PLANNING COMMISSION AGENDA

SPECIAL MEETING

Date: January 29, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Stephen James, Chair

Chris Elvert, Vice Chair

Joline Bell Hahn, Commissioner

Paul Russ, Commissioner

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Dave Reno, Principal Planner

Douglas P. Haubert, 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.

JANUARY 29, 2009

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 Stephen James
Vice Chair Chris Elvert
Commissioner Joline Bell Hahn
Commissioner Paul Russ

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: January 8, 2009 Planning Commission Meeting Draft Minutes **–1–**

PUBLIC HEARINGS

1. Consideration of Conditional Use Permit (CUP-2006-05) to construct the Main Street Marketplace project consisting of up to 425,038 square feet of retail space and Tentative Parcel Map (PM-18187) to create eight commercial parcels with an associated Environmental Impact Report on approximately 43.84 acres zoned Regional Commercial located on the southeast corner of Main Street and Escondido Avenue (Applicant: Wal-Mart Stores, Inc.; APNs: 3057-011-07, 09, 11 thru 13) (Planner: Senior Planner, Daniel S. Alcayaga AICP). **1–1**

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 **2–1**

F. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Eva Heter, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, January 22, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.

Eva Heter
Planning Commission Secretary

PLANNING COMMISSION
REGULARLY SCHEDULED MEETING

DRAFT MINUTES

January 8, 2009

The regular meeting of the Hesperia Planning Commission was held on Thursday, January 8, 2009 in the City Council Chambers, 9700 Seventh Avenue Hesperia, California. The meeting was called to order at 6:36 p.m. by Chair James.

A. CALL TO ORDER

1. Pledge of Allegiance – Commissioner Russ

2. Invocation - Commissioner Hahn

3. Roll Call

Chair, Stephen James	Present
Vice Chair, Chris Elvert	Present
Commissioner Joline Bell Hahn	Present
Commissioner Paul Russ	Present
(1) Commissioner's Seat Vacant	

In Attendance for Staff: Principal Planner, Dave Reno AICP; Director Development Services, Scott Priester; Assistant City Attorney, Douglas Haubert; Senior Planner, Daniel Alcayaga AICP; Assistant Planner, Lisette Sanchez-Mendoza; Senior Engineer, Tom Thornton; Recording Secretary, Eva Heter.

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B. PUBLIC COMMENTS-

Chair James opened Public Comment: 6:38 p.m.

No comments to consider.

Chair James closed Public Comments: 6:39 p.m.

C. CONSENT CALENDAR

Approval of Minutes: December 9, 2008 Planning Commission Minutes

Motion: Commissioner Russ moved to approve the December 9, 2008, Planning Commission Minutes as presented. Commissioner Hahn seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

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D. PUBLIC HEARING ITEMS

1. Consideration of Tentative Tract (TT-18214) to create 36 single-family residential lots on 21.0 gross acres zoned R1-18000 located on the southeast corner of Ranchero Road and Glider Avenue (Applicant: Hagai Rappaport, LLC; APNs: 0397-161-10, 12, 13, 17, and 0397-091-05) (Staff Person: Daniel S. Alcayaga, AICP).

Senior Planner, Daniel S. Alcayaga AICP gave a brief staff report.

Commissioner Hahn questioned the retention pond proposed on the site; she also questioned the block wall that would run along the street and then along the neighboring property line.

Senior Planner, Daniel S. Alcayaga AICP stated that he was only able to discuss the proposed project and not the neighboring property. He stated that a block wall was conditioned on the northern property line, a six foot block wall, to act as a buffer.

Commissioner Hahn questioned the block wall on the eastern property line of lot 24.

Vice Chair Elvert questioned if a condition of approval be issued for the block wall.

Senior Planner, Daniel S. Alcayaga AICP stated that a condition of approval could be added at the discretion of the Commission.

Commissioner Russ questioned if the lot would be conditioned for lot 24 or for the other lot.

Senior Planner, Daniel S. Alcayaga AICP stated that the developer would only have control of lot 24.

Commissioner Russ questioned if the block wall was being conditioned for lot D.

Senior Planner, Daniel S. Alcayaga AICP stated that the block wall was technically being conditioned for lot D.

Commissioner Russ clarified that the condition was going to be for lot 24 & lot D, but not for the existing property owner.

Senior Planner, Daniel S. Alcayaga AICP stated that Commissioner Russ was correct.

Chair James questioned who would maintain the retention basin.

Senior Engineer, Tom Thornton stated that the Parks and Recreation District would maintain the visual aspect of the retention basin and the Public Works Department would handle the maintenance of the retention basin itself.

Chair James questioned if there was something that could be done to clarify the distinct duties of the Public Works Department and the Parks and Recreation District duties where the retention basins were concerned, in order to better inform the public.

Senior Engineer, Tom Thornton stated that staff could look at future modification of the conditions in order to have better clarification of the maintenance procedures and responsibilities of the retention basins.

Chair James opened Public Hearing: 6:47 p.m.

Applicant Representative, Cubit Engineering, Craig Sundgren stated that the applicant was in support of the condition. He explained that the block wall was only for keeping the headlight glare from entering the back yard. He also stated that he was available for any questions.

Commissioner Hahn clarified that the wall on lot C would proceed all the way down to the east end of lot B and around the corner, due to the retention basin.

Applicant Representative, Cubit Engineering, Craig Sundgren stated that lot B was a retention basin which had a wall and rod iron fence requirement anyway; therefore, it was understandable that a wall along the north side of lot C then the wall would definitely be extended to connect to the wall on lot B.

Commissioner Hahn questioned the wall on the other corner.

Applicant Representative, Cubit Engineering, Craig Sundgren stated that the proposal did not state any specification for the wall at the corner; however, it would be reasonable to connect.

Hesperia Resident, Shannon Gibson questioned the location of the entrance for the housing development.

Senior Planner, Daniel S. Alcayaga AICP reviewed the various entrances that were being proposed for the project and various possible entrances.

Chair James stated that the access on D Street was part of phase 2.

Hesperia Resident, Shannon Gibson questioned the timing of the construction of the entrance on D Street.

Chair James stated that the timing of the project/phase build-out was market driven. He clarified that the applicant was only asking to create the lots for the tract; no actual plan of development had been submitted at that time.

Hesperia Resident, Shannon Gibson questioned why brand-new homes were being considered when there was an innumerable amount of empty houses in the area.

Chair James stated that the proposal being reviewed was strictly a tentative tract map.

Commissioner Russ stated that the owners of the property have a right to develop their property.

Hesperia Resident, Shannon Gibson stated that she felt that an entrance between two homes was noise pollution.

Chair James stated that the proposed project indicated that the property was being developed with consistency to the surrounding homes. He stated that there was going to be consistency with the existing development in the area.

Hesperia Resident, Shannon Gibson questioned if there would be future meetings regarding the project.

Chair James stated that the planning department would handle future project proposals.

Principal Planner, Dave Reno AICP stated that the Planning Division would review all of the civil plans for future development. He also stated that the approval, for the current proposal, was for three years and once the map was recorded then the homes could be built individually.

Commissioner Russ stated that as a city there was a supply and demand for homes. He also stated that the applicant takes risks of their own when developing and the Planning Commission doesn't pick winners or losers. Applicants risk their own capital when developing; if the applicant was willing to invest millions of dollars and was in compliance with all City Codes and Regulations, then the Planning Commission would not pick winners and losers.

Hesperia Resident, Shannon Gibson stated that she could appreciate the approach of the Planning Commission because she would like the same opportunity to develop if the scenario was applicable to her. She also questioned if the plan was for the fence line to be developed on Jenkins Avenue or was there some type of green-belt proposed for the area.

Commissioner Hahn stated that she was questioning the fence line as well; however, landscaping was all along both side of the road and all the way back to the corner.

Hesperia Resident, Shannon Gibson stated that she was only concerned with the area along Jenkins Avenue.

Commissioner Hahn stated, with regards to Shannon Gibson's earlier comment about access, that every tract was required to have two entrances for Fire Access Requirements.

Hesperia Resident, Shannon Gibson questioned the proposed homes for the tract.

Chair James stated that no homes were being proposed only the Tentative Tract was being presented to the Planning Commission. He clarified that the Tentative Tract was for the purpose of setting up a map for the lots.

Commissioner Hahn stated that the applicant had three years to submit plans for the homes to be proposed for the tract.

Chair James closed Public Hearing 6: 59 p.m.

Principal Planner, Dave Reno AICP read the amendment into the record: Condition 33 should read, starting on the third line, "In addition to the six foot split-face masonry wall with decorative cap shall be constructed on private property, adjacent to Lot "A" along the northern boundary of Lot "B," extending southward along the eastern boundary of Lot "24" approximately 25 feet and continuing on as written in the existing condition."

Motion: Commissioner Russ motioned to adopt Resolution No. PC-2009-01 as amended, approving Tentative Tract (TT-18214). Vice Chair Elvert seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner Hahn, Commissioner Russ, Vice Chair Elvert, Chair James**

Noes:

Absent:

Abstains:

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2. Consideration of Conditional Use Permit (CUP-2008-10) to establish a 20,040 square foot private junior college within an existing office park zoned Regional Commercial located at 9329 and 9331 Mariposa Road (Applicant: San Joaquin Valley College; APN: 3064-611-14 & 15) (Staff Person: Lisette Sanchez-Mendoza).

Assistant Planner, Lisette Sanchez-Mendoza gave a brief staff report.

Commissioner Hahn clarified that Building "A" would be used temporarily.

Assistant Planner, Lisette Sanchez-Mendoza stated that Commissioner Hahn was correct.

Commissioner Hahn requested clarification on the improvements that would be made to the Building "A".

Assistant Planner, Lisette Sanchez-Mendoza stated that there would be no interior improvements on the Building "A," the space would only be occupied until all of the improvements had been made to Building "B," at which time Building "A" would be vacated and permanent occupancy would be taken at Building "B."

Vice Chair Elvert stated that in the verbal report the available parking spaces were reported as 110 spaces which would accommodate 200 students. He questioned the figure and how staff concluded that the 110 spaces would accommodate 200 students.

Assistant Planner, Lisette Sanchez-Mendoza clarified that there were a total of 210 parking spaces, of which Building "A" will require 80.8 parking spaces and Building "B" would only require the remaining spaces (Building "B" would not be one hundred percent occupied). She reviewed the occupancy and the required parking spaces for the facility, including requirements for faculty and staff.

Commissioner Hahn questioned the parking.

Assistant Planner, Lisette Sanchez-Mendoza stated that there were 210 parking spaces all total for the site.

Chair James questioned the equation for projected parking spaces.

Assistant Planner, Lisette Sanchez-Mendoza stated that the Code was the guiding factor for parking space requirements for the facility.

Commissioner Hahn stated that the projected parking spaces required for the site didn't seem logical; she asked for clarification on the ratio of parking (students/parking spaces).

Principal Planner, Dave Reno AICP stated that staff reviewed the City Code along with other codes for parking loads at schools and the parking ratio was determined. He stated that there were factors affecting the parking ratio, such as the schools having different shifts or session for students that would reduce the amount of students on site at any one given time. He stated that there would not be 250 students on site at one time for any given session; however, he would agree that if that were the case then there would be too little parking. The base of students in attendance during any one session was limited per shift.

Commissioner Hahn questioned the circulation of traffic in the area. She stated that she didn't recall a turn-in lane to the facility and she was concerned about traffic coming to and from the facility.

Principal Planner, Dave Reno AICP stated that the building was designed for 210 spaces and an office use and originally designed per City Code, which included circulation consideration at the time of construction.

Chair James questioned the definition of "session".

Principal Planner, Dave Reno AICP stated that sessions were directed toward times of day.

Chair James stated that there was a reference, in the staff report, toward the maximum number of students "per session" being 250 students per session, which was referencing 250 students on-site 3 times a day.

Assistant Planner, Lisette Sanchez-Mendoza stated that the projected number was per session; the maximum parking capacity at the facility would allow 250 students, including faculty per session.

Chair James stated that the staff report contradicted itself regarding parking. He asked for clarification on the parking for the site.

Project Planner, Lisette Sanchez-Mendoza stated that the proposal was for the initial enrollment being from 50-60 students the first year, peaking at 80-100 students. She stated that the conditional use permit would allow them to have up to a maximum of 250 students per session.

Assistant City Attorney, Doug Haubert recommended moving onto the public hearing, allowing additional input from the Applicant, and then if the Commission felt it necessary to modifying the condition it could be done with all information available. He recommended opening the public hearing, allow additional input and then decipher whether or not the conditions were adequate.

Chair James opened Public Hearing: 7:13 p.m.

Steve Perry, Director of Facilities for San Joaquin College stated that he was available for any questions.

Vice Chair Elvert questioned a session and the anticipated parking per each session.

Steve Perry, Director of Facilities for San Joaquin College stated that the session would be according to a block of time. When a student enrolls there would be three sessions: morning, afternoon and evening; each student would enroll in a particular session and there would be no diversion from the session schedule. The student would select the morning, afternoon, or evening session and would then be consistent with attendance during that session's block of time.

Vice Chair Elvert questioned the number of attending students foreseen at any given session.

Steve Perry, Director of Facilities for San Joaquin College stated that as a private college, tuition would be set to pay for all overhead, the facility would not receive any subsidies from the

government; therefore the enrollment numbers projected in the staff report at start-up were accurate. He stated that the 1/3 ratio was accurate.

Vice Chair Elvert questioned, specifically for the afternoon session, if there would be 250 students expected for that session to start.

Steve Perry, Director of Facilities for San Joaquin College stated that the afternoon was the poorest enrollment session; morning and evening sessions resulted in the heaviest enrollment.

Vice Chair Elvert rephrased his quested and questioned if, at any given time, there would be 250 students on campus.

Steve Perry, Director of Facilities for San Joaquin College he stated that the cost of the program was $12,000.00 per year and was a two year program; he stated that if the student base resulted in a 250 total count for any one session, it would be a surprise in a city the size of Hesperia. He stated that he did not believe that the total number count for any one session would reach the 250 maximum.

Commissioner Russ questioned how many school facilities Steve Perry was active with.

Steve Perry, Director of Facilities for San Joaquin College stated that he already had ten other schools in existence.

Commissioner Russ questioned the enrollment at the other 10 facilities.

Steve Perry, Director of Facilities for San Joaquin College stated that the programs enrollment certainly was dependent upon the metros. He broke down some of the enrollment for the other facilities, explaining the availability and diversity of offered programs.

Vice Chair Elvert stated that the pc wanted to determine if there was going to be adequate parking.

Steve Perry, Director of Facilities for San Joaquin College stated that 250 per session was the maximum parking available.

Commissioner Russ stated that if the number ratio holds true, then there was enough for 250 per session, which he wouldn't anticipate the level of enrollment to reach that level for a couple years.

Chair James stated that another concern was for Building "A", the narrow street, and parking availability.

Discussion ensued regarding the parking concerns.

Principal Planner, Dave Reno AICP stated that it was the City's discretion to have the Conditional Use Permit (CUP), which would provide regulations and options for remedies with regards to the operational conditions of the proposed CUP.

Steve Perry, Director of Facilities for San Joaquin College stated that the last thing that he wanted was a conflict with the neighboring tenants. Good neighbor policy was very important and was part of the schools goals to remain in good standing with neighbors, maintaining a paramount reputation within the City.

Senior Engineer, Tom Thornton stated that the site was analyzed by the Engineering Division at the maximum of 250 parking spaces, based on the site. He also stated that the curriculum presented to Staff did not show parking numbers reaching the maximum level of maximum; however, it was okay if the numbers peaked at the maximum 250 because the facility warrants that capacity. He clarified that the Engineering Division was the division which assigned the 250 maximum parking standards (according to code). He also stated that the CUP would allow regulation for the parking on the site.

Steve Perry, Director of Facilities for San Joaquin College stated that his concerns regarding parking matched that of Staff and the Planning Commission and he was willing to comply with the requirements set by the Code and City Regulations according to the CUP.

Commissioner Hahn stated that she was pleased to see the project; the Planning Commission was only concerned with the project specifications matching the City's code requirements.

Commissioner Russ questioned the anticipated opening date of the facility.

Steve Perry, Director of Facilities for San Joaquin College stated that the original project was going to be in Victorville, the CUP had been approved, the plans were drawn and then the site in Hesperia (with freeway frontage) became available; therefore the opening of the site has been delayed, according to their original projections, however they were expecting to open in mid July.

Commissioner Russ questioned the curriculum offered at the facility.

Steve Perry, Director of Facilities for San Joaquin College stated that people were looking for jobs and education was essentially a means to an end; therefore, the health care field would be predominantly the major course work for the facility. He stated that jobs in the medical profession, even in current economic times, were prevalent. The facility would start out small, building relationships with Doctors, clinics and hospitals and then expand on curriculum. The early stages of curriculum would be ultrasound, nursing, and possibly physician's assistants. He stated that the proposed project was his tenth CUP and he was extremely pleased with the City of Hesperia's Planning Division and Staff; he stated that he hadn't had a previous experience with any other cities where the Staff was more efficient and more effective than the Staff at the City of Hesperia. He thanked Staff.

Chair James closed Public Hearing: 7:24 p.m.

Motion: Commissioner Russ motioned to adopt Resolution No. PC-2009-02 as presented, approving Conditional Use Permit (CUP-2008-10). Commissioner Hahn seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner Hahn, Commissioner Russ, Vice Chair Elvert, Chair James**

Noes:

Absent:

Abstains:

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E. PRINCIPAL PLANNER'S REPORT

Principal Planner, Dave Reno AICP introduced Director Development Services, Scott Priester, who was to give a brief update on the Capital Improvement Program (CIP).

Commissioner Russ excused himself from the meeting.

Director Development Services, Scott Priester gave a brief update on the CIP Program (See Attachments 1 & 2).

Vice Chair Elvert questioned G-2, stating that there seemed to be a drastic increase in cost between the last CIP update and the current date.

