tanks shall be submitted to the Building Division with required application fees.

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

PERCOLATION TEST. The applicant shall submit a percolation test, performed by a California licensed civil or soils engineer, and approved by the San Bernardino County Department of Environmental Health Services for the required private sewage disposal systems. Should the applicant agree in writing to use the most restrictive percolation test for a site in close proximity to the subject property in designing the sewage disposal systems, then a percolation test shall not be required to be performed on-site. The applicability of any percolation test for use in designing the sewage disposal systems shall be subject to review and approval by the Building and Safety Division. In the event a tract map or parcel map has previously been recorded on the project site,

the City of Hesperia has a percolation test on file, and no unusual conditions apply, this requirement may be waived by the Building and Safety Division. (B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

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. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

GEOTECHNICAL REPORT. The Developer shall provide two copies of the soils report to substantiate all grading building and public improvement plans. Include R value testing and pavement recommendations for public streets. (E B)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

TITLE REPORT. The Developer shall provide a complete title report 90 days or newer from the date of submittal. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

N.P.D.E.S. 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)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

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)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the improvement plan submittal. The Final Map CDP improvement plans requested studies and CFD annexation must be submitted as a package. The developer shall coordinate with the Citys Engineering Department for any additional fees. Any outstanding fees must be paid before final inspection and the release of bonds. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

IRREVOCABLE OFFERS OF DEDICATION. The Developer shall submit an Offer of Dedication to the Citys Engineering Department for review and approval. At time of submittal the developer shall complete the Citys application for document review and pay all applicable fees. (E)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

GENERAL PLAN AMENDMENT. These conditions are concurrent with General Plan Amendment GPA16-00001 becoming effective.

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

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 Applicants 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 Citys election to defend itself, whether at the cost of the Applicant or at the Citys own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

PHOTOMETRIC PLANS. The Developer shall submit two sets of photometric plans to the Building Division demonstrating that parking lot lighting will not exceed 0.5 foot-candles at property lines.

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

PRE-CONSTRUCTION MEETING. 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

SURVEY. The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

APPROVAL OF 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

DEDICATION(S). The Developer shall grant to the City an Irrevocable Offer of Dedication for Rancho Road and Seventh Avenue. The right of way half width for Rancho Road shall be seventy (70') feet. The right of way half width for Seventh Avenue shall be fifty (50') feet. 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, including interior roadways. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

GRADING PLAN. The Developer shall submit 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 basin(s) as a minimum. Site grading and building pad preparation shall include recommendations provided per the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw) and top of footing (tf) elevations along with finish grade (fg) elevations. Wall height from finish grade (fg) to top of wall (tw) shall not exceed 6.0 feet in height. Grading Plans are subject to a full review by the City of Hesperia and the City Engineer upon submittal of the Improvement Plans. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

ON SITE RETENTION (FUELING STATIONS). 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. It is the Developers responsibility to remove existing on site storm drain facilities per the City Inspector. 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. The Developer shall provide an E.P.A. approved oil and gasoline stop valve for the proposed on site retention system. The documentation shall be provided to the City for their review. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

TRAFFIC SIGNAL(S). The Developer shall pay their Fair Share Contribution of \$49,077.00 for future installation of the traffic signal, as presented in the traffic report. This fee is in addition to the City DIF.

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

STREET IMPROVEMENTS. The Developer shall design street improvements in accordance with City standards and these conditions. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

Ranchero Road. Saw-cut (2-foot min.) and match-up asphalt pavement on Ranchero Road across the project frontage, based on City's 140' Ranchero Road Roadway Standard. The curb face will be left at existing. The project driveway of Ranchero Road shall restricted to right-in and right-out turn

movements. Stripe an exclusive westbound right turn lane, with a bike lane, for this driveway. 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. Sidewalk (width = 6 feet) per City standards.
- B. Streetlights per City standards.
- C. Intersection improvements including handicapped ramps per City standards.
- D. Commercial driveway approach per City standards.
- E. Pavement transitions per City Standards.
- F. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 12 and per the soils report.
- G. Cross sections every 50-feet per City standards.
- H. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- I. Provide a signage and striping plan per City standards.
- J. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.
- K. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.
- L. Provide signage and striping for a Class 2 bike trail, per City's adopted non-motorized transportation plan.