Director Development Services, Scott Priester stated that the cost of materials have increased substantially since the last update, stating that the current street improvement program had an index built into the program which allowed for fluctuation where necessary; the index allowed for the fluctuation of cost for the program, allowing for additional cost and the reduction of cost where applicable. He reviewed the cost of projects, giving examples of both additional and reduced costs for applicable examples.

Commissioner Hahn questioned the temporary cement plant located

Director Development Services, Scott Priester, Scott Priester stated that Floyd Johnston, owner of the temporary cement plant, was the contractor who put in the HO1 line and that the temporary plant will be removed, due to the project having been completed.

Chair James questioned the green lines shown on the CIP Map (See Attachment 2).

Director Development Services, Scott Priester stated that the green line was indicative of the water line.

1. **DRC COMMENTS:**

No comments to consider.

2. **MAJOR PROJECT UPDATE:**

Principal Planner, Dave Reno AICP distributed information pertaining to the Wal-Mart Project that would be presented to the Commissioners on January 29, 2009. He requested that the Commissioners review the information prior to the upcoming Planning Commission Meeting.

F. PLANNING COMMISSION BUSINESS OR REPORTS:

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G. ADJOURNMENT-

Chair James adjourned the meeting to Thursday, January 29, 2009 at 7:50 p.m.

Approved By:

_____
Stephen S. James, Chair

Attested By:

_____
Eva Heter, Recording Secretary

CAPITAL IMPROVEMENT PROGRAM (C I P)

- *Overview and Summary*
- *C I P Expenditures by Project*
- *C I P Expenditures By Fund and Project*
- *C I P Project Listing*
- *C I P Project Descriptions*

OVERVIEW

The Capital Improvement Program (CIP) Summary includes the continued and new capital projects funded in the 2008-09 Budget. Information on capital projects completed in Fiscal Year (FY) 2007-08 are included to identify capital projects completed recently. Fiscal Year 2005-06 and Fiscal Year 2006-07 CIP projects are included for historical purposes on the expenditure summaries. Frequently CIP projects extend beyond one fiscal year.

The City's construction projects and major capital acquisitions, that have an extended life are included in the Capital Improvement Program. In some circumstances, studies undertaken related to anticipated future capital projects are also included. Generally, the CIP will include capital replacement projects that repair, replace, or enhance existing facilities, equipment, or infrastructure, and capital facility projects that significantly expand or add capacity to the City's existing fixed assets.

SUMMARY

The CIP projects are summarized as follows:

C I P Major Categories	Projects Completed in FY 2007-08*	Projects Continued in 2008-09 Budget	New Projects Included in 2008-09 Budget	New & Continued Projects Included in 2008-09 Budget
Streets C I P Projects	$7,170,162	$32,759,000	$10,659,895	$43,418,895
Storm Drainage	78,000	10,050,000	0	10,050,000
Facilities	3,412	16,749,500	125,000	16,874,500
Water	1,107,107	8,910,000	500,000	9,410,000
Sewer	521,194	1,675,000	975,000	2,650,000
Total C I P Projects	$8,879,875	$70,143,500	$12,259,895	$82,403,395

*Note – May include projects that are not yet completed but have been suspended and will resume in future years.

Streets C I P Projects - $43,418,895 (2008-09 Budget)

- 2008-09 Street Improvement Project - $10,659,895 is included in the 2008-09 Budget for the ninth year of the major Citywide Street Residential Improvement Program, as well as $8,080,000 to complete the FY 2007-08 Street Improvement Program. The program history is as follows:

	Expenditures	Miles Paved	Slurry Seal Miles
2000-01 Street Improvement Project	$ 2,226,573	18.0	0
2001-02 Street Improvement Project	$ 2,148,349	19.4	0
2002-03 Street Improvement Project	$ 1,993,142	16.5	0
2003-04 Street Improvement Project	$ 2,033,719	17.1	0
2004-05 Street Improvement Project	$ 3,166,412	18.2	12.4
2005-06 Street Improvement Project	$ 6,221,264	51.1	14.2
2006-07 Street Improvement Project	$11,379,826	57.0	11.0
2007-08 Street Improvement Project	$20,920,267	57.0	4.0
Eight Year Total	$50,089,552	254.3	41.6
2008-09 Street Improvement Project	**$10,659,895**	**35.6**	**0**
Nine Year Total	$60,749,447	289.9	41.6

- Ranchero Road Related Projects – 3 Projects $10,050,000 – Included in the 2008-09 Budget are three projects related to the Ranchero Road Corridor with the largest being the Ranchero Road Interchange project. The three projects are as follows:

• Ranchero Road Undercrossing	$ 6,300,000
• Ranchero Road I-15 Interchange Project Approval and Environmental Document	3,000,000
• Ranchero Road Improvement – 7th Avenue to Mariposa Road	750,000
	$10,050,000

- Fourteen Other Streets Projects – 14 Projects $14,629,000 – Included in the 2008-09 Budget are 14 other continuing streets projects. These projects include traffic signal and paving projects as well as aqueduct crossing and township improvements.

• Township Improvements and Redevelopment – (Spruce/Smoke Tree)	$ 5,600,000
• Rock Springs Road Reconstruction	1,759,000
• Main Street Corridor Design – 395 to 11th Avenue	1,600,000
• New Traffic Signal – Main Street & Rock Springs Road	1,520,000
• Industrial Park Lead Track Project	1,250,000
• 7th Avenue Roadway Improvements – Willow to Bear Valley Road	500,000
• Aqueduct Crossing Improvements – Widen Bridge at Main Street	500,000
• Muscatel Street Overpass, Phase 1 – Project Study Report/Project	475,000
• Widen Seventh Avenue – Main Street to Willow Street	335,000
• New Aqueduct Crossing – Bridge at Escondido Avenue	300,000
• Bear Valley Road Widening – Mariposa Road to 600 feet east	300,000
• Main Street/Hesperia Interchange Feasibility Design	250,000
• Railroad Crossing Feasibility Study – Eucalyptus/Lemon/Mojave	140,000
• Traffic Signal Upgrade – Main Street and Third Avenue	100,000
	$ 14,629,000

Storm Drainage C I P Projects - 3 Projects $10,050,000 – Included in the 2008-09 Budget are three drainage projects as follows:

• H-01 Drainage Facility – (Section 2) Main Street to Smoke Tree Street	$ 9,400,000
• H-01 Drainage Facility – (Section 3) 4th Avenue to the Railroad Tracks	400,000
• H-01 Drainage Facility – (Section 1) Maple Avenue to Main Street	250,000
	$10,050,000

Facilities C I P Projects - 9 Projects $16,874,500 – The following nine projects totaling $16,874,500 will be continued or initiated in Fiscal Year 2008-09 as follows:

• Fire Station – 305	$ 7,000,000
• Fire Station – 301	4,000,000
• High Desert County Government Center	1,387,500
• Downtown Park	1,250,000
• New Police Station	1,000,000
• Fire Station – 304 Expansion	1,000,000
• Fire Station Site Study and Design	612,000
• Fire Station – 302	500,000
• Code Compliance Facility	125,000
	$16,874,500

Water C I P Projects - 9 Projects $9,410,000

- Pipeline Replacement Program - $1,000,000 has been budgeted as a carryover for the FY 2006-07 waterline replacement program.

- One 2008-09 New Water Infrastructure Project - $500,000 is included for a new well site. The project is to identify potential sites for future wells in the City.

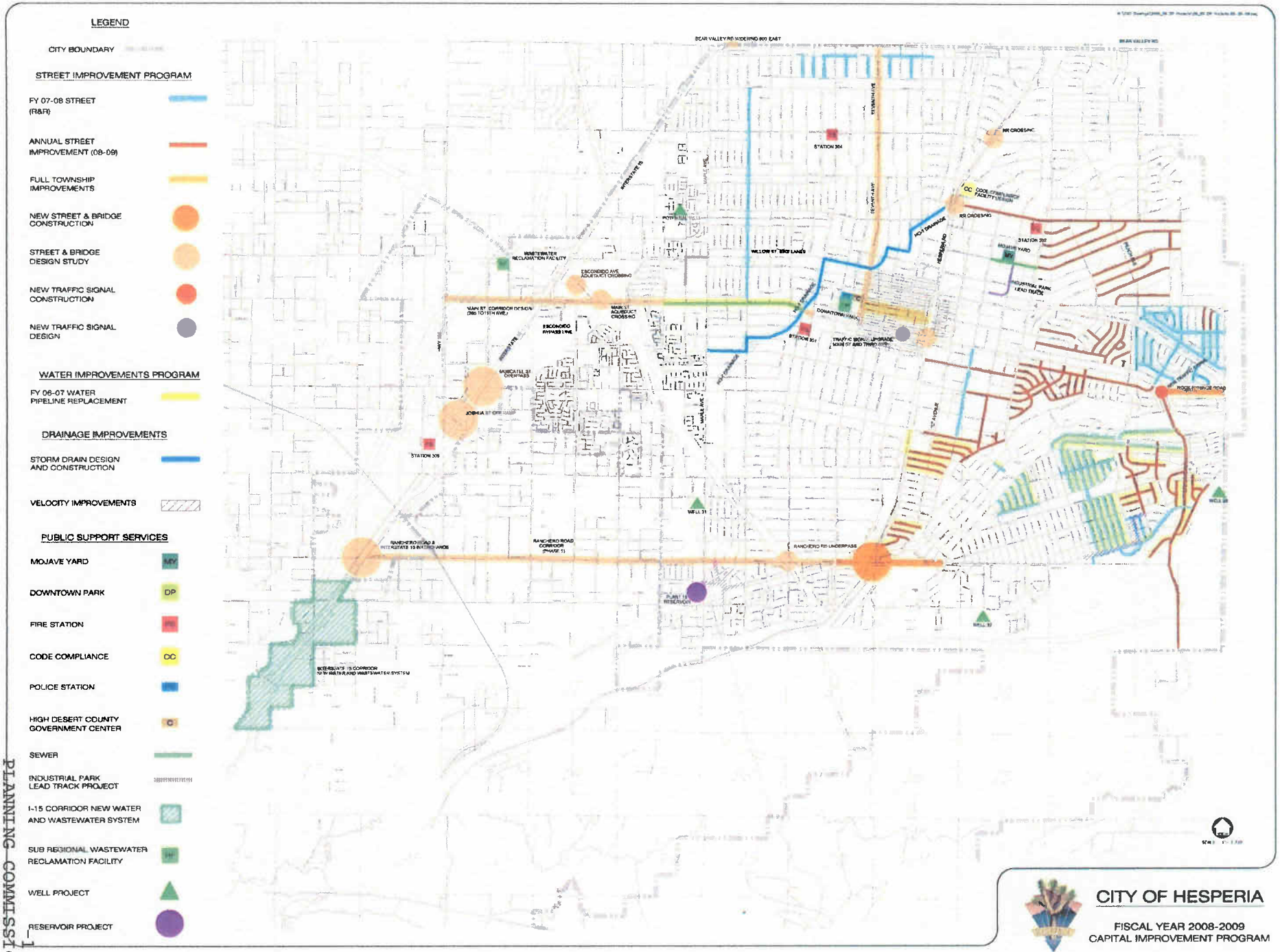
- Seven Other Projects Continued in the 2008-09 Budget - 7 water projects for $7,910,000 will be continued in Fiscal Year 2008-09 as follows:

• Plant 19 Reservoir Improvement	$ 4,000,000
• Interstate 15 Corridor – New Water System Design	1,230,000
• Property Acquisition for Reservoir Expansion Sites 19A & 21	1,100,000
• Mojave Corporation Yard Expansion	700,000
• Waterline Replacement – Juniper Street and Chestnut Street	680,000
• Recoat and Repaint Reservoir Plant 30	100,000
• Water System Velocity Improvements Arrowhead/Tank 18/Maple	100,000
	$ 7,910,000

Sewer C I P Projects - 4 Projects $2,650,000

The following four Sewer C I P projects totaling $2,650,000 will be continued or initiated in Fiscal Year 2008-09 as follows:

• Sub-regional Wastewater Reclamation Plant WRP-2	$ 1,675,000
• Main Street Sewer (Topaz to Hickory)	750,000
• Mojave Sewer Upgrade	150,000
• Live Oak Sewer Upgrade	75,000
	$ 2,650,000


LEGEND
CITY BOUNDARY
STREET IMPROVEMENT PROGRAM
FY 07-08 STREET (R&R)
ANNUAL STREET IMPROVEMENT (08-09)
FULL TOWNSHIP IMPROVEMENTS
NEW STREET & BRIDGE CONSTRUCTION
STREET & BRIDGE DESIGN STUDY
NEW TRAFFIC SIGNAL CONSTRUCTION
NEW TRAFFIC SIGNAL DESIGN
WATER IMPROVEMENTS PROGRAM
FY 06-07 WATER PIPELINE REPLACEMENT
DRAINAGE IMPROVEMENTS
STORM DRAIN DESIGN AND CONSTRUCTION
VELOCITY IMPROVEMENTS
PUBLIC SUPPORT SERVICES
MOJAVE YARD
DOWNTOWN PARK
FIRE STATION
CODE COMPLIANCE
POLICE STATION
HIGH DESERT COUNTY GOVERNMENT CENTER
SEWER
INDUSTRIAL PARK LEAD TRACK PROJECT
I-15 CORRIDOR NEW WATER AND WASTEWATER SYSTEM
SUB REGIONAL WASTEWATER RECLAMATION FACILITY
WELL PROJECT
RESERVOIR PROJECT
BEAR VALLEY RD WIDENING 800 EAST
STATION 304
RR CROSSING
CC
STATION 302
MOJAVE YARD
WASTEWATER RECLAMATION FACILITY
ESCONDIDO AVE AQUEDUCT CROSSING
MAIN ST. CORRIDOR DESIGN (3RD TO 11TH AVE.)
MAIN ST AQUEDUCT CROSSING
ESCONDIDO BYPASS LINE
MUSCATEL ST OVERPASS
JOSHUA ST OVERPASS
STATION 305
WELL 31
RANCHERO ROAD & INTERSTATE 15 INTERCHANGE
RANCHERO ROAD CORRIDOR (PHASE 1)
RANCHERO RD UNDERPASS
PLANT 11 RESERVOIR
INTERSTATE 15 CORRIDOR NEW WATER AND WASTEWATER SYSTEM
WELL 32
CITY OF HESPERIA
FISCAL YEAR 2008-2009
CAPITAL IMPROVEMENT PROGRAM

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City of Hesperia
STAFF REPORT

DATE: January 29, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Daniel S. Alcayaga, AICP, Senior Planner

SUBJECT: Conditional Use Permit CUP-2006-05 and Tentative Parcel Map PM-18187; Applicant: Wal-Mart Stores, Inc.; APNs: 3057-011-07, 09, 11 thru 13

RECOMMENDED ACTION

It is recommended that the Planning Commission: Adopt Resolution No PC-2009-04, making the environmental determination pursuant to the California Environmental Quality Act (CEQA) by certifying the Final Environmental Impact Report (SCH # 2006061064) and adopting a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program, and; adopt Resolution Nos. PC-2009-05 and PC-2009-06, approving Conditional Use Permit CUP-2006-05 and Parcel Map PM-18187.

BACKGROUND

Proposals: A Conditional Use Permit (CUP) to construct a 425,038 square foot retail center and a Tentative Parcel Map to create 8 commercial parcels on approximately 43.84 acres (Attachments 1 and 2).

This CUP limits truck deliveries, loading dock activities, lumber off-loading, trash pick-ups, use of public address systems, and other outdoor activities including milling of lumber, compactors, forklift operations to hours between 7:00 am and 10:00 pm. Other activities that are limited to these hours include the garden center pick-up facility, tire and lube express, outdoor seasonal sales of merchandise, and movement of outdoor display and stored merchandise. This CUP also permits the sale of alcoholic beverages and the construction of a vehicle fuel station and minor vehicle repair facility. A sign site plan is also being proposed as part of the CUP.

Location: Southeast corner of Main Street and Escondido Avenue.

Current General Plan, Zoning and Land Uses: Planned Mixed Use (PMU) General Plan Land Use designation and zoned Regional Commercial by the Main Street and Freeway Corridor Specific Plan. The surrounding land is designated and zoned as noted on Attachments 3 and 4. The property is bounded by Main Street to the north and Escondido Avenue to the west. The property is also bounded by the California Aqueduct to the east. The uses to the south include single-family residences and vacant mixed use property (commercial/residential). The land on the opposite side of Main Street to the north is vacant and an existing parking lot exists to the west. Commercial uses also exist on the opposite side of the California Aqueduct to the east (Attachment 5).

ISSUES/ANALYSIS:

The Main Street Marketplace consists of up to 425,038 square feet of building area on approximately 43.84 acres. The retail center includes a 240,000 square foot Wal-Mart Supercenter and a 141,038 square foot Home Depot Store. A total of ten buildings consisting of

fast food restaurants, retail facilities, and a gas station, ranging from 2,000 to 13,000 square feet, are proposed to be located on outpads near the street.

The proposed parcel map will create 8 parcels to allow tenants to individually own their property, as well as a portion of the parking lot and landscaped areas. Lot A is being created for a proposed drainage channel and two detention/retention basins. The center contains 1,836 parking spaces, including 48 handicap parking spaces. A reciprocal access and shared parking agreement will be required as a condition of approval. Two driveway approaches are located on Main Street and four on Escondido Avenue.

The Main Street Marketplace exhibits a Craftsman style architectural theme. The shopping center's architectural features include stacked stone veneer, split face block, awnings, canopies, roof trellis, roof braces and concrete tile roofs rendered in a compatible range of colors. The buildings have horizontal and vertical elements including, towers, pilasters, recessed entrances, reveals, and wood posts and beams (Attachments 6 & 7). The sides of the major retail buildings which are visible from the Main Street and Escondido Avenue have been decorated with similar architectural features.

Conclusion: The Main Street Marketplace establishes the City's presence along Main Street in vicinity to the freeway by locating nationally recognized retail and restaurant businesses. The shopping center's location is convenient and will expand the selection of retail and dining options to the residents of the City. The development provides new employment opportunities and will augment the City's economic base by adding revenue-generating retail uses in the City. The project's architecture and landscaping also provides a new shopping destination that will enhance the aesthetic quality of the area. The project conforms to the policies of the City's General Plan and development of the site will comply with the Municipal Code, and the Main Street and Freeway Cooridor Specific Plan.

ENVIRONMENTAL ANALYSIS

Given the size of the project, an initial study was prepared. The initial study analyzed the environmental impacts of the project and determined that there could be significant impacts associated with the project. As a result, an Environmental Impact Report was required. A notice of preparation was distributed for public review for a period of 30 days from June 14, 2006 thru July 13, 2006. A Draft EIR was distributed for a 45-day public period from November 13, 2008 thru December 29, 2008. The environmental document was circulated to local, state and federal agencies and organizations. A total of seven letters were received during the public comment period. In addition, a public information meeting was held on December 4, 2008. Two persons spoke in opposition to the project during this meeting. The seven letters as well as the responses to them are included in the Final EIR. The Draft and Final EIR have been provided to the Commission under separate cover.

As part of the EIR analysis, several issues were found to have a potentially significant impact on the environment and mitigation measures were created to bring the project's impacts to a level of less than significant. A list of mitigation measures are listed in Table 10-1, pages 1-16 to 1-42 of the DEIR. Three issues, air quality, traffic/circulation, and noise could not be fully mitigated to a level of less than significant. Pursuant to CEQA guidelines, findings of overriding considerations must be made in order to approve the project. Detailed discussions of all of the issues examined in the EIR are found in Chapters 4 and 5, and are summarized below:

Air Quality: The project site has been planned for regional commercial uses as indicated in the City's General Plan, Municipal Code, and Main Street and Freeway Corridor Specific Plan. The EIR determined that the proposed project is consistent with the Air Quality Management Plan

(AQMP) as growth projections for the City of Hesperia were used as input in the formulation. To mitigate project related emissions, the development must comply with the provisions of Title 24 of the California Code of Regulations regarding energy conservation. Wal-Mart and Home Depot stores will promote bicycling of employees and customers by providing bicycle racks at store entrances with lockers for storing helmets and biking gear. They will also provide employees incentives for carpooling and preferential parking for alternative fueled vehicles. Each store will post up-to-date transit routes for employees/customers. Loading trucks are not permitted to idle for a period of more than five minutes per state law (three minutes for Wal-Mart trucks). In additions, electrical outlets will be provided in docking areas for trucks not equipped with auxiliary power units to further restrict idling. The project will provide safe pedestrian access from the local bus stop to store entrances. The proposed buildings will incorporate light colored roofing material that will deflect heat away from buildings and conserve energy.

Even with feasible mitigation, the long term project operation will still create vehicular emissions that would exceed the Mojave Desert Air Quality Management District's (MDAQMD) daily emission thresholds. The impacts related to carbon monoxide and PM_{10} emissions during the long term operation of the project, individually and cumulatively, would have significant and unavoidable air quality impacts. The Project could also result in a cumulatively net increase of PM_{10} emissions within a designated PM_{10} non-attainment area. The EIR concludes that there are significant unavoidable impacts to air quality and a finding of overriding considerations is included in the resolution certifying the EIR. This is consistent with the City's General Plan Program EIR, which makes the same conclusion as to overall development in the City.

Traffic/Circulation: Based on the Traffic Impact Analysis prepared for this project, the project is expected to generate a total of 16,381 net vehicle trips daily, with 940 trips occurring during the a.m. peak hour and 1,283 trips occurring during the p.m. peak hour. The City has established a Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service. The Development Impact Fees are imposed on new development and collected as part of the building permit process. The timing of the improvements is established through the City's Capital Improvement Program (CIP). Periodically, the City conducts traffic counts and reviews traffic trends throughout the City. The City uses this data to determine the timing of necessary roadway improvements. The developer is required to pay all applicable City Development Impact Fees towards the improvements.

The developer will be required to construct new curb, gutter and sidewalk along its frontage on Main Street and Escondido Avenue along with an additional travel lane for acceleration and deceleration. A new traffic signal will be placed at the easterly driveway at Main Street to include a south-bound entrance into the new center. A traffic signal will also be placed on the main driveway entrance, which is the third approach south of Main Street, along Escondido Avenue.

Major Place and Mesa Street are proposed to be vacated to construct the Main Street Marketplace project. Mesa Street is also known as Creosote Avenue. Originally, these streets were created to temporarily serve as the required secondary point of access for Phase 1 of Tract No. 14372 located south of the project site. They are no longer required as all required street improvements have been constructed for all phases of Tract No. 14372, including additional access to Sultana Street. Removal of Major Place and Mesa Street do not create an impact to circulation as sufficient access currently exists from Sultana Street. Sultana Street connects to Escondido Avenue to the west as well as Fuente Avenue to the east and forms the northern boundary of a network of paved residential streets.

The EIR concludes that after the project is built with all improvements, three locations will still have significant unavoidable traffic impacts at opening day (2010):

- Main Street-Phelan Road/U.S. Highway 395
- Escondido Avenue/Ranchero Road
- Northbound I-15 from Joshua Street to Main Street

Main Street-Phelan Road/U.S. Highway 395 and northbound I-15 from Joshua Street to Main Street segment would have a deficient level of service (LOS) even without the project. Because mitigation for these locations is under the control of Caltrans, funding and timing of improvements are outside of the City's control. Funding and timing of improvements for the Escondido Street and Ranchero Road intersection is under the control of San Bernardino County. Since the City cannot mandate these improvements, CEQA stipulates that the impacts remain considered significant and unavoidable.

The EIR also states that in 2030, nine locations, including six freeway segments, will have significant and unavoidable impacts to traffic circulation:

- Main Street-Phelan Road/U.S. Highway 395 [2]
- Escondido Avenue/Ranchero Road [1, 4]
- Main Street/Key Pointe Avenue [3]
- Northbound I-15 from Joshua Street to Main Street [2]
- Southbound I-15 from Joshua Street to Main Street [2]
- Northbound I-15 from Main Street to Eucalyptus Avenue [2]
- Southbound I-15 from Main Street to Eucalyptus Avenue, and [2]
- Northbound I-15 from Eucalyptus Avenue to Bear Valley Road [2]
- Southbound I-15 from Eucalyptus Avenue to Bear Valley Road [2]

1. Under the jurisdiction of San Bernardino County
2. Under the jurisdiction of Caltrans
3. Under the jurisdiction of the City of Hesperia
4. Not within the boundaries of the City of Hesperia

The Main Street and Freeway Corridor Specific Plan identifies mitigation measures designed to reduce the impacts of overall regional commercial growth along the freeway to less than significant levels. These improvements are to be funded by DIF and scheduled for the locations within the City's jurisdiction. These improvements are similar to, and consistent with the improvements identified within this project's EIR.

Main Street/Key Pointe Avenue will be improved through the City's DIF program. Of the other eight locations, one location is within the jurisdiction of San Bernardino County and seven within Caltrans jurisdiction. As mentioned above, improvements at these locations are funded and programmed by the County or State and the City has no control to require these improvements at a particular time. Nevertheless, the EIR concludes that there are significant unavoidable impacts to traffic circulation and a finding of overriding considerations is included in the resolution certifying the EIR. The City's General Plan Program EIR makes the conclusion as to overall development in the City that traffic impacts are significant, but avoidable with mitigation.

Noise: On-site noise impacts associated with the project include noise from truck loading and unloading activities and from activities in the parking lot, such as doors slamming, slow-moving vehicles, and customers conversing. The distance from the project's potential noise generating activities to the closest residential home is approximately 115 feet. A masonry sound wall will be constructed along the southern boundary. The noise associated with long term operational activities is below a level of significance.

It is anticipated that construction noise received at residential uses to the south and southeasterly may temporarily and periodically range from 75 to 81 dB, exceeding the City's Noise Ordinance. Mitigation measures include requiring properly maintained construction equipment, providing a staging area away from the residences, and limiting construction hours between 7:00 a.m. and 7:00 p.m. Monday through Saturday. Also, no construction activities will be allowed on Sundays and federal holidays. Even with mitigation measures, short-term construction noise impacts remain significant. The masonry sound wall will be installed upon completion of initial grading activities and utility installation to reduce noise impacts during the construction period.

Global Warming: The EIR evaluated the project impacts to Global Warming in accordance with Assembly Bill No. 32, the California Global Warming Solutions Act of 2006 that requires emissions to be reduced to 1990 levels by 2020. The analysis quantified the expected carbon footprint from the project, but concluded that no quantifiable emissions thresholds are currently defined. The California Air Resource Board (CARB) has until January 1, 2010 to develop guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions. Until this plan is published and adopted, there are no air quality standards by which to judge a project's contribution to Global Climate Change. The project complies with draft greenhouse gas (GHG) emission reduction strategies that are applicable to the project. These GHG emission reduction strategies were developed by the 2006 Climate Action Team (CAT) report created by various California State agencies submitted to Governor Schwarzenegger and the Legislature. A list of design features to be incorporated into the Wal-Mart building is included on page 4.3-56 of the DEIR. For the purpose of analysis, and without an established standard, the EIR considers that the project's cumulative impact to Global Warming is determined to be less than significant.

Utilities: The development will connect to 12-inch water lines located in both Main Street and Escondido Avenue. The developer is required to remove the existing water line in Major Place and Mesa Street from Escondido Avenue to West Nolina Drive. The project will be served with a minimum fire flow as required by the California Fire Code. Sewer connections will be made off of the existing 8-inch sewer in Escondido Avenue and the existing 10-inch sewer located on the southeast portion of the property. A proposed 20-foot utility easement will run through the property for sewer, which will replace the proposed vacation of a portion of the existing sewer that will be removed. The project developer is required to construct on-site and off-site wastewater infrastructure including reclaimed water usage in parkland and landscape areas adjacent to Main Street and Escondido Avenue. Impacts to utilities were anticipated in Assessment District 91-1 and are not considered significant.

Water Supply: Water will be supplied by the Hesperia Water District. The District relies upon groundwater allocations as administered and monitored by the Mojave Water Agency (MWA). Locally-produced groundwater, extracted from the Basin, is the District's sole source of supply. The calculated likely maximum water demands of the Project are estimated at 50,300 gallons per day or approximately 56.21 acre-feet a year. The Project's water demand is 0.284 percent of the total 19,778 acre-feet produced by the District in Water Year 2006 to 2007. Accordingly, the Project water demand is nominal compared to the overall water consumption within the MWA. This estimate does not take into account mandatory conservation measures as required by the State of California for all new development projects. The project developer is required by the City to construct irrigation capable of using reclaimed water in landscape areas adjacent to Main Street and Escondido Avenue.

Development proposed in the Project is reflected in the existing and anticipated water demands identified in the District's 2005 Urban Water Management Plan and the Water Master Plan. More specifically, the Project represents approximately 43.8 acres of commercial development within a total of an estimated 444 commercial acres anticipated under the District's near-term (2010) conditions, and approximately 2,063 commercial acres reflected in the District's 2030 long-range land use scenario.

Even in the event of water supply shortages, or water emergencies, the District and MWA have in place water shortage contingency plans which ensure provision of priority water services to all its existing and anticipated customers, including the Project. The District can also rely upon additional groundwater production from its wells to meet increased demand, subject to the purchase of water with replacement fees.

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. Based upon this analysis, it is anticipated that the District will have sufficient water supplies to reliably meet the projected water demand of the District, including this Project, until at least 2030.

Drainage: Storm flows originating from within the shopping center will be conveyed into a series of curb inlets, area inlets, and catch basins. From these drainage structures, the water will flow through reinforced concrete storm drain pipes to the proposed detention basin at the southeast corner of the proposed site. In a major storm event, which exceeds a 100 year storm, the overflow from the system will be discharged into the existing storm drain which runs to the overchute at the California Aqueduct. Upon completion of the on-site drainage improvements, impacts from storm water run-off are not considered significant.

A major facility exists along the southern boundary of the site on the Master Plan of Drainage. The developer is proposing to construct a channel with a capacity of 1,450 cubic feet per second (cfs) beginning at the outlet of the culvert under Escondido Avenue and ending near the downstream end of the proposed site. This is designed to handle storm flows originating upstream of the site. In order to provide room for this channel, the existing detention basin constructed for the residential development to the south will be reconfigured and brought up to current standards with equivalent storage capacity. The detention/retention basin for the Main Street Marketplace will be privately maintained. The basin for the residential subdivision to the south as well as the channel will be maintained by the City.

Public Services: The DEIR evaluated impacts to police and fire services in Chapter 4. The proposed project would generate approximately 51 additional law enforcement calls per month, resulting in the need for 0.31 additional personnel. This is a nominal increase in staff. Adequate lighting will reduce potential demands on police protection services. The developer is required to pay development impact fees to offset impacts to police and fire protection facilities and services. Sales tax generated by the project could potentially be used to augment the City's police and fire services. The project has adequate emergency access to all parking areas and buildings. The shopping center includes fire lanes, two-points of access, fire truck turn-around, fire department connections/post indicator valves (FDC/PIV) and fire hydrants. The major tenant buildings will include smoke detectors, alarms, and sprinkler systems. The DEIR determined that the project's impact to public services is less than significant.

Biological Resources: The EIR states that the site does not contain habitat for special-status plant species or plant or wildlife species listed by the State and/or Federal government as endangered or threatened. A pre-construction survey for the burrowing owl, desert tortoise, and mojave ground squirrel will be conducted prior to any ground disturbing activities. The protected plant plan found that 128 Joshua trees are transplantable and will be used within the

development's landscaping or installed off-site through a City approved adoption program. Impacts to biological resources are not considered significant. The proposed project site is located within the proposed West Mojave Plan (WMP). The WMP is a habitat conservation plan that includes conservation strategies for the desert tortoise, mojave ground squirrel and other sensitive desert plants and animals and is administered by the Federal Fish and Wildlife Service, Bureau of Land Management, and State Department of Fish and Game. This plan has not been approved by the City. If the WMP is adopted by the City before construction of this project, the project will have to comply with WMP's requirements. Nevertheless, the project does not conflict with the proposed plan.

Cultural Resources: Based on the results of field work and a literature search, the site does not contain any historical or paleontological resources. A mitigation measure requires a professional archaeological and paleontological monitor to conduct monitoring during site excavation and grading activities. In the event that cultural resources are discovered during grading, the mitigation program requires that work be suspended and a qualified archaeologist or paleontologist evaluate the significance of the resource and determine its disposition prior to resuming grading. The project's impact to cultural resources is not considered significant.

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

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

Land Use: The proposed project is consistent with the City's Planned Mixed Use (PMU) General Plan Land Use designation. Each of the uses in the proposed project is permitted in the Regional Commercial zone of the Main Street and Freeway Corridor Specific Plan. The proposed retailers and commercial uses have long been expected to develop within the proposed area and are similar to adjacent or planned commercial uses along the Main Street corridor. Because of the existing pattern of development, including the location of the property in relation to the I-15 freeway and Main Street, the proposed project would neither displace residents, nor divide an existing established community. Therefore, land use impacts are not significant. As mentioned in the Biological Resources section, the West Mojave Plan has not been approved by the City. If the plan is approved before construction of this project, the development will have to comply with requirements stated in the West Mojave Plan.

Urban Decay: The EIR concluded that there is a sufficient existing demand for retail goods to support the proposed shopping center without causing the closure of existing businesses in the City or elsewhere within the project's trade areas. The proposed project would not cause other economic or social conditions that could negatively affect the physical environment. Although the urban decay analysis was developed prior to the current recession, this proposal's useful life will exist over several business cycles. The regional commercial uses are consistent with the City's long term vision for the area.

Project Alternatives: Three alternatives to the proposed project, including a no project alternative, were evaluated and determined to be infeasible and/or inconsistent with the objectives of the City. A detailed discussion of these alternatives is found in Chapter 5 of the EIR.

Overriding Considerations: Pursuant to CEQA, the City must balance the benefits of the project against any significant and unavoidable environmental impacts in determining whether to approve the Project. If the benefits of the Project outweigh these environmental impacts, those impacts are considered "acceptable." Since the impacts to Air Quality, Traffic/Circulation, and Noise are considered significant and unavoidable, findings for a Statement of Overriding Considerations must be made as the project's benefits include strengthening the local economy by providing new employment opportunities for local residents and generating tax revenues to maintain adequate infrastructure facilities. Further, the project will help satisfy the City's deficiency of retail and dining space, which is now characterized by high sales tax leakage rates, as residents must travel outside the City for their shopping needs. The project's social and economic benefits render these significant and unavoidable impacts acceptable.

Conclusion: In summary, because the project is consistent with the City's General Plan, most of the project's impacts, whether less than significant, mitigatable, or ummitigable and significant, were known and acknowledged by the City when adopting the General Plan Program EIR in 1991. The project's EIR has validated these impacts. Prior to acting on the project, the Planning Commission must make the environmental determination, certifying that the Final EIR is complete; that it has been prepared in compliance with CEQA; that it reflects the City's independent judgment; and that all impacts from carrying out the project have been identified and disclosed to the public. Resolution PC-2009-04 has been prepared to document this determination. Once that has occurred, the Planning Commission can consider the conditional use permit and parcel map. If approved, the mitigation monitoring and reporting program would be administered with the project approval.

FISCAL IMPACT

The Main Street Marketplace would create approximately 600 to 800 jobs. It is expected that many of the short-term construction jobs and long-term jobs created by the shopping center would be filled by local residents. The shopping center will also increase revenue-generating retail uses in the City. Hesperia's store will generate approximately $146 million dollars in sales each year. Sales tax on this number would be approximately 1.5 million dollars annually. The positive impact of reversing 1.5 million dollars per year in sales tax leakage from the City is very significant and consistent with the City's goal to establish sales tax and job producing business in this area.