ONGOING CONDITIONS

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

NOISE LEVELS. Noise level shall be maintained at or below the general performance standards in the City's Noise Ordinance at all times.

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

COMPLETED COMPLIED BY
NOT IN COMPLIANCE

Seventh Avenue. Saw-cut (2-foot min.) and match-up asphalt pavement on Seventh Avenue across the project frontage, based on City's 100-foot Arterial Roadway Standard. The curb face is to be located at 36' from the approved centerline. The project driveway on Seventh Avenue will be a full access driveway. Seventh Avenue shall be widened along its project frontage, with adequate transitions, to provide for a two-way left turn at the project driveway, and provide for an exclusive southbound left lane at Ranchero Road. 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. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Intersection improvements including handicapped ramps per City standards.

- F. Commercial driveway approaches per City standards.
- G. Pavement transitions per City Standards.
- H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 10 and per the soils report.
- I. Cross sections every 50-feet per City standards.
- J. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- K. Provide a signage and striping plan per City standards.
- L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.
- M. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

COMPLETED **COMPLIED BY**
 NOT IN COMPLIANCE

UTILITY PLAN. The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. 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 Developers expense. (E)

- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
- 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" ACP water line in Seventh Avenue per City Standards.
- C. The Developer is not required to install sewer lines unless the proposed septic system cannot meet the La Honton Regional Water Quality Boards requirements or the City of Hesperias EDU requirements.
- 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. The Wastewater Questionnaire is only required if the project is required to connect to sewer.

COMPLETED **COMPLIED BY**
 NOT IN COMPLIANCE

FIRE FLOW TEST. Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety. [F 5b]

COMPLETED **COMPLIED BY**
 NOT IN COMPLIANCE

FISH AND GAME FEE. The applicant shall submit a check to the City in the amount of \$2,260.25 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

COMPLETED **COMPLIED BY**
 NOT IN COMPLIANCE

CULTURAL RESOURCES. If cultural resources are found during grading then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

DEVELOPMENT FEES. The Developer shall pay required development fees as follows:

A. School Fees (B)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

AQMD APPROVAL. The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

FIRE ACCESS-POINTS OF VEH. ACCESS. The development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and for evacuation routes.

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

FIRE ACCESS-SINGLE STORY ROAD ACCESS. 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.

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

FIRE SURFACE-MINIMUM 80K POUNDS. All roads shall be designed to 85 compaction and/or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds. [F 42]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

WATER SYSTEM COMMERCIAL. A water system approved 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]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

LANDSCAPE PLANS. The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

SOLID MASONRY WALLS AND FENCES. 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. An approved six foot high wall with decorative cap shall be provided along the northern and western property lines in accordance with the Development Code. (P)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

LIGHT AND LANDSCAPE DISTRICT ANNEXATION. Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

DEVELOPMENT FEES. The Developer shall pay required development fees as follows:

- A. Development Impact Fees (B)
- B. Fair Share Traffic Fees (B)
- C. Utility Fees (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

UTILITY CLEARANCE AND C OF O. 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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

AS BUILT PLANS. The Developer shall provide as built plans. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

ELECTRONIC COPIES. The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2007 to the City's Engineering Department. (E)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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)

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

(9/6/2016 3:39 PM CM)
Phase 1 of project will be required to have a complete fire

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NOT IN COMPLIANCE

COMPLIED BY

alarm system, once phase 2 is started phase 1 will be required to have fire sprinklers installed along with the phase 2 addition.

FIRE ALARM-AUTO OR MANUAL. 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. [F 62a]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

FIRE EXTINGUISHERS. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. [F88]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

FIRE SPRINKLER NFPA#13. An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the 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 (minimum 1/8 scale) shall include hydraulic calculations and manufacturers specification sheets. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F 59]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

HOOD AND DUCT SUPPRESSION. An automatic hood and duct fire extinguishing system is required. A Fire Department approved designer/installer shall submit three (3) sets of detailed plans (minimum 1/8 scale) with manufactures specification sheets to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. [F 65]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

KNOX BOX. An approved Fire Department key box is required. [F85]

COMPLETED
NOT IN COMPLIANCE

COMPLIED BY

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 and color exterior building elevations identified as Exhibit A. Any exceptions shall be approved by the Director of Development Services. (P)

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

- (B) Building Division 947-1300**
- (E) Engineering Division 947-1476**
- (F) Fire Prevention Division 947-1603**
- (P) Planning Division 947-1200**
- (RPD) Hesperia Recreation and Park District 244-5488**



DATE: November 10, 2016
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP16-00008; Applicant: Tony Dahi; APN: 0413-111-52

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2016-29, approving Conditional Use Permit CUP16-00008.