The development will also be subject to payment of development impact fees.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. Parcel Map
3. General Plan Land Use map
4. Zoning map
5. Aerial photo
6. Architecture Renderings

8. Sign Site Plan
9. Resolution No. PC-2009-04, (Environmental Findings, Statement of Overriding Considerations, Final Environmental Impact Report (SCH # 2006061064), and Mitigation Monitoring and Reporting Program)
10. Resolution No. PC-2009-05, with conditions of approval (Conditional Use Permit)
11. Resolution No. PC-2009-06, with conditions of approval (Parcel Map)

The following documents have been provided under separate cover:

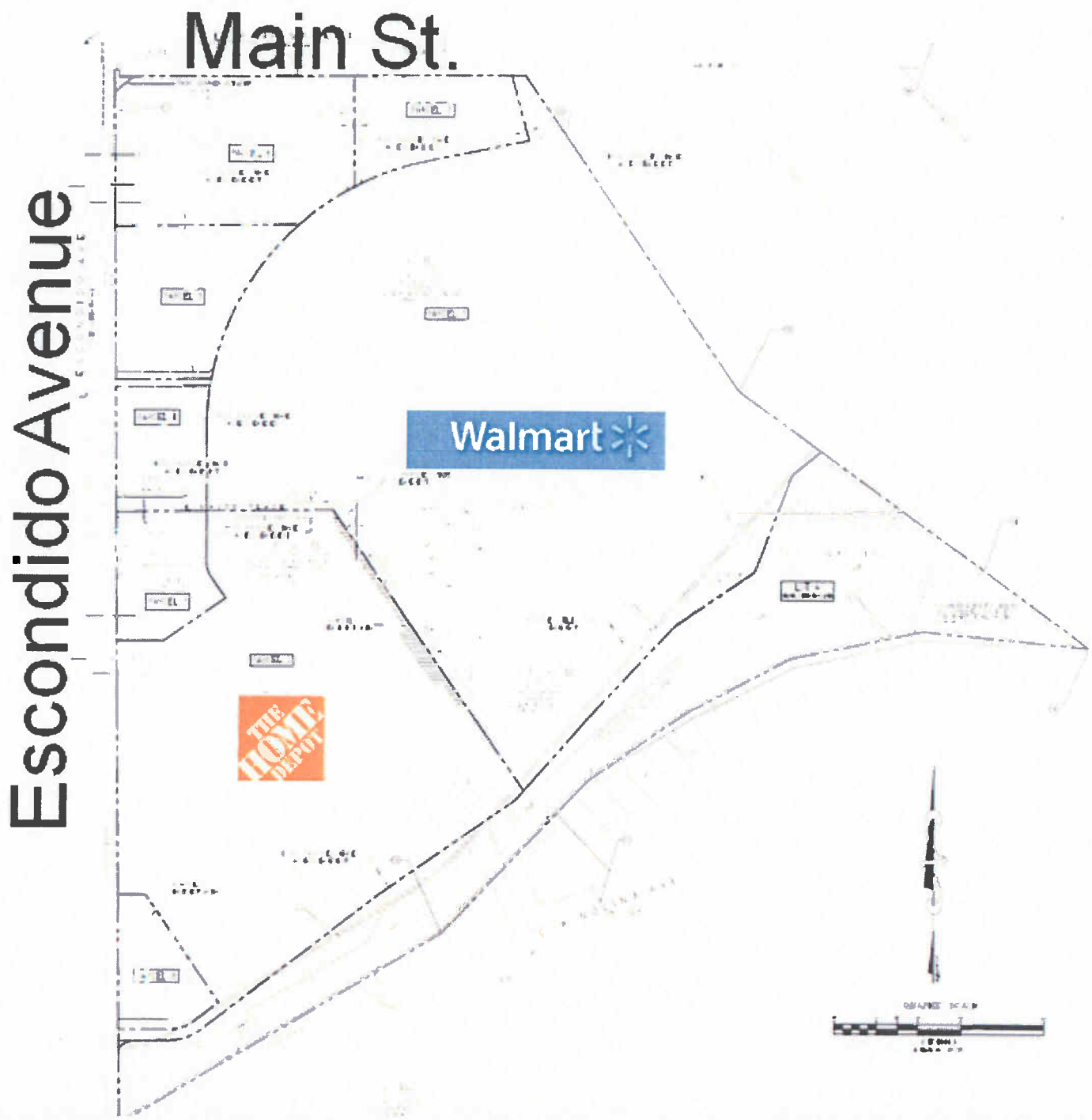
1. Draft Environmental Impact Report and Technical Appendices, November 2008
2. Final Environmental Impact Report and Mitigation Monitoring Program, January 2009

ATTACHMENT 1

APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
PROPOSAL: A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER AND A TENTATIVE PARCEL MAP TO CREATE 8 COMMERCIAL PARCELS ON APPROXIMATELY 43.84 ACRES	**N** ↑

SITE PLAN

ATTACHMENT 2



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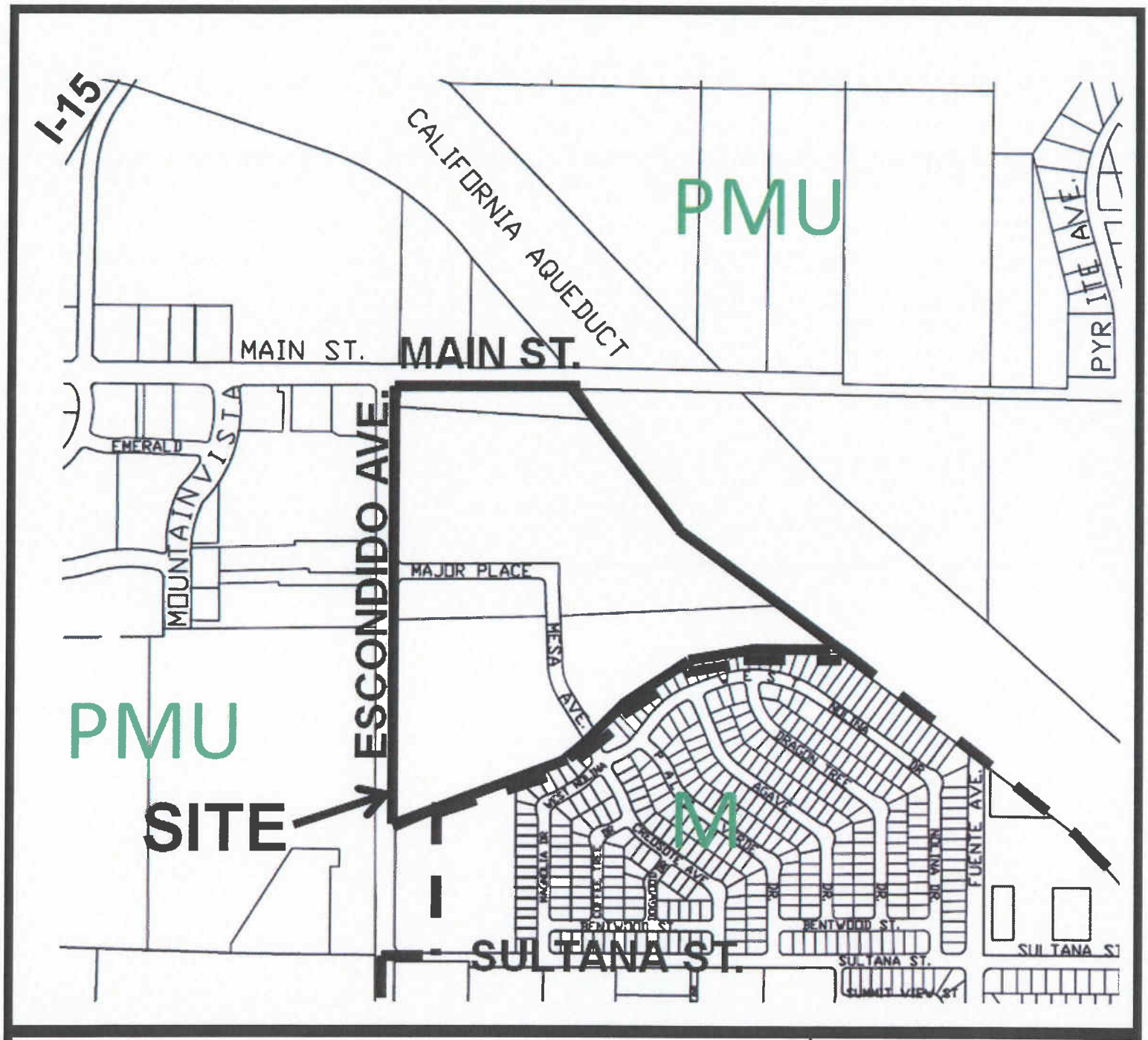
TENTATIVE PARCEL MAP

ATTACHMENT 3



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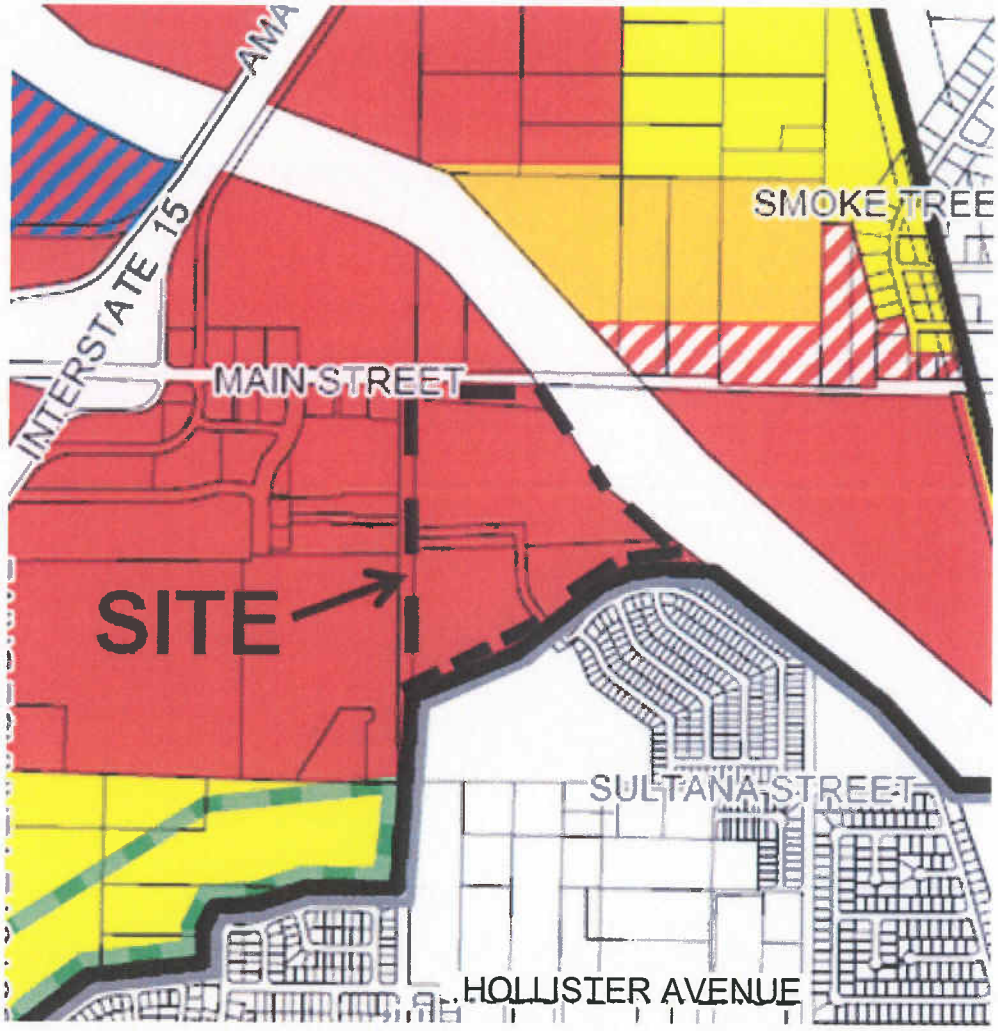
GENERAL PLAN LAND USE MAP

ATTACHMENT 4



Zoning in the Main Street/Interstate-15 District

- City Boundary
- Specific Plan Boundary
- District Boundary
- Regional Commercial*
- Neighborhood Commercial
- Commercial/Industrial Business Park
- Planned Residential Development
- Medium Density Residential (8-15 du/acre)
- Low Density Residential (2-8 du/acre)
- Rural Estate Residential (< 0.5 du/acre)
- Wash Protection Overlay
- Potential Hospital Location

* In this District, multi-family residential uses are permitted as a part of a mixed-use project

APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
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ZONING MAP

ATTACHMENT 5

APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
PROPOSAL: A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER AND A TENTATIVE PARCEL MAP TO CREATE 8 COMMERCIAL PARCELS ON APPROXIMATELY 43.84 ACRES	**N** ↑

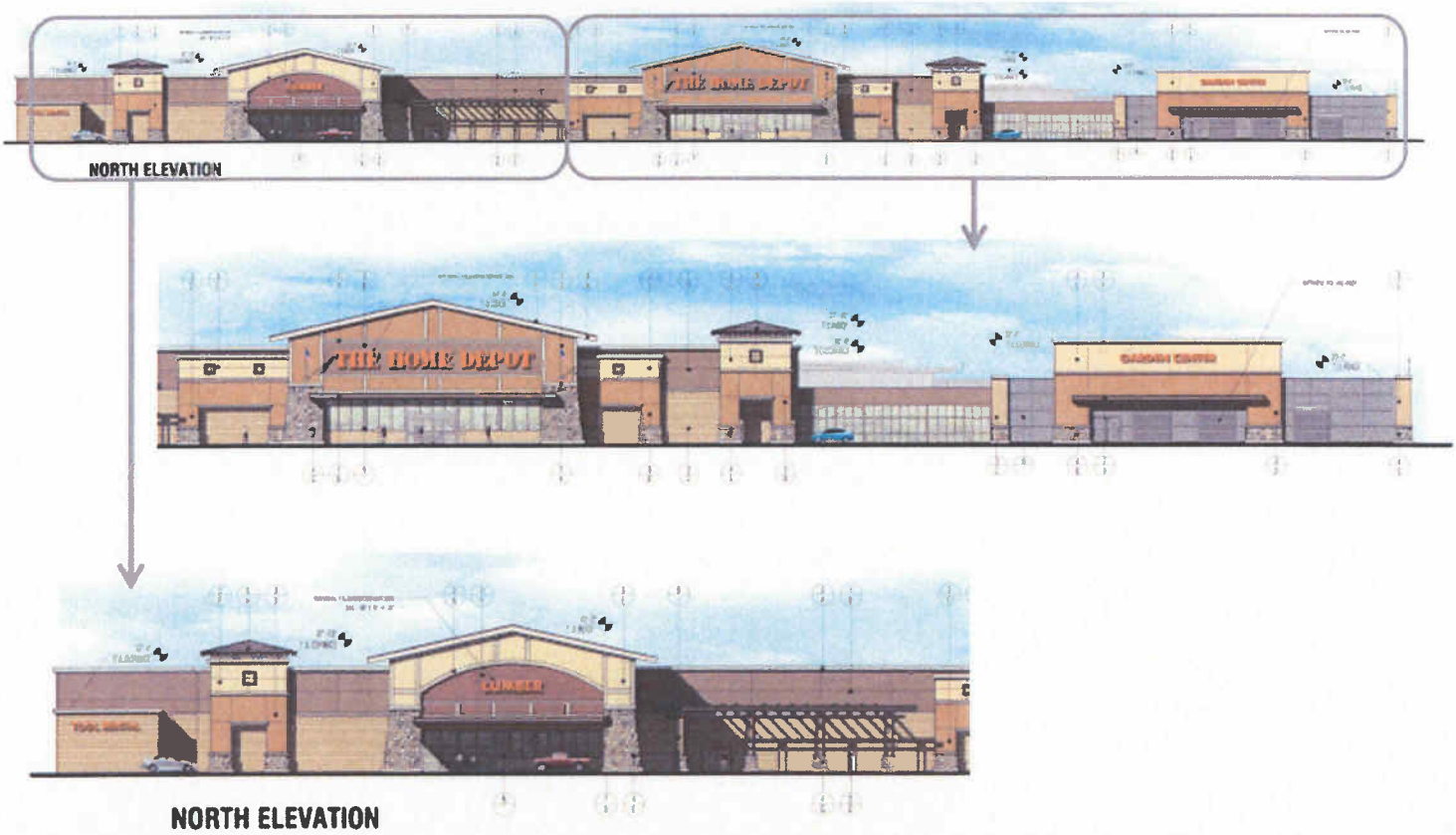
AERIAL PHOTO

ATTACHMENT 6

APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
PROPOSAL: A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER AND A TENTATIVE PARCEL MAP TO CREATE 8 COMMERCIAL PARCELS ON APPROXIMATELY 43.84 ACRES	**N** ↑

ARCHITECTURAL RENDERINGS

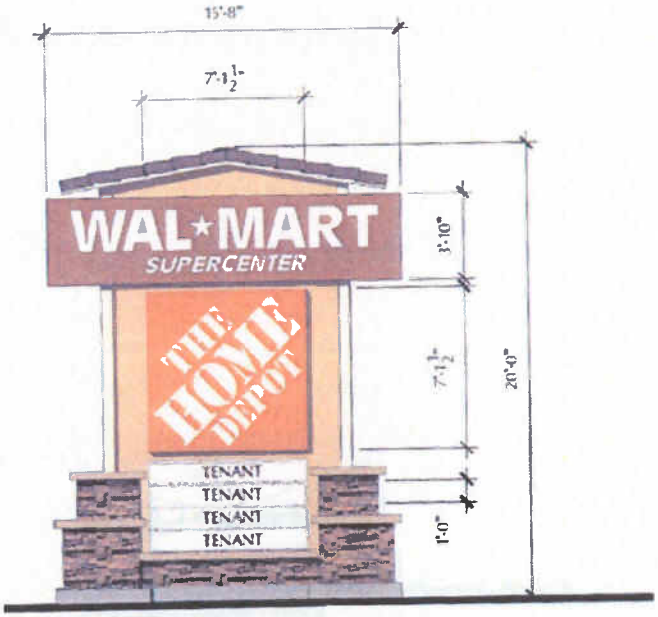
ATTACHMENT 7



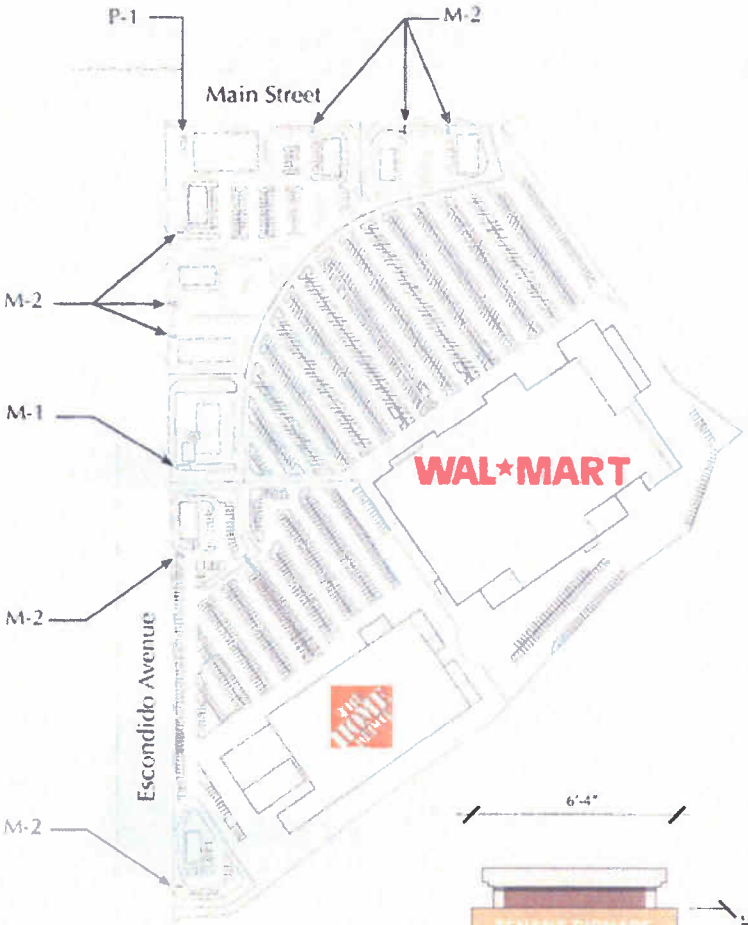
APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
PROPOSAL: A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER AND A TENTATIVE PARCEL MAP TO CREATE 8 COMMERCIAL PARCELS ON APPROXIMATELY 43.84 ACRES	**N** ↑

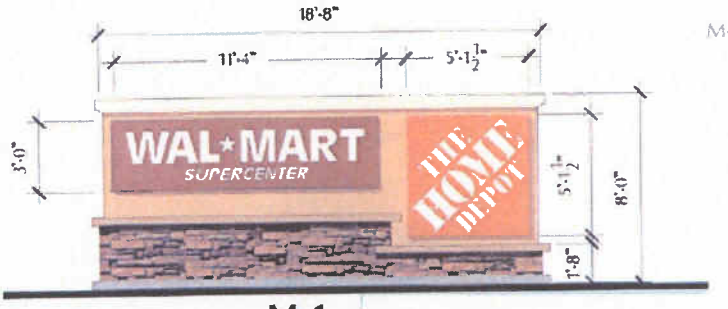
ARCHITECTURAL RENDERINGS

ATTACHMENT 8

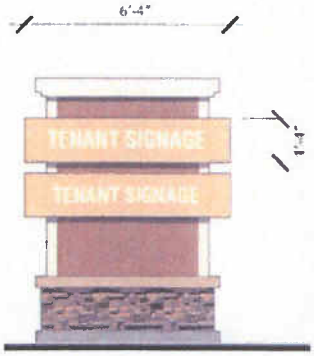


P-1





M-1



M-2

APPLICANT(S): WAL-MART STORES, INC.	**FILE NO(S):** CUP-2006-05 & PM-18187
LOCATION: SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE.	**APN:** 3057-011-07, 09, 11 THRU 13
PROPOSAL: A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER AND A TENTATIVE PARCEL MAP TO CREATE 8 COMMERCIAL PARCELS ON APPROXIMATELY 43.84 ACRES	**N** ↑

SIGN SITE PLAN

ATTACHMENT 9

RESOLUTION NO. PC-2009-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2006061064), ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, The Main Street Marketplace project would consist of the construction of a proposed retail center on 43.84 acres in the City of Hesperia (City) and includes a 240,000 square foot Wal-Mart Supercenter and a 141,038 square foot Home Depot Store. A total of ten buildings consisting of fast food restaurants, retail facilities, and a gas station, ranging from 2,000 to 13,000 square feet, are proposed to be located on outpads near the street (the "Project"); and

WHEREAS, the Project would augment the City's economic base by providing sales tax-generating uses and reversing the flow of revenue currently leaving the City, create employment-generating opportunities for the citizens of Hesperia and surrounding communities, expand and provide new retail options in close proximity to local consumers by providing daytime and nighttime shopping opportunities in a safe and secure environment, complement the existing retail base in the City located south of Main Street and east of the I-15 freeway, thereby maximizing access opportunities for the convenience of patrons; and

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

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

WHEREAS, a Notice of Preparation ("NOP") and the Initial Study identifying the scope of environmental issues were distributed to numerous state, federal, and local agencies and organizations from June 14, 2006 to July 13, 2006 for a period of 30 days, pursuant to State CEQA Guidelines sections 15082(a), 15103 and 15375. Relevant comments received in response to the NOP/Initial Study were incorporated into the DEIR; and

WHEREAS, a Notice of Completion ("NOC") was sent with the Draft EIR to the State Clearinghouse on June 13, 2006; and

WHEREAS, a public information meeting was held at City Hall on December 4, 2008 and two persons spoke on the project; and

WHEREAS, the Draft EIR was distributed for a 45-day public review period on November 14, 2008, with the comment period expiring on December 29, 2008. Seven comment

letters were received during the public comment period. The specific and general responses to all oral and written comments received are included in the Final EIR; and

WHEREAS, the Planning Commission of the City of Hesperia held a public hearing to consider the Project, the Final EIR, and staff recommendations, on January 29, 2009. Notice of this Planning Commission hearing was provided through publication in a newspaper of adjudicated circulation on January 15, 2009; and

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

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

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

WHEREAS, all of the findings and conclusions made by the City pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, environmental impacts identified in the Final EIR which the City finds are less than significant and do not require mitigation are described in **Section V(A)** hereof; and

WHEREAS, environmental impacts identified in the Final EIR as significant but which the City finds can be mitigated to a level of less than significant, through the imposition of feasible mitigation measures identified in the Final EIR and set forth herein, are described in **Section V(B)** hereof; and

WHEREAS, environmental impacts identified in the Final EIR as significant but which the City finds cannot be fully mitigated to a level of less than significant, despite the imposition of all feasible mitigation measures identified in the Final EIR and set forth herein, are described in **Section V(C)** hereof; and

WHEREAS, alternatives to the Project that might eliminate or reduce significant environmental impacts are described in **Section V(D)** hereof; and

WHEREAS, the potential for growth inducing impacts described in the Final EIR and found to be less than significant are described in **Section V(E)** hereof; and

WHEREAS, irreversible environmental changes are identified in the Final EIR and are found to be less than significant, as described in **Section V(F)** hereof; and

WHEREAS, prior to taking action, the City has heard, been presented with, reviewed and considered all of the information and data which constitutes the administrative record, including the Final EIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the Final EIR reflects the independent judgment of the Planning Commission of the City of Hesperia and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, no comments made in the public hearings conducted by the City or any additional information submitted to the City have produced substantial new information requiring recirculation or additional environmental review under State CEQA Guidelines Section 15088.5; and

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

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HESPERIA DOES HEREBY RESOLVE AS FOLLOWS:

I. INTRODUCTION

The Planning Commission (this "Commission") of the City of Hesperia (the "City"), in approving the Main Street Marketplace Project (the "Project"), which requires approval of a tentative parcel map; a sign program and landscaping plans; and a comprehensive conditional use permit ("CUP"), makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Environmental Impact Report was prepared by the City acting as lead agency pursuant to the California Environmental Quality Act ("CEQA"). Hereafter, the Notice of Preparation, Notice of Availability, Notice of Completion, the Draft EIR (circulated from November 14 to December 29, 2008), Technical Studies attached as Appendices to the Draft EIR, the Final EIR, containing Responses to Comments and textual revisions to the Draft EIR, and the Mitigation Monitoring and Reporting Program will be referred to collectively herein as the "EIR". These Findings are based on the entire record before this Commission, including the EIR. This Commission adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR does not mean that it has been rejected by this Commission.

II. PROJECT SUMMARY

A. PROJECT DESCRIPTION

1. Site Location

The Main Street Marketplace Project is located easterly of Interstate 15 (I-15) within the City of Hesperia in San Bernardino County. (DEIR pp. 1-1and 3-1.) Specifically, the Project site comprises approximately 43.84 acres located on the southeastern corner of the intersection of Main Street and Escondido Avenue. (*Id.*) The Project site is located within the Main Street Freeway Corridor Specific Plan Area, is designated as Planned Mix Use ("PMU") by the City General Plan Land Use Element, and is zoned Regional Commercial ("C-4"). (DEIR p. 3-5.)

The California Aqueduct parallels the easterly limits of the Project site. Easterly of the Aqueduct are vacant properties. Southerly of the site are existing residential uses and new residential construction. Properties to the west, across Escondido Avenue, are also vacant. Northeasterly of the Aqueduct, across Main Street, are existing commercial (mini-storage and car wash) uses. (DEIR p. 3-1.) The surrounding properties northerly, easterly, and westerly and of the Project site are designated as PMU by the City General Plan Land Use element, and are

zoned C-4. (DEIR pp. 4.1-5 and 4.1-6.) The residential property existing southerly of the site designated Medium Residential ("M") by the City General Plan Land Use element, and is zoned Single Family Residential District ("R1-8000"). (*Id.*)

2. Project Description

The Project proposes construction of two "major" retail anchors on approximately 29 acres, and six (6) ancillary commercial/retail pads on approximately 8.4 acres, for a total of 425,038 square feet. The remainder of the site, approximately 6.62 acres, will accommodate storm water drainage detention facilities. (DEIR p. 3-11.) Project Parcel 1 will accommodate development of an approximately 240,000 square foot Wal-Mart store with all appurtenant structures and facilities for the sale of general merchandise, groceries and alcohol for off-site consumption, and which may contain an outdoor garden center with a pick-up area for pre-paid bagged garden supplies, a pharmacy, a vision and hearing center, a medical center, a food service center, a photo studio and photo finishing center, a banking center, an arcade (consisting of approximately four games), and a tire and lube facility. (*Id.*) Project Parcel 2 will accommodate development of an approximately 141,038 square foot home Depot store, with all appurtenant structures and facilities for the sale of building materials, home improvement products, lawn and garden produces, and other retail merchandise. (DEIR p. 3-12.) Project Outparcels 3 through 8 will be developed along the western and northern perimeters of the Project site, and may be constructed with multiple buildings. (DEIR p. 3-13.) Although no specific uses were identified, the following uses were analyzed in the EIR. Project Outparcel 3 could accommodate 3,500 square feet of fast food restaurant use. Project Outparcel 4 could accommodate a 16 pump retail gasoline sales use, totaling 900 square feet. Project Outparcel 5 could accommodate 10,500 square feet of retail and fast food restaurant uses. Project Outparcel 6 could accommodate 20,000 square feet of retail and fast food restaurant uses. Project Outparcel 7 could accommodate 7,500 square feet of retail and fast food restaurant uses. Project Outparcel 8 could accommodate 2,500 square feet of fast food restaurant use. (DEIR p. 3-9, Table 3.3-1.)

3. Actions Covered by the EIR

The EIR will support the following discretionary approvals:

- Approval of a Tentative Parcel Map, to include, but not limited to: creation of legal parcels, vacations of existing road rights-of-way and granting of utilities and drainage easements;
- Approval of a Comprehensive Conditional Use Permit ("CUP"). This CUP may address such items as site design and operational characteristics, and will provide the City a mechanism to regulate and monitor activities such as truck deliveries and hours of operations. This CUP will also cover the sale of alcoholic beverages for off-site consumption and the construction of a vehicle fuel station; and
- Approval of a sign program and landscaping plans.

B. PROJECT GOALS AND OBJECTIVES

The Project goals and objectives include the following:

- To create a new mix of uses that capitalizes on the site's location in proximity to surrounding commercial/retail facilities;

- To capitalize on the site's visibility and accessibility provided by its location at an intersection of major thoroughfares in the City of Hesperia, and to take advantage of existing and anticipated infrastructure systems;
- To provide a retail development that meets the current unmet demand for goods and services from consumers residing in the trade area for the High Desert area generally and the City of Hesperia specifically, as well as goods demands generated by future residential developments;
- To provide a commercial/retail shopping center that serves the local market area and beyond, and to attract new customers and a wider range of retailers into the City of Hesperia;
- To provide goods and services at a local site, thereby reducing the number of trips currently being made to shop for these same goods and services outside the City of Hesperia;
- To provide a convenient source of grocery and food items to serve the local community;
- Improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new commercial center;
- Maximize and broaden the City's sales tax base by providing local and regional tax-generating uses and by increasing property tax revenues;
- Create additional employment-generating opportunities for the citizens of Hesperia and surrounding communities; and
- Provide (where necessary) adequate infrastructure and public amenities.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

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

- On June 13, 2006, the City circulated an Initial Study and related EIR Notice of Preparation ("NOP") identifying the environmental issues to be analyzed in the Project's EIR to the State Clearinghouse, responsible agencies, and other interested parties. The Initial Study (DEIR Appendix A) identified potential environmental impacts related to air quality, biological resources, cultural resources, land use, noise, and transportation/circulation. Additionally, issues of concern were identified by the Lead Agency, through responses to the Project Initial Study/Notice of Preparation (NOP), and other communications addressing the Project and Project EIR. Among the areas of concern identified through the NOP process were issues pertaining to geology and soils, public services (fire and police protection), water supply/availability, and hydrology/water quality.
- DEIR review (circulated from November 14 to December 29, 2008).
- Planning Commission public hearing (December 4, 2008) – oral testimony.

IV. INDEPENDENT JUDGMENT FINDING

The City solicited proposals from independent consultants to prepare the EIR for the Project. Subsequently, the City selected and retained Applied Planning, Inc. to prepare the EIR. Applied Planning prepared the EIR under the supervision and direction of the City of Hesperia planning staff.

Finding:

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

And, at a meeting assembled on January 29, 2009, the Planning Commission of the City of Hesperia determined that, based upon all of the evidence presented, included by not limited to the Final EIR, written and oral testimony given at the meetings and hearings, and submission of testimony from the public, organizations and regulatory agencies, the following impacts associated with the Project are: (1) less than significant and do not require mitigation; or (2) potentially significant and each of these impacts will be avoided or reduced to a level of insignificance through the identified mitigation measures and/or implementation of an environmentally superior alternative to the Project; or (3) significant and cannot be fully mitigated to a level of less than significant but will be substantially lessened to the extent feasible by the identified mitigation measures.

A. GENERAL FINDING ON MITIGATION MEASURES

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

Finding:

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

V. ENVIRONMENTAL IMPACTS AND FINDINGS

City staff reports, the EIR, written and oral testimony at public meetings or hearings, these facts, findings and statement of overriding considerations, and other information in the administrative record, serve as the basis for the City's environmental determination.

The detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Section 4.0 of the Draft EIR and Section 2.0 of the Final EIR. Responses to comments from the public and from other government agencies on the Draft EIR are provided in Section 3.0 of the Final EIR.

The EIR evaluated ten major environmental categories for potential impacts including: Land Use and Planning; Traffic and Circulation; Air Quality; Noise; Public Services and Utilities; Water Supply; Hydrology/Water Quality; Biological Resources; Cultural Resources; and Geology and Soils. Both Project-specific and cumulative impacts were evaluated. Of these ten major environmental categories, this Commission concurs with the conclusions in the EIR that the issues and sub issues discussed in subsections A and B below are either less than significant without mitigation or can be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in subsection C, the Commission must evaluate the overriding considerations and Project benefits and balance them against the significant impacts of the proposed Project.

A. IMPACTS IDENTIFIED AS LESS THAN SIGNIFICANT REQUIRING NO MITIGATION

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

1. Land Use and Planning

a) City of Hesperia General Plan, Specific Plan and Development Code, and Redevelopment Plan

Potential Significant Impact:

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

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to consistency with the General Plan, Specific Plan and Development Code, or Redevelopment Plan and, therefore, no mitigation is required. (DEIR pp. 4.1-16 to 4.1-18.)

Facts in Support of the Finding:

The General Plan land use designation for the Project site is Planned Mixed Use ("PMU"), which refers a developer to the Specific Plan for land use regulations

and standards. As such, if the Project complies with the Specific Plan, it is also consistent with the General Plan. (DEIR p. 4.1-16.) The Project site is within the Interstate 15/Main Street Interchange District ("District") of the Main Street and Freeway Corridor Specific Plan ("Specific Plan"); further, the Specific Plan designates the Project site as Regional Commercial. (DEIR pp. 4.1-16 to 4.1-17.) All of the uses proposed by the Project are either permitted or conditionally permitted under the Regional Commercial Zone as provided for under the Specific Plan. (*Id.*) In those instances where the Specific Plan is silent, the Project shall comply with the applicable provisions of the Development Code. (DEIR p. 4.1-16.) The Project is currently designed to be consistent with the Specific Plan or the Development Code, as applicable. Accordingly, the Project complies with the Specific Plan and Development Code. (DEIR p. 4.1-17.) The Project site is also located within the City's Redevelopment Area Plan No. 1. Compliance with the General Plan, Specific Plan and Development Code constitutes consistency with the applicable Redevelopment Plan. (DEIR p. 4.1-18.) Furthermore, generation of tax revenues by the Project and compliance with any Redevelopment Agency conditions of approval will ensure that the Project fully supports the goals, policies, and standards of the Redevelopment Plan. (*Id.*) Accordingly, this land use and planning impact is less than significant and no mitigation is required.

b) Physical division or disruption of an established community

Potential Significant Impact:

Whether implementation of the proposed Project could physically divide or disrupt an established community.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to the physical division or disruption of an established community and, therefore, no mitigation is required. (DEIR pp. 4.1-19 to 4.1-26.)