BACKGROUND

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

Location: 15555 Main Street, D6

Current General Plan and Land Uses: The site is within the Pedestrian Commercial (PC) Zone 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 a suite on the west end of the Hesperia Marketplace. The anchor tenant in this center is Cardenas Market. The land to the south of the shopping center is occupied with single-family residences. The land to the east is vacant. The properties to the west include a financial institutional use and vacant land (Attachment 3).

ISSUES/ANALYSIS:

Land Use: Mr. D's Pizza will be opening a restaurant within the Hesperia Marketplace and would like to sell alcohol as part of their dining service. The Main Street and Freeway Corridor Specific Plan requires a Conditional Use Permit for the sale of alcohol. The applicant has applied for a Type 41 license with the California Department of Alcoholic Beverage Control (ABC). A Type 41 is considered an on-sale beer and wine license for a bona fide public eating place. Census Tract 100.19 is generally bounded by Main Street, Eleventh Avenue, Ranchero Road, and the BNSF Railway. Currently, this census tract includes six active on-sale licenses, two of which are within the same center. ABC has determined that Census Tract 100.19 exceeds its limitation of four licenses and requires the City to make a finding of public convenience and necessity (Attachment 4).

Table 1: Existing On-Sale Licenses in Census Tract 100.19

| Status | Business Name | Business Address | Type of License |
|--------|-------------------------------|-------------------|---|
| Active | Fraternal Order of Eagles | 16193-97 Main St | 51-Beer & Wine (Club) |
| Active | China Palace Restaurant | 15555 Main St , F | 41-Beer & Wine |
| Active | Characters Sports Bar & Grill | 15918 Walnut St | 48-Beer, Wine, & Liquor (Public premises) |

| | | | |
|--------|--------------------------------------|------------------------|---|
| Active | Spring House Restaurant | 16441 Main St | 41-Beer & Wine |
| Active | Tina's Giuseppe's Italian Restaurant | 15555 Main St, Suite F | 47-Beer, Wine, & Liquor
(Eating place) |
| Active | Los Domingos Restaurant | 15717 Main St | 47-Beer, Wine, & Liquor
(Eating place) |

Staff believes that the findings of necessity and convenience required to obtain additional licenses in an over-concentrated tract can be made. Main Street is a major commercial corridor that provides convenient shopping and dining services. In particular, the restaurant will be located within the Pedestrian Commercial zone, considered to be a center of activity in the downtown portion of Hesperia. In this area, a variety of uses are expected in order to create a vibrant atmosphere and a convenient location whereby residents could obtain their services. It is the City's intent to continue to attract commercial developments, including sit-down restaurants in this area, which necessitate exceedence of ABC's standards for on-sale licenses. The pizza restaurant with alcohol sales will offer residents a broader selection of dining services.

Schools and Parks: The project site is located approximately ¼ mile of Hesperia Junior High School, and less than 1/2 mile from Civic Plaza Park.

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

Conclusion: The project conforms to the policies of the City's General Plan as well as the intent of the Specific Plan. Approval of an alcoholic beverage license is necessary in order to allow the restaurant to be competitive with similar businesses and to meet customer demand. It serves the public convenience and necessity to have a mix of different restaurants within the Pedestrian Commerical zone, serving City residents within the downtown area.