Facts in Support of the Finding:

The Project site is located within the Main Street Freeway Corridor Specific Plan Area, is designated as Planned Mix Use ("PMU") by the City General Plan Land Use Element, and is zoned Regional Commercial ("C-4"). (DEIR p. 3-5.) The surrounding properties northerly, easterly, and westerly and of the Project site are designated as PMU by the City General Plan Land Use element, and are zoned C-4. (DEIR Figures 4.1-2 and 4.1-3.) The residential property existing southerly of the site designated Medium Residential ("M") by the City General Plan Land Use element, and is zoned Single Family Residential District ("R1-8000"). (*Id.*) Properties located west of the Project site are currently developed with commercial uses. Furthermore, property owners have submitted plans and requested permits for development of large-scale commercial centers to the north and northwest of the Project site. The commercial retail uses and facilities proposed within the Project represent a compatible continuation of commercial development in the vicinity. (DEIR pp. 4.1-116 to 4.1-19.) The Project site will be effectively screened from south/southeasterly adjacent residential properties by an approximately nine feet screen wall, as well as physical separation provided

by the intervening drainage channel located along the Project's south/southeasterly boundary. Views into the Project site from the residential areas to the south/southeast are further diminished by varying grade differentials between the Project site and adjacent residential land uses. (DEIR p. 4.1-20; Figures 4.1-5 and 4.1-6.) To the north, across Main Street, and east, across the California Aqueduct, adjacent to Main Street, properties are developed with, or are anticipated to be developed with commercial/retail uses which are similar to, and compatible with, development proposed within the Project. (DEIR p. 4.1-20.) The Project site, along with neighboring properties to the north, across Main Street, and to the west, across Escondido Avenue, is currently vacant and unimproved. The California Aqueduct, which forms the northeasterly boundary of the Project site, effectively separates the Project site from land uses beyond it to the east. (*Id.*) The Project is physically screened and separated from sensitive land uses, and will use directional, internally-oriented lighting confined to the Project site, minimizing potential light overspill from the Project site onto adjacent properties. (DEIR p. 4.1-24.) As indicated in the Project Photometric Plan, DEIR Figure 4.1-7, all building entrances and other areas will be well-lighted, with no or negligible effects to adjacent properties. The Photometric Plan demonstrates that at the Project's southerly edges, adjacent to sensitive residential land uses, potential light received from the Project land uses will be 0.2 foot-candles or less. Similarly, properties located across Escondido Avenue to the west of the Project site, and properties located to the north of the Project site, across Main Street, are estimated to receive 0.2 foot-candles or less. Final design and orientation of all Project lighting is subject to the City's development review process. (DEIR p. 4.1-26.) As supported by the preceding discussion, the potential for the Project to result in or cause community division or disruption is less than significant and no mitigation is required. (*Id.*)

c) Urban Decay

Potential Significant Impact:

Whether implementation of the proposed Project could result in adverse physical changes or impacts due to the Project's economic effects.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to adverse physical changes or due to the Project's economic effects and, therefore, no mitigation is required. (DEIR pp. 4.1-27 to 4.1-38.)

Facts in Support of the Finding:

A project may be result in a significant physical change due to economic forces if it results in a condition commonly referred to as urban decay. A project may result in a significant urban decay impact if the project results in a diversion of sales from existing competitive retailers at such a magnitude that the project either independently, or in conjunction with other past, present, and reasonably foreseeable future projects, could substantively contribute to the downward spiral of retail store closures and long-term vacancies. (DEIR p. 4.1-27.) To assess the Project's potential to result in adverse physical impacts on the environment by causing "urban decay" a Project-specific economic impact analysis: *Wal-Mart*

Store Economic Impact Analysis: Main Street Marketplace, Hesperia, California (CBRE Consulting, Inc) March 2008 ("Project EIA") was prepared. Additionally, because several similar projects have been proposed for development within the High Desert area, a Cumulative Economic Impact Analysis: *Wal-Mart Supercenters Economic Impact Analysis: Adelanto, Apple Valley, Hesperia and Victorville, California* (CBRE Consulting, Inc., Sedway Group) April 2007, as well as *Addendum to Cumulative Economic Impact Analysis: Adelanto, Apple Valley, Hesperia and Victorville, California* (CBRE Consulting, Inc., Sedway Group) December 2007 (collectively "Cumulative EIA") were prepared to review the larger effect of increased development of shopping centers anchored by Wal-Mart stores on a regional basis, in connection with the development of other past, present, and future probable competitive retail projects. (DEIR pp. 4.1-27 and 4.1-28.) The Project EIA examined: 1) the "Primary Market Area" ("PMA") which includes the cities of Adelanto, Hesperia, and Victorville, California, and the Town of Apple Valley, California; 2) the "Primary Submarket Area" ("PSMA"), defined as the area west of Seventh Avenue and south of Mesa Street, with City boundaries of Hesperia and Victorville as south and west market perimeters; 3) the "Secondary Market Area" ("SMA") which includes unincorporated portions of San Bernardino County surrounding the PMA; and 4) the "Tertiary Market Area" (TMA) which is not geographically defined, but could include shoppers traveling along the Interstate 15 corridor, or shoppers coming from the City of Barstow. (DEIR pp. 4.1-29 to 4.1-32.) The Project EIA estimated that in the year 2010, the Project would generate $199.9 million in sales, of which $190.0 million would be generated from the Primary and Secondary Market Areas, with the balance of $9.9 million generated from the TMA. (DEIR p. 4.1-32; Table 4.1-1.) In the year 2010, the addition of retail sales to be generated by the Project could result in sales diversion from existing retailers within the PSMA in a total of $17.1 million in food stores and $2.4 million in home furnishings and appliances. (DEIR pp. 4.1-34 and 4.135; Table 4.1-2.) However, any potential sales diversions would be temporary in nature, and could be absorbed within the existing over-performing sales categories. Further, as presented in the Project EIA, the High Desert region is expecting population growth over the next five years, which will add additional retail demand within the market area as a whole. Given the estimated per capita spending for the PMA, this new population is estimated to generate millions of new sales dollars by 2015. (DEIR p. 4.1-35; Table 4.1-3.) This additional retail demand will quickly lead to the recoupment of any lost sales from existing competitive retailers due to the development of the Project, further decreasing the likelihood of sales diversions that could potentially result in urban decay. (DEIR p. 4.1-35.) The Cumulative EIA analyzed the health of the existing retailers within the PMA, estimated leakage from the entire High Desert Region (i.e., not simply from one High Desert City to another), and added estimated sales for all of the proposed shopping centers containing a Wal-Mart store and all other reasonably foreseeable proposed retail developments, to obtain an estimate of sales impacts in the High Desert Region. (DEIR p. 4.1-36; Table 4.1-4.) Overall, the retail market in the PMA is generally strong, with low retail vacancy and recent re-tenanting of large, vacant retail spaces. More specifically, the retail vacancy rate in the PMA is currently estimated at 1.92 percent, well below the average 5.71 percent retail vacancy rate evidenced within the encompassing Inland Empire area as a whole. Several national retailers are interested in locating or expanding in the PMA. While some existing retail weakness was noted in neighboring downtown Victorville (also called "Old Town

Victorville"), the study indicates that overall, no persistent vacancies or urban decay are predicted to result from development of the project in light of the development of other past, present, and future probable cumulative retail projects. (DEIR p. 4.1-37.) Due to the health of the market area, the Project EIA found that in 2010, based on the expected increases in demand from new population, capture of leakage from other market areas, the temporary nature of any diversions, the resilience of the PSMA in its current over-performance and the ability to reposition into other sales categories, the Project is considered unlikely to result in urban decay within the PSMA. (DEIR pp. 4.1-37 to 4.1-38.) Accordingly, the potential for the Project to contribute to individual and/or cumulatively adverse economic impacts is not considerable, and the potential for the individual and/or cumulative economic effects of the Project to result in adverse physical changes or impacts due to the Project's economic effects is less than significant and no mitigation is required. (DEIR p. 4.1-38.)

d) Cumulative Impacts – General Plan and Zoning Considerations

Potential Significant Impact:

Whether implementation of the proposed Project could contribute to potential cumulative land use impacts related to General Plan and Zoning consistency.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1-25 of the Draft EIR. Furthermore, Section 5.1.1.1 of the Draft EIR assesses cumulative impacts related to Land Use and Planning. Based on the entire record before us, this Commission finds no significant impact related to General Plan and Zoning consistency and, therefore, no mitigation is required.

Facts in Support of the Finding:

The Project is allowed under the site's current General Plan Land Use designation of Planned Mixed Use ("PMU") within the Main Street Commercial Retail Freeway Corridor Specific Plan. (DEIR p. 5-4.) The Project uses individually and collectively are either permitted or conditionally permitted under the site's Regional Commercial (C-4) zoning designation. (DEIR p. 5-5.) The Project will be designed and implemented consistent with the requirements, standards, and guidelines of the Specific Plan or applicable provisions of the City Development Code. (*Id.*) The Project is also subject to approval of a Comprehensive Conditional Use Permit, which will address site design and operational characteristics. (*Id.*) Accordingly, the Project's contributions to potential cumulative land use impacts related to General Plan and Zoning consistency is not considerable and the cumulative effects of the Project are determined to be less than significant.

e) Cumulative Impacts – Economic Effects and Potential Urban Decay

Potential Significant Impact:

Whether implementation of the proposed Project could contribute to cumulatively adverse economic impacts, and whether the Project's cumulative economic effects could result in adverse physical change/urban decay.

Finding:

Potential impacts of the Project on Land Use and Planning are discussed in detail in Section 4.1-25 of the Draft EIR. Furthermore, Section 5.1.1.1 of the Draft EIR assesses cumulative impacts related to economic effects and urban decay. Based on the entire record before us, this Commission finds no significant impact related to economic effects and potential urban decay and, therefore, no mitigation is required.

Facts in Support of the Finding:

The Cumulative Economic Impact Analysis ("EIA") Study prepared for the Project analyzed the health of the existing retailers within the Primary Market Area ("PMA"), estimated leakage from the entire High Desert Region, and added estimated sales for all of the proposed shopping centers containing a Wal-Mart store and all other reasonably foreseeable proposed retail developments, to obtain an estimate of sales impacts in the High Desert Region. (DEIR p. 5-7.) Overall, the retail market in the PMA is generally strong, with low retail vacancy and recent re-tenanting of large, vacant retail spaces. Several national retailers have already located, or are proposing locating within, the PMA. While some retail weakness was noted within a specific area of the PMA (Downtown or "Old Town" Victorville, where plans for revitalization of the area are already in formation), the Cumulative EIA indicates that as a whole, no persistent vacancies or urban decay are predicted to result from the Project when viewed in light of other existing, approved, or potential development proposals. (*Id.*)

The Cumulative EIA notes several factors mitigating potential sales diversions, including:

- There is a disparity between the estimated population and the projected expansion of retail space. This disparity is an indication that not all of the projected retail growth will occur before 2010, the opening year of the proposed Project;
- The analysis conservatively assumes that all of the existing and proposed retail projects have an overlapping market area. In reality, market areas are determined by the nature and identity of the retail use. Uses with a unique character draw customers from a larger geographical market area, whereas similar uses draw from a more confined geographical region; and
- Many of the projects included for analysis are at a very preliminary stage and may not in fact represent future retail development. Furthermore, it is highly likely that many of the projects will be delayed, reoriented, or halted at some point in the lengthy public approval process, and will not open by 2010.

Additionally, economic factors present in the High Desert Region indicate that the Project will not have a cumulatively significant urban decay impact when its potential economic impacts are considered in conjunction with economic impacts of other competitive commercial projects in the PMA. (DEIR p. 5-8.) Retail market research findings indicated that the retail market in the PMA has been generally strong. There have been a few lingering large vacancies, though many have been re-tenanted, or are expected to do so in the near term. For example, a

former Home Depot Expo store in the neighboring City of Victorville has been converted to a Hispanic market. Also in the City of Victorville, a 104,000-square-foot space, formerly occupied by a House2Home store, was purchased by the City and subsequently sold to Costco, which has rebuilt a new store at this site. As noted previously, continued market support is further indicated by other national retailers have either already located new stores in the PMA, or are proposing to do so. (*Id.*)

Even if some sales diversions occur, the leakage that exists in the categories not specifically analyzed as part of this study, such as eating and drinking places and auto dealers and auto supplies, suggest that there would be some demand to re-tenant or redevelop vacated store spaces should retail vacancies occur. (*Id.*) Additionally, new retail spending growth in the few years after the opening of the new development is anticipated to be significant. As such, any interim sales impacts are expected to be temporary, and may be completely mitigated by sales cannibalization between Wal-Mart stores, or demand from business customers. (DEIR p. 5-9.) If sales impacts contribute to store closures, the robust retail demand and rapid market growth suggest that these stores will be repositioned or re-tenanted within three years. No persistent vacancies are anticipated. (*Id.*)

The retail leakage analysis indicated that several retail categories, not competitive with the Wal-Mart Net Planned Development, experience a large amount of sales leakage. These sales categories include eating and drinking places, auto dealers, and auto supplies. The amount of retail leakage in these categories suggests that some closed store spaces may be repositioned to compete in other retail categories still experiencing leakage. (*Id.*) The size of the existing leakage and new demand due to area-wide growth suggest that all new retail development can be effectively absorbed in the near-term, but perhaps causing some reshuffling of retailers within retail categories (e.g., a home and furnishings retailer may offer more building materials if the former category experiences greater competition). Finally, impacted retail space can be redeveloped into alternative uses, such as office, service-based retail, and residential uses. Growth in the region suggests demand will increase for such alternative uses. (DEIR p. 5-9.)

As supported by the preceding discussions, the Project's potential contribution to cumulatively adverse economic impacts is not considerable, and the potential for the Project's cumulative economic effects to result in adverse physical change/urban decay is determined to be less than significant.

2. Traffic and Circulation

a) Access and Internal Circulation

Potential Significant Impact:

Whether implementation of the proposed Project could substantially increase hazards to a design feature (e.g., sharp curves or dangerous intersections) or compatible uses (e.g., farm equipment); inadequate vehicular access and internal circulation.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to access to the Project site, and the Project's proposed internal circulation system design and, therefore, no mitigation is required. (DEIR pp. 4.2-85 to 4.2-91.)

Facts in Support of the Finding:

The Project is proposing access from two signalized driveways and four other driveways along Main Street and Escondido Avenue. The Project applicant will construct the following improvements adjacent to Project Frontage:

1) Main Street will be widened to provide three travel lanes westbound from Escondido Avenue to the easterly (signalized) driveway on Main Street;

2) An eastbound deceleration lane (right-turn lane) will be provided on Main Street at the westerly driveway;

3) Escondido Avenue will be widened to provide three through lanes northbound from the southerly Project border to Main Street; and

4) Traffic signals are being proposed at the main driveways on Main Street. (DEIR p. 4.2-85.)

Furthermore, the site will feature:

1) Fully directional, signalized access on Main Street (Intersection 17) on the easterly edge of the Project;

2) Fully directional, signalized access will on Escondido Avenue (Intersection 18) opposite the existing curb-cut on the west side of the street (and replacing Major Place);

3) Fully directional access at the southerly edge of the Project on Escondido Avenue (Intersection 19);

4) Right-turn in, right-turn out only access on Escondido Avenue at Driveway A north of the gas station (Parcel 4);

5) Right-turn in, right-turn out only access on Escondido Avenue at Driveway B between Parcels 5 and 6; and

6) Right-turn in, right-turn out only access on Main Street at Driveway C, between Parcels 6 and 7. (DEIR p. 4.2-87.)

Driveway traffic demand and on-site circulation were reviewed as elements of the Project Traffic Impact Analysis ("TIA"). Based on the TIA, the EIR recommends specific design elements and driveway configurations be implemented in order to ensure safe and efficient traffic flows as well as acceptable LOS conditions. (DEIR pp. 4.2-87 to 4.2-91.) Taken together, the access improvements proposed as part of the Project, along with the design recommendations of the Project TIA,

will be finalized and incorporated into the conditions of approval for the proposed Project. Based on incorporation of the TIA recommendations, or compatible design solutions acceptable to the City, potential impacts in regard to increased hazards to a design feature, inadequate site access, or internal circulation are less than significant and no mitigation is required. (DEIR p. 4.2-91.)

b) Inadequate Parking Capacity

Potential Significant Impact:

Whether implementation of the Project could result in inadequate parking capacity.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to inadequate parking capacity and, therefore, no mitigation is required. (DEIR pp. 4.2-91 and 4.2-92.)

Facts in Support of the Finding:

On-site parking will be provided in accordance with, or in a manner superior to, the minimum requirements identified within the City of Hesperia Municipal Code. Based on the Project's proposed retail uses and the City's Municipal Code requirements, the Project would require a minimum total of 1,604 parking spaces. The Project site plan concept indicates that a total of 1,843 parking spaces will be provided, including the required number of spaces designated for handicapped-accessible parking. (DEIR p. 4.2-92.) This exceeds the City's minimum parking requirement by 239 spaces, or approximately fifteen (15.0) percent. (*Id.*) Accordingly, potential impacts to on-site parking are considered less than significant and no mitigation is required. (DEIR p. 4.2-92.)

c) Cumulative Impacts – Parking and Access Considerations

Potential Significant Impact:

Whether implementation of the proposed Project could result in cumulative impacts in regard to parking and access.

Finding:

Potential impacts of the Project on Traffic and Circulation are discussed in detail in Section 4.2 of the Draft EIR. In addition, Section 5.1.1.2 of the Draft EIR discusses cumulative Traffic and Circulation Impacts in particular. Based on the entire record before us, this Commission finds the Project's potential contribution to cumulative impacts related to parking and access is not considerable, and therefore, the cumulative effects of the Project are determined to be less than significant. (DEIR p. 5-20.)

Facts in Support of the Finding:

Parking for the Project will be provided in accordance with the City of Hesperia Municipal Code. (DEIR p. 5-19.) No additional off-site or street parking is proposed, nor is such parking required. Adequate and appropriately configured parking within the Project site will act to preclude or minimize the potential for overflow parking on to off-site locations. (*Id.*) Additionally, adequate and appropriate driveway and access improvements will be implemented by the

Project. City design review processes, and any resultant modifications incorporated in the Final Site Plan, will ensure that potential parking, site access, and internal circulation impacts are less than significant. (*Id.*) It is further assumed that other development projects within the cumulative impact area will design and construct adequate and appropriate parking areas, site access, and internal circulation systems, thereby avoiding or reducing the extent and scope of potential parking, access and internal circulation impacts. (*Id.*) Accordingly, the Project's potential contribution to cumulative impacts in regard to parking and access is not considerable, and the cumulative effects of the Project are determined to be less than significant.

3. Air Quality

a) Global Climate Change

Potential Significant Impact:

Whether implementation of the proposed Project could contribute considerably to a global climate change impact through greenhouse gas emissions.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to global climate change and, therefore, no mitigation is required. (DEIR pp. 4.3-49 to 4.3-68.)

Facts in Support of the Finding:

At this time, there is not an established "threshold of significance" by which to measure Global Climate Change ("GCC") impacts; there is no local, regional, or statewide plan regulating global warming by which the Project can be measured. (DEIR pp. 4.3-49 and 4.3-50.) Based on the lack of a threshold for analyzing the significance of project-level impacts associated with Greenhouse Gas ("GHG") emissions, it is not possible to develop a quantifiable emissions threshold. Further, it is reasonable to conclude that an individual development project cannot generate a high enough quantity of GHG emissions to affect global climate change. However, individual projects may incrementally contribute towards the potential for GCC on a cumulative basis in concert with all other past, present and reasonably foreseeable projects. (DEIR, p. 4.3-51.) The EIR includes a calculation of the Project's GHG emissions for informational purposes, as there is currently no quantifiable emissions threshold. (DEIR pp. 4.3-52 to 4.3-61.) The EIR assesses the Project's potential for creating an impact on GCC using a comparative analysis of the Project against the emission reduction strategies contained in the California Climate Action Team ("CAT") Report to the Governor, and similar GHG emissions reduction strategies. The Climate Action Team, author of the CAT Report, consists of representatives from the State agencies including California Environmental Protection Agency ("CalEPA"), the Business, Transportation and Housing Agency, Department of Food and Agriculture, Air Resources Board, Energy Commission, and the Public Utilities Commission. (DEIR p. 4.3-60.) The CAT Report provides recommendations regarding strategies the state should pursue to reduce GHG emissions to the levels proposed in Executive order S-3-05 (which aims to reduce GHG emissions to 80 percent below 1990 levels by the year 2050). If the Project is compatible or

consistent with the applicable CAT strategies, then the Project's cumulative impact on GCC is considered less than significant. (DEIR pp. 4.3-52 and 4.3-61.) As shown in Table 4.3-17 of the DEIR, the Project complies with all feasible and applicable CAT emission reduction strategies. (DEIR pp. 4.3-61 to 4.3-67.) Furthermore, the Project will employ numerous energy-efficient design, construction and operational design features, and as a result, it is estimated that the Project will achieve a minimum five (5) percent improvement in Title 24 Energy Efficiency Standards. (DEIR pp. 4.3-55 to 4.3-60.) Accordingly, the Project's potential to contribute considerably to a GCC impact, either individually or cumulatively, through GHG emissions is less than significant. (DEIR pp. 4.3-68 and 5-23.)

b) Consistency with an Applicable Air Quality Plan

Potential Significant Impact:

Whether implementation of the proposed Project could conflict with, or obstruct implementation of, applicable air quality plan.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to consistency with an applicable Air Quality Plan and, therefore, no mitigation is required. (DEIR pp. 4.3-68 and 4.3-69.)

Facts in Support of the Finding:

The Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert Air Quality Management District ("MDAQMD") establish a comprehensive set of programs that will lead the Mojave Desert Air Basin ("MDAB") into compliance with federal and State air quality standards. (DEIR p. 4.3-68.) Conformance with these attainment plans is determined by demonstrating: 1) compliance with local land use plans and/or population projections; 2) compliance with all MDAQMD Rules and Regulations; and 3) that a project will not increase the frequency or severity of a violation in the federal or State ambient air quality standards. (DEIR p. 4.3-69.) The Project complies with the first criterion because it would not involve growth-inducing impacts or cause an exceedance of established population or growth projections. The Project complies with the second criterion because it will comply with all MDAQMD Rules and Regulations. The Project complies with the third criterion because the Project would not result in a violation or increase in the severity of an existing violation of the ambient air quality standards. (*Id.*) Accordingly, the Project is consistent with the goals of the MDAQMD's Air Quality Management Plans, and in this respect presents a less than significant impact and no mitigation is required. (DEIR p. 4.3-68.)

c) Exposure of Sensitive Receptors

Potential Significant Impact:

Whether implementation of the proposed Project could result in exposure of sensitive receptors to substantial pollution concentrations.

Finding:

Potential impacts of the Project on Air Quality are discussed in detail in Section 4.3 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to exposure of sensitive receptors to substantial pollution concentrations and, therefore, no mitigation is required. (DEIR p. 4.3-73.)

Facts in Support of the Finding:

Project construction activities will not result in the potential exposure of sensitive receptors to substantial pollutant concentrations because the concentrations of Carbon Monoxide (CO), Nitrous Oxides (NOx), PM_{10} and $PM_{2.5}$ will not exceed localized significance criteria during the construction phase. (DEIR p. 4.3-69.) Similarly, the EIR's analysis of localized concentrations of criteria pollutants concludes no significant long-term, operational impacts related to sensitive receptors are anticipated to occur. (*Id.*) Furthermore, an analysis of toxic air contaminants ("TACs") was performed to address potential health risks associated with Project-generated diesel particulate matter. (DEIR, p. 4.3-70.) This analysis concluded, with respect to Diesel Particulate Matter ("DPM"), the cancer risk significance threshold will not be exceeded at the nearest off-site sensitive receptor locations. (DEIR, p. 4.3-70). Similarly, the theoretical cancer risk stemming from benzene emissions falls well below the applicable threshold for the closest potential sensitive receptors. (DEIR pp. 4.3-70 to 4.3-72.) Accordingly, the Project's potential to expose sensitive receptors to substantial pollutant concentrations is determined to be less than significant and no mitigation is required.

4. Noise

a) Construction Activities – Permanent Increase in Ambient Noise Levels

Potential Significant Impact:

Whether Project construction activities and associated noise could result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds no significant construction noise impact related to a permanent increase in ambient noise levels and, therefore, no mitigation is required. (DEIR p. 4.4-25.)

Facts in Support of the Finding:

Construction noise is not considered a permanent source of noise increases, and associated threshold questions are not germane. (DEIR p. 4.4-25.) Accordingly, potential impacts to permanent ambient noise levels are considered less than significant and no mitigation is required. (DEIR p. 4.4-25.)

b) Vehicle Source Noise – Permanent Increase in Ambient Noise Levels

Potential Significant Impact:

Whether Project-related vehicular source noise could result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds no significant vehicular source noise impact related to a permanent increase in ambient noise levels and, therefore, no mitigation is required. (DEIR p. 4.4-28.)

Facts in Support of the Finding:

Increased noise levels due to Project traffic will range from 0.0 to 0.5 dB CNEL. (DEIR p. 4.4-28.) A substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project will occur if the Project increases the CNEL at any noise-sensitive receptor by an audible amount (3 dB or more) when the ambient CNEL is equal to or exceeds the City General Plan Noise Element standard of 65 dB. (*Id.*) Project vehicular source noise will increase the ambient CNEL conditions by less than 3.0 dB. The potential for Project vehicular source noise to result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project is, therefore, less than significant, and no mitigation is required. (*Id.*)

c) Vehicle Source Noise – Temporary or Periodic Increase in Ambient Noise Levels

Potential Significant Impact:
Whether Project-related vehicular source noise could result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds no significant vehicular source noise impact related to a temporary or periodic increase in ambient noise levels and, therefore, no mitigation is required. (DEIR, p. 4.4-29.)

Facts in Support of the Finding:

Vehicular source noise is not considered a temporary or periodic source of noise increases, and associated threshold questions are not germane. (DEIR p. 4.4-29.) Accordingly, potential source noise impacts related to a temporary or periodic increase in ambient noise levels are considered less than significant and no mitigation is required. (DEIR p. 4.4-29.)

d) Vibration – Groundborne Noise

Potential Significant Impact:

Whether implementation of the proposed Project could result exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise.

Finding:

Potential Noise impacts of the Project are discussed in detail in Section 4.4 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to groundborne noise and, therefore, no mitigation is required. (DEIR pp. 4.4-43 to 4.4-45.)

Facts in Support of the Finding:

Operational aspects of the Project do not include nor require equipment, facilities, or activities that would result in substantial or even perceptible groundborne vibration or groundborne noise. (DEIR p. 4.4-44.) As such, Project operations will not result in, nor cause any grounborne noise or vibration impacts. The Project will comply with applicable construction day and hour limitations, and therefore be exempt from City of Hesperia Municipal Code Section 16.20.130 vibration standards. (*Id.*) Furthermore, even assuming that heavy equipment used in Project construction were to operate as close as 25 feet to residences, the estimated received vibration levels due to these operations would be 0.089 PPV which is less than the City Standard of 0.2 PPV. (*Id.*) Accordingly, potential groundborne noise impacts are considered less than significant and no mitigation is required. (*Id.*)

5. Public Services and Utilities

a) Governmental Facilities

Potential Significant Impact:

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

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to governmental facilities and, therefore, no mitigation is required. (DEIR pp. 4.5-11 to 4.5-14.)

Facts in Support of the Finding:

Based on the availability of existing governmental facilities and services (i.e. fire protection, police protection, and/or other public services) to the subject site, the Project will not result in a potential need or requirement for new physical facilities. (DEIR pp. 4.5-13 and 4.5-14.) Localized roadway/access and water system improvements that are required to support fire and police protection services will

be implemented as part of the Project design, through the Project Conditions of Approval, and/or pursuant to EIR mitigation measures. These local improvements do not constitute new substantial physical facilities, the construction of which would result in potentially significant environmental impacts. (*Id.*) Nor will the Project cause substantial adverse physical effects from the construction of new or altered government facilities needed to maintain acceptable service ratios, response times, or other performance objectives for fire protection services or police protection services. (*Id.*) Fees and tax revenues generated by the Project will provide funding sources available for support and enhancement of fire protection, emergency medical, and police protection services. The City of Hesperia, including the Hesperia Fire Department and Hesperia Police Department, will ultimately determine the most effective use of revenues generated by the Project, and how they will be employed for the provision and enhancement of fire/emergency medical, and police protection services. (*Id.*) Accordingly, the potential for the Project to result in or cause substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities; or result in the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services, is determined to be less than significant and no mitigation is required. (*Id.*)

b) Water and/or Wastewater Treatment Facilities

Potential Significant Impact:

Whether implementation of the proposed Project could 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.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to water or wastewater treatment facilities and, therefore, no mitigation is required. (DEIR pp. 4.5-15 and 4.5-16.)

Facts in Support of the Finding:

Water will be provided to the Project by the Hesperia Water District. (DEIR p. 4.5-15.) The City water supply and distribution either meet or exceed the state guidelines for drinking water regulations. (*Id.*) Because the Project's water demand is reflected within City and regional urban water planning demand estimates, no additional water treatment would be required specifically to meet the Project's water demands. Service and connection fees paid by the Project and other water customers will act to fund area water treatment facilities.

Wastewater generated by the Project will be conveyed for treatment to Victor Valley Wastewater Reclamation Authority (VVWRA) facilities. (DEIR p. 4.5-15.) VVWRA wastewater treatment capacities will not be discernibly affected by the Project. Wastewater treatment planning factor demands of the Project are conservatively estimated to approximate 0.60 percent (0.0060) of the current VVWRA plant capacity, and approximately 0.48 percent (0.0048) of the near-term expanded VVWRA plant capacity. (*Id.*) VVWRA as a regional wastewater

treatment provider will determine when, and in what manner, treatment facilities will be constructed and/or upgraded to meet increasing demands of areawide development, including incremental demands of the Project. The Project will pay sewer connection and service fees which will act to fund areawide VVWRA improvement plans, operations, and maintenance. (*Id.*) As such, the potential of the Project to 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 is determined to be less than significant and no mitigation is required. (DEIR p. 4.5-16.)

c) Storm Water Drainage Facilities

Potential Significant Impact:

Whether implementation of the proposed Project could result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to storm water drainage facilities and, therefore, no mitigation is required. (DEIR p. 4.5-21.)

Facts in Support of the Finding:

Storm water conveyance and detention capabilities and capacities provided by the Project will ensure that post-development storm water runoff volumes and velocities do not exceed pre-development conditions. (DEIR p. 4.5-17.) In order to accept increased runoff produced by the Project and accommodate off-site flows, a 3.45 acre-feet detention basin will be constructed within the 6.6-acre drainage facility at the southeast corner of the property, and will be employed to attenuate runoff. (DEIR p. 4.5-20.) This detention area will accept and hold 100-year storm flows, with an additional one-foot of freeboard to provide any additional/emergency storage that may be required. (*Id.*)

The Project's preliminary storm drain concept identifies three inflow points into the proposed detention basin. In order to attenuate the two-year and 100-year storm events analyzed in the Project drainage report, a multi-frequency outlet structure will be used. This outlet structure will release south/southeasterly of the detention basin, ultimately draining to the existing overchute crossing above the California Aqueduct. (DEIR p. 4.5-20.) The Project drainage course/detention area will be sized and provided regulated outflows such that peak runoff values after development will not exceed peak runoff values under existing conditions. (*Id.*) As such, no additional improvements to, or modification of the existing downstream Aqueduct overchute are required in order to accommodate post-development storm water discharges. (*Id.*) In the event that entry onto the California Aqueduct land becomes necessary to construct improvements, modify the existing overchute, or for any other reason related to Project development, the Applicant shall obtain an Encroachment Permit from the Department of Water Resources. (*Id.*) Accordingly, the Project's potential to 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,

is determined to be less than significant and no mitigation is required. (DEIR p. 4.5-21.)

d) Solid Waste Disposal

Potential Significant Impact:

Whether implementation of the proposed Project could be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to solid waste disposal and, therefore, no mitigation is required. (DEIR p. 4.5-29 to 4.5-30.)

Facts in Support of the Finding:

Solid waste generated by the Project site would be collected by Advance Disposal, which provides solid waste disposal and recycling services for the City of Hesperia. (DEIR p. 4.5-29.) Project-generated solid waste delivered to the receiving landfill would be approximately 2.82 tons per day. (*Id.*) It is anticipated that waste generated by the Project will be transported to, and disposed at, the Victorville Sanitary Landfill (Landfill). (DEIR p. 4.5-30.) The estimated closure date of the Landfill is 2047. The total estimated permitted capacity of the Landfill is 83,200,000 cubic yards. The remaining capacity of the Landfill (as of 2006) was estimated at 82,200,000 Cubic Yards, or approximately 98.2 percent of the permitted capacity. Maximum throughput of the Landfill is 3,000 tons/day. For the year 2005 (the most recent year for which data was available during preparation of the EIR), the Landfill received approximately 361,762 tons of waste for the year, or approximately 1,011 tons per day on average. This is approximately one-third of the daily throughput capacity. Waste generated by the Project would comprise approximately 0.094 percent of the Landfill's maximum permitted daily throughput and is considered de minimus in the context of the landfill's current daily throughput capacity and total remaining capacity. Accordingly, the Project will be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs, and therefore no mitigation is required. (DEIR p. 4.5-29.)

e) Solid Waste Regulations

Potential Significant Impact:

Whether implementation of the proposed Project could result on noncompliance or conflict with federal, state, and local statutes and regulations related to solid waste.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to solid waste regulations and, therefore, no mitigation is required. (DEIR pp. 4.5-30 and 4.5-31.)

Facts in Support of the Finding:

In accordance with the California Integrated Waste Management Act of 1989 (the "Act"), the City of Hesperia has an adopted a Source Reduction Recycling Element ("SRRE"), approved by the California Integrated Waste Management Board. (DEIR p. 4.5-30.) Since adoption of the Act, the City has made continued good faith efforts to achieve the Act's target diversion rate of 50 percent, and has reduced the amount of solid waste sent to area landfills by approximately 47 percent. (*Id.*) Commercial waste recycling programs in support of the SRRE have been implemented by the City. The Project will comply with and implement applicable City recycling programs and SRRE requirements. (*Id.*) Accordingly, the potential for the project to result in, or substantively contribute to, noncompliance or conflict with federal, state, and local statutes and regulations related to solid waste is determined to be less than significant and no mitigation is required. (DEIR p. 4.5-30.)

f) Storm Water Treatment Control – Best Management Practice

Potential Significant Impact:

Whether implementation of the proposed Project could result in or require a new or retrofitted storm water treatment control Best Management Practice ("BMP"), (e.g., water quality basin, constructed treatment wetlands), the operation of which could result in significant environmental effects (e.g., increased vectors and/or odors).

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to storm water treatment control and, therefore, no mitigation is required. (DEIR pp. 4.5-31 and 4.5-32.)