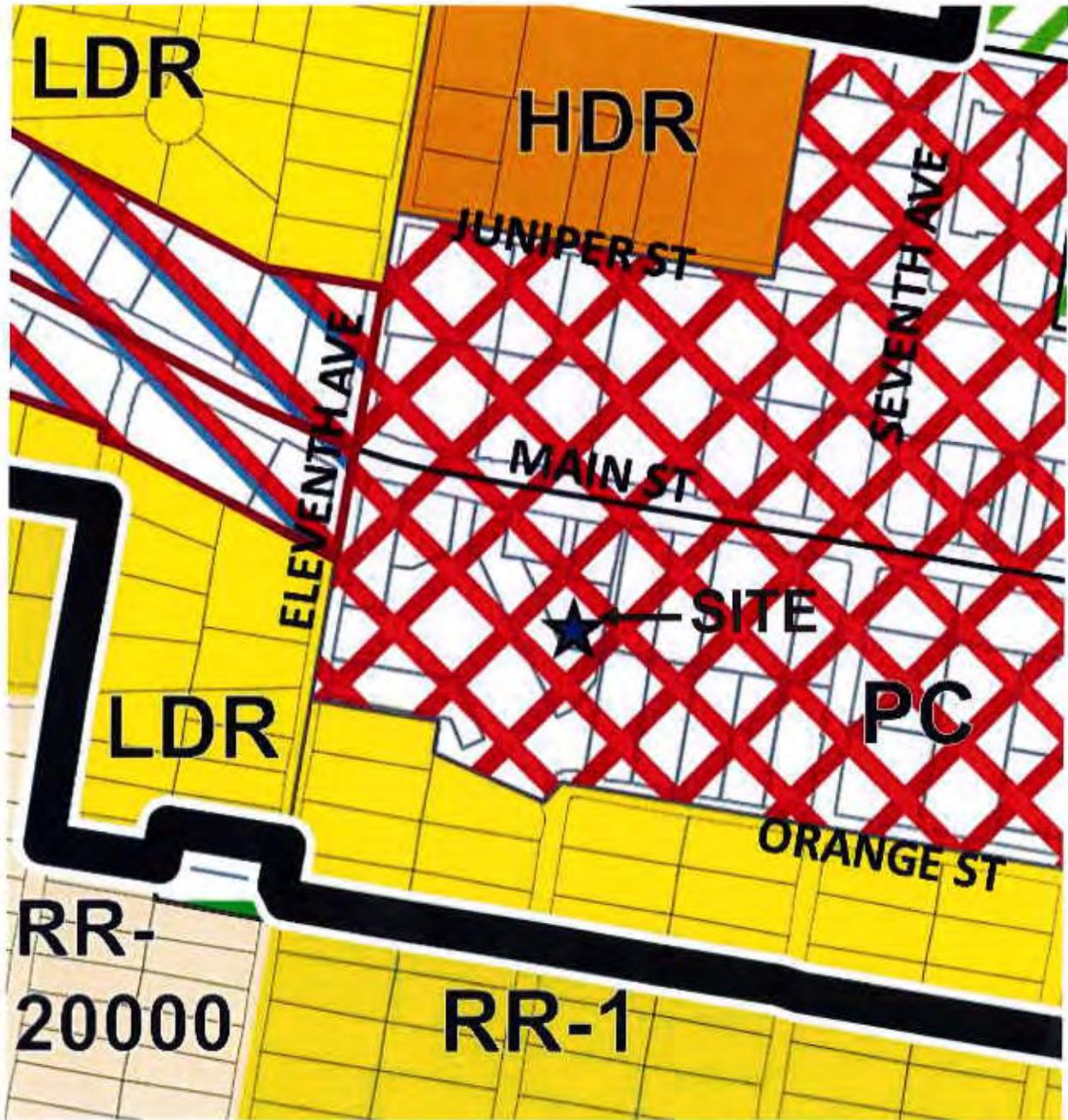
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan
2. Aerial photo
3. Census Tract Map
4. Resolution No. PC-2016-29, with list of conditions

ATTACHMENT 1



APPLICANT(S):

TONY DAHI

FILE NO(S):

CUP16-00008

LOCATION:

15555 MAIN STREET, D6

APN:

0413-111-52

PROPOSAL:

A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT.



GENERAL PLAN

ATTACHMENT 2



APPLICANT(S):

TONY DAHI

FILE NO(S):

CUP16-00008

LOCATION:

15555 MAIN STREET, D6

APN:

0413-111-52

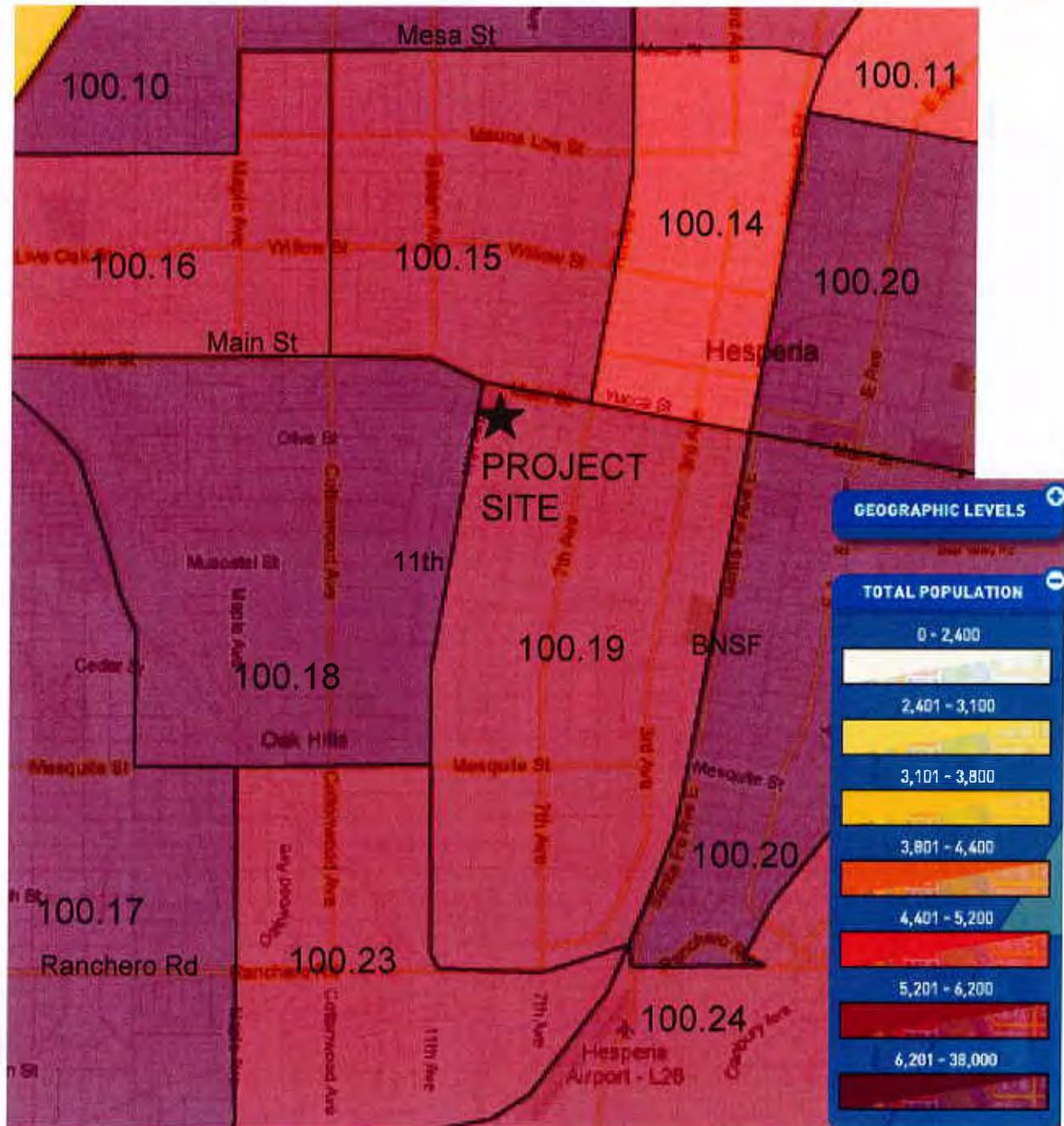
PROPOSAL:

A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT.



AERIAL PHOTO

ATTACHMENT 3



APPLICANT(S):
TONY DAHI

FILE NO(S):
CUP16-00008

LOCATION:
15555 MAIN STREET, D6

APN:
0413-111-52

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT.



CENSUS TRACT MAP

ATTACHMENT 4

RESOLUTION NO. PC-2016-29

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT AT 15555 MAIN STREET, D6 (CUP16-00008)

WHEREAS, Tony Dahi (Mr. D's Pizza) has filed an application requesting approval of Conditional Use Permit CUP16-00008 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a restaurant at 15555 Main Street, D6 and consists of Assessor's Parcel Number 0413-111-52; and

WHEREAS, the Application, as contemplated, proposes to establish the sale of beer and wine as part of a restaurant; and

WHEREAS, the subject site is presently developed with an existing shopping center as part of the Hesperia Marketplace. The land to the south of the shopping center is occupied with single-family residences. The land to the east is vacant. The properties to the west include a financial institutional use and vacant land; and

WHEREAS, the subject property is within the Pedestrian Commercial (PC) Zone of the Main Street and Freeway Corridor Specific Plan. The land to the north is also within the PC Zone. The properties to the west are within the Low Density Residential (LDR) and Office Commercial (OC) Zones. The land to the south is within the LDR Zone; 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 10, 2016, 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 10, 2016 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 Pedestrian Commercial Zone 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 business is restricted to the sale of beer and wine in conjunction with a restaurant.

- (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 commercially developed 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 a restaurant as part of an existing development. The sale of beer and wine at this location supports the public convenience and necessity and is consistent with the conditionally permitted uses within the Pedestrian Commercial Zone.
- (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 CUP16-00008, subject to the conditions of approval as shown in Attachment 'A' and finds the proposal to be a public convenience and necessity.

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

ADOPTED AND APPROVED this 10th day of November 2016

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP16-00008

Approval Date: November 10, 2016
Effective Date: November 22, 2016
Expiration Date: November 22, 2019

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 15555 Main Street, D6. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Tony Dahi; APN: 0413-111-52).

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.

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 |

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**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, October 19, 2016**

A. PROPOSALS:

1. PRIME 40 WEST LLC; (TTE15-00003)

Proposal: Consideration of a Tentative Tract Extension to extend TT-18214, a 36-lot single-family residential subdivision on 21.9 gross acres.

Location: South of Rancho Road between Glider Avenue and Jenkins Avenue (0397-091-05 and 0397-161-10, 12, 13 and 17)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

2. PACIFIC COMMUNITIES BUILDER INC; (TTE16-00016)

Proposal: Consideration of a third extension of time for TT-16546 to create 56 single-family residential lots on 15.00 gross acres.

Location: South side of Live Oak Street, ½ mile west of Topaz Avenue (405-062-18 & 19)

Planner: Stan Liudahl

Action Taken: Administrative Approval

3. TONY DAHI; (CUP16-00008)

Proposal: Consideration of a Conditional Use Permit to allow the sale of beer and wine in conjunction with a restaurant (Type 41).

Location: 15555 Main Street (0413-111-51)

Planner: Daniel Alcayaga

Action Taken: Forwarded to Planning Commission Meeting of November 10, 2016

4. **PATRICIA PEREIRA; (VAR16-00003)**

Proposal: Consideration of a Variance to reduce the interior side yard setback from 10 feet to approximately 7 feet.

Location: 12951 La Costa Court (3046-291-62)

Planner: Stan Liudahl

Action Taken: Forwarded to Planning Commission Meeting of November 10, 2016



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, November 2, 2016**

A. PROPOSALS:

1. CAL EARTH; (SPR16-00005)

Proposal: Consideration of a Site Plan Review to construct a Cal Earth Research and Educational Facility.

Location: West side of Topaz Avenue, 300 feet north of Live Oak (0405-261-24)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

2. AEMERGE REDPAK SERVICES; (SPR16-00013)

Proposal: Consideration of a Site Plan Review to permit establishment of a medical waste treatment and recycled material manufacturing facility on 4.7 acres.

Location: 9600 E Avenue (0410-112-18 & 19)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

3. FHII, LLC; (TTE16-00017)

Proposal: Consideration of an extension of time for Tentative Tract TT-17980, to create 312 single-family residential lots on 79.4 gross acres and one 10-acre commercially designated lot.

Location: Rancho Road, south of Mission Street, east of Topaz Avenue and west of Maple Avenue (0405-371-17 & 47 and 0405-383-01, 31 & 32)

Planner: Stan Liudahl

Action Taken: Administrative Approval

4. **GREG CRUMP; (SPRE16-00005)**

Proposal: Consideration of a Site Plan Review Extension, a sixth extension of approved Site Plan Review SPR-2006-06, to construct a three-story, 14-unit condominium development on 1.4 gross acres.

Location: Southeast corner of Donert Street and "A" Avenue (0415-093-09)

Planner: Ryan Leonard

Action Taken: Administrative Approval

5. **BRETT MARCHI; (SPR16-00012)**

Proposal: Consideration of Site Plan Review to construct a new stand-alone drive up ATM and additional parking lot for an adjacent existing bank on a .46 gross acre parcel.

Location: Southeast corner of Main Street and Yucca Avenue (0411-291-01)

Planner: Ryan Leonard

Action Taken: Administrative Approval