Facts in Support of the Finding:

Project-specific management and conveyance of storm water are adequately and appropriately addressed through proposed drainage system improvements and connection to existing storm water drainage systems. (DEIR p. 4.5-31.) All proposed connections to, or modifications of, storm water drainage systems, to include proposed BMP's will be reviewed and approved by the City, Department of Water Resources, and the Lahontan Regional Water Quality Control Board. (*Id.*) Moreover, the Project's proposed storm water detention area will be designed so as to de-water within 72 hours, thereby minimizing the potential for increased vectors and/or intrusive odors. (*Id.*) Therefore, the potential for the Project to require or result in new or retrofitted storm water treatment control facilities or mechanisms that could result in adverse environmental effects is determined to be less than significant and no mitigation is required. (DEIR p. 4.5-32.)

g) Cumulative Impacts Related to Public Services and Utilities

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to public services or utilities.

Finding:

Potential impacts of the Project on Public Services and Utilities are discussed in detail in Section 4.5 of the Draft EIR. In addition, Section 5.1.1.5 of the Draft EIR discusses cumulative impacts related to public services and utilities in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to public services or utilities and, therefore, no mitigation is required.

Facts in Support of the Finding:

It is assumed that, like the Project, other development proposals within the services/utilities cumulative impact area will similarly participate in funding, modification, and improvement of area services and utilities, and that all development will be designed, implemented, and operated consistent with applicable agency requirements, thereby reducing potential cumulative impacts. (DEIR p. 5-30.) Accordingly, the Project's potential contribution to cumulative impacts in regard to public services/utilities is not considerable, and the cumulative effects of the Project are determined to be less than significant.

6. Water Supply

a) Groundwater

Potential Significant Impact:

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

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to groundwater and, therefore, no mitigation is required. (DEIR p. 4.6-30 to 4.6-32.)

Facts in Support of the Finding:

Water will be supplied to the Project by the Hesperia Water District ("District"). (DEIR, p. 4.6-30.) The District is located within the Mojave River Groundwater Basin ("Basin"), which encompasses 1,400 square miles and has an estimated storage capacity of nearly 5 million acre-feet. (DEIR p. 4.6-4.) The District relies upon groundwater allocations pursuant to the Basin adjudication, as administered and monitored by the Mojave Water Agency ("MWA"). Locally-produced groundwater, extracted from the Basin, is the District's sole source of supply. (*Id.*) The calculated likely maximum water demands of the Project are estimated at 50,300 gallons per day or approximately 56.21 acre-feet a year. The Project's water demand is 0.284 percent of the total 19,778 acre-feet produced by the District in Water Year 2006 to 2007. (*Id.*) This estimate does not take into account mandatory conservation measures as required by the State of California for all new development projects. (*Id.*) The project developer is required by the City to construct on-site and off-site reclaimed water usage in parkland and landscape areas adjacent to Main Street and Escondido Avenue. Furthermore, development proposed by the Project is reflected in the existing and anticipated

water demands identified in the District's 2005 Urban Water Management Plan. (DEIR p. 4.6-31.) More specifically, the Project represents approximately 43.8 acres of commercial development within a total of an estimated 444 commercial acres anticipated under the District's near-term (2010) conditions, and approximately 2,063 commercial acres reflected in the District 's 2030 long-range land use scenario. (*Id.*) Accordingly, this Project is accounted for in the growth projections contained the City's Urban Water Management Plan. The Project also does not propose elements or aspects that would substantially interfere with, or detract from known or anticipated groundwater recharge plans or policies. (DEIR, p. 4.6-32.) In this regard, the Project will protect watersheds and groundwater resources in that proposed drainage, channelization and detention area improvements will employ permeable materials to the extent feasible, thereby allowing for percolation of storm water runoff and related groundwater recharge. (*Id.*) Accordingly, the potential for the Project to 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 is determined to be less than significant and no mitigation is required. (DEIR p. 4.6-32.)

b) Water Supply – Existing Entitlements

Potential Significant Impact:

Whether insufficient water supplies are available to serve the Project from existing entitlements and resources, or requirements for new or expanded entitlements.

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to water supplies available to serve the Project from existing entitlements and resources and, therefore, no mitigation is required. (DEIR p. 4.6-32 to 4.6-34.)

Facts in Support of the Finding:

The Project's water demand is 0.284 percent of the total 19,778 acre-feet produced by the Hesperia Water District (the "District") in Water Year 2006 to 2007. (DEIR p. 4.6-32.) Accordingly, the Project water demand is nominal compared to the overall water consumption within the MWD. The MWD presently relies exclusively on groundwater produced from the Alto subarea of the Basin. The Basin is adjudicated and the MWD possesses 13,588 acre-feet of Base Annual Production (BAP), which allows for the production of 8,153 acre-feet of Free Production Allowance ("FPA"). (*Id.*) Moreover, the MWD can rely upon additional groundwater production from its wells to meet increased demand, subject to the purchase of water with the replacement fees. This ability to produce in excess of FPA and the payment of the replacement water assessment, which then allows MWA to purchase replacement water, provides the District a means to satisfy new demand within the District for many years. (DEIR p. 4.6-33.) Further, as a long-term strategy, the Victor Valley Wastewater Reclamation Authority, of which the City is a member, is constructing a subregional reclamation facility. The reclaimed water produced by this facility will be discharged into nearby percolation basins when irrigation and customer

demand is low, providing another source of groundwater recharge. (*Id.*) The District is also preparing a Water Reuse Master Plan to optimize the use of recycled water within the City limits for potential customers. Various options include satellite treatment plants, collection and conveyance to VVWRA and the location of potential customers. During the peak demand months, recycled water would be used to offset potable water demands. In the low demand months, the recycled water would be used to recharge the groundwater basin. Based upon this analysis and the District's 2005 Urban Water Management Plan, it is anticipated that the District will have sufficient water supplies to reliably meet the projected water demand of the District, including this Project, until at least 2030. (*Id.*) Accordingly, the potential for the Project to result in the need for new or additional entitlements or resources is therefore determined to be less than significant, and no mitigation is required. (DEIR p. 4.6-34.)

c) Cumulative Impacts Related to Water Supply

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to water supply.

Finding:

Potential impacts of the Project on Water Supply are discussed in detail in Section 4.6 of the Draft EIR. In addition, Section 5.1.1.6 of the Draft EIR discusses cumulative impacts related to water supply in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to water supply and, therefore, no mitigation is required.

Facts in Support of the Finding:

The potential cumulative impacts attributable to water demands on the Project are adequately planned and provided for under regional and local water management plans. (DEIR p. 5-32.) The Project in combination with current and anticipated future uses can be adequately served by existing and proposed water sources, with neither Project-related, nor cumulatively adverse impacts on the availability or reliability of water supplies, including groundwater. (DEIR pp. 5-32 and 5-33.) Accordingly, the Project's potential contribution to cumulative impacts in regard to water supply is not considerable, and the cumulative effects of the Project are determined to be less than significant. (DEIR p. 5-33.)

7. Hydrology and Water Quality

a) Water Quality Standards and Wastewater Discharge Requirements

Potential Significant Impact:

Whether implementation of the proposed Project could violate any water quality standards or waste discharge requirements.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to water quality standards or

waste discharge requirements and, therefore, no mitigation is required. (DEIR pp. 4.7-17 to 4.7-19.)

Facts in Support of the Finding:

The Project is required to acquire and comply with Clean Water Act Section 401 and Section 404 permits, which will preclude, or substantially reduce the potential of the Project to violate any water quality standards or waste discharge requirements. (DEIR p. 4.7-17.) A site-specific drainage study reflecting precise pad locations, proposed drainage structures, retention/detention areas, etc., is required prior to the issuance of building permits. The Project's plans for connection to existing sanitary sewer infrastructure facilities is subject to review and approval by the City and VVWRA. Wastewater generated by the Project is typical of commercial generators and wastewater resulting for the Project uses will not require treatment beyond that provided by existing VVWRA facilities. Moreover, the Project will be developed and operated in compliance with City/Lahontan Regional Water Quality Control Board ("LRWQCB") regulations and water quality standards. (*Id.*) All storm water discharges shall comply with applicable provisions of the County's National Pollutant Discharge Elimination System ("NPDES") permit. Consistent with LRWQCB and City requirements, waste materials will not be discharged to drainage areas, streambeds, or streams. (DEIR p. 4.7-18.) Consistent with LRWQCB and City requirements, appropriate Best Management Practices ("BMPs") will be employed throughout construction processes, thereby controlling potential discharge of pollutants, preventing sewage spills, and avoiding discharge of sediments into streets, storm water channels, or waterways. (*Id.*) Accordingly the potential for the Project to violate any water quality standards or waste discharge requirements is determined to be less than significant and not mitigation is required. (DEIR p. 4.7-19.)

b) Existing Drainage Pattern and Runoff Water

Potential Significant Impact:

Whether implementation of the Project could 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; create or contribute runoff water which would exceed the capacity of the existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to the existing drainage pattern and runoff water and, therefore, no mitigation is required. (DEIR pp. 4.7-19 to 4.7-21.)

Facts in Support of the Finding:

Storm water conveyance and detention capabilities and capacities provided by the Project will ensure that post-development storm water runoff volumes and velocities do not exceed pre-development conditions. (DEIR p. 4.7-20.) In order

to accept increased runoff produced by the Project and to accommodate off-siteflows, an approximately 3.45 acre-feet detention basin will be constructed within the 6.6-acre drainage facility at the southeast corner of the property, and will be employed to attenuate runoff. (*Id.*) This detention basin will accept and hold 100-year storm flows, with an additional one-foot of freeboard beyond the 100-year flow volume to provide any additional/emergency storage that may be required. (*Id.*) The Project drainage course/detention area will be sized and will provide regulated outflows such that peak runoff values under post-development conditions will not exceed existing peak runoff conditions. (*Id.*) Further, the Project is required to acquire and comply with Clean Water Act Section 404 and 401 permits, acting to preclude, or substantively reduce the potential of the Project to violate any water quality standards or waste discharge requirements. (DEIR 4.7-21.) Moreover, the Project will be developed and operated in compliance with City/Lahontan Regional Water Quality Control Board regulations and water quality standards. Accordingly, the potential for the Project to 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; create or contribute runoff water which would exceed the capacity of the existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff, is determined to be less than significant and no mitigation is required. (DEIR p. 4.7-21.)

c) Storm Water Runoff from Construction Activities

Potential Significant Impact:

Whether implementation of the proposed Project could potentially impact storm water runoff from construction activities.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to runoff water from construction activities and, therefore, no mitigation is required. (DEIR pp. 4.7-21 to 4.7-23.)

Facts in Support of the Finding:

The Project Applicant will be required to prepare a construction activities erosion control plan to alleviate potential Project-related sedimentation and storm water discharge contamination impacts. (DEIR p. 4.7-22.) The Applicant shall also be responsible for compliance with the General Construction NPDES permit from the Lahontan Regional Water Quality Control Board. (DEIR p. 4.7-22.) The Applicant shall prepare, retain at the construction site, and implement a Storm Water Pollution Prevention Plan ("SWPPP") which identifies the sources of sediments and other pollutants that affect the quality of storm water discharge, and implement practices to reduce sediment and other pollutants to storm water discharge. (*Id.*) The Project shall also comply with applicable requirements of the Mojave River Watershed SWMP. Compliance with applicable SWMP, NPDES, and Lahontan Regional Water Quality Control Board requirements will minimize potential construction storm water impacts of the Project below the level of significance. (*Id.*) Accordingly, the potential for the Project to impact storm water

runoff from construction activities is determined to be less than significant and no mitigation is required.

d) Storm Water Runoff from Post-Construction Activities

Potential Significant Impact:

Whether implementation of the proposed Project could result in a potential for discharge of storm water pollutants from areas of material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas for post-construction activities, otherwise result in any other potential impacts to storm water runoff from post construction activities or otherwise substantially degrade water quality.

Finding:

Potential impacts of the Project on Hydrology/Water Quality are discussed in detail in Section 4.7 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to storm water runoff from post-construction activities and, therefore, no mitigation is required. (DEIR pp. 4.7-23 to 4.7-25.)

Facts in Support of the Finding:

Compliance with the provisions in the SWMP for the Mojave River Watershed and NPDES permit will provide for proper management and disposal of urban runoff from the Project. (DEIR p. 4.7-23.) The Project Applicant shall be responsible for obtaining a General Permit for storm water discharge from the Lahontan Regional Water Quality Control Board. Additionally, the Project Applicant shall also develop and implement a Project-specific Storm Water Pollution Prevention Plan ("SWPPP"). (DEIR p. 4.7-24.) Based on compliance with applicable SWMP and NPDES requirements, and implementation of the Project SWPPP to include any additional requirements stipulated by the Lahontan Regional Water Quality Control Board, the potential for the Project to result in a potential for discharge of storm water pollutants from post-construction activities, otherwise result in any other potential impacts to storm water runoff from post-construction activities, or otherwise substantially degrade water quality, is determined to be less than significant and no mitigation is required. (DEIR p. 4.7-25.)

e) Cumulative Impacts Related to Hydrology/Water Quality

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to hydrology/water quality.

Finding:

Potential impacts of the Project on hydrology/water quality are discussed in detail in Section 4.7 of the Draft EIR. In addition, Section 5.1.1.7 of the Draft EIR discusses cumulative impacts related to hydrology/water quality in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to hydrology/water quality and, therefore, no mitigation is required.

Facts in Support of the Finding:

Based on compliance with established policies and regulations, complemented by implementation of Project-specific stormwater management components, the Project's potential contribution to cumulative impacts in regard to hydrology/water Quality is not considerable, and the cumulative effects of the Project are determined to be less than significant. (DEIR p. 5-34.)

8. Biological Resources

a) Consistency with Local Policies and Ordinances

Potential Significant Impact:

Whether implementation of the proposed Project could conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Finding:

Potential impacts of the Project on Biological Resources are discussed in detail in Section 4.8 of the Draft EIR. Based on the entire record before us, this Commission finds no significant impact related to consistency with local policies and ordinances and, therefore, no mitigation is required. (DEIR pp. 4.8-28 to 4.8-29.)

Facts in Support of the Finding:

Prior to, or concurrent with issuance of development permits, the Applicant shall obtain a Hesperia Municipal Code Section 16.24.040 "Removal Permit," allowing for removal/relocation of Joshua trees and other Protected Desert Native Plants indentified within the Project site. (DEIR p. 4.8-29.) The Project will also comply with General Plan biological resources preservation policies. (*Id.*) Further, the Project is also required to comply with biological preservation and protection ordinances of the City of Hesperia Municipal Code. (*Id.*) Accordingly, the potential for the Project to conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, is determined to be less than significant, and no mitigation is required. (DEIR p. 4.8-29.)

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

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

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

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

1. Traffic and Circulation

a) Opening Year (2010) – Potential Intersection Impacts

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation, with Opening Year (2010) traffic conditions, could cause or contribute to potentially significant intersection or roadway/freeway segment congestion.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.2.1 to 4.2.4. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.2.1 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvement at the intersection of Main Street at Escondido Avenue:

- *Add a westbound left-turn lane.*

4.2.2 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Main Street at Maple Avenue:

- *Add a northbound left-turn lane;*
- *Add an eastbound through lane; and*
- *Add a westbound through lane;*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvement:

- *Provide southbound right-turn overlap phasing*

4.2.3 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvement at the intersection of Ranchero Road at Maple Avenue:

- *Add an eastbound through lane.*

4.2.4 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvement at the intersection of Escondido Avenue at Sultana Street:

- *Install a traffic signal.*

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under Opening Year traffic conditions, six (6) intersections are projected to operate at an unacceptable level of service ("LOS"). (DEIR p. 4.2-53.) The mitigation measures listed above will ensure compliance with the City's Development Impact Fee Program and payment of appropriate Fair Share Traffic Fees. As part of its larger Development Impact Fee Program, the City currently implements a qualified Traffic Impact Fee Program which is assessed on new development to pay for the development's share of roadway improvements needed to maintain adequate levels of service and to prevent further degradation of roadway facilities operating at deficient levels. (DEIR pp. 4.2-16 to 4.2-18.) In addition to its Development Impact Fee, the City collects Fair Share Traffic Fees, which are assessed on a project-by-project basis as identified by each project's traffic impact analysis, to ensure that sufficient funds are available for needed roadway improvements. (DEIR p. 4.2-20.) With the implementation of Mitigation Measures 4.2.1 to 4.2.4, the following intersections are projected to operate at a satisfactory LOS, reducing this potentially significant impact to a less than significant level: (1) Main Street – Escondido Avenue; (2) Main Street – Maple Avenue; (3) Ranchero Road – Maple Avenue; (4) Escondido Avenue – Sultana Street. (DEIR pp. 4.2-53 to 4.2-58; 4.2-75 to 4.2-84.) Accordingly, potential traffic impacts to the above-referenced intersections are determined to be less than significant with appropriate mitigation.

b) CMP Horizon Year (2030) – Potential Intersection Impacts

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation, with CMP Horizon Year (2030) traffic conditions, could cause or contribute to potentially significant intersection or roadway/freeway segment congestion.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.2.1 to 4.2-8. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.2.1 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvement at the intersection of Main Street at Escondido Avenue:

- *Add a westbound left-turn lane;*
- *Add a westbound through lane;*
- *Add a westbound right-turn lane;*

- *Add a southbound right-turn lane; and*
- *Add an eastbound left-turn lane.*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvements:

- *Provide northbound and eastbound right-turn overlap phasing.*

4.2.2 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Main Street at Maple Avenue:

- *Add a northbound left-turn lane;*
- *Add an eastbound through lane;*
- *Add a westbound through lane;*
- *Add an eastbound left-turn lane;*
- *Add a westbound left-turn lane; and*
- *Add a northbound right-turn lane.*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvements:

- *Provide southbound right-turn overlap phasing; and*
- *Provide northbound right-turn overlap phasing.*

4.2.3 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Ranchero Road at Maple Avenue:

- *Add an eastbound through lane;*
- *Add an eastbound left-turn lane;*
- *Add southbound left-turn lane;*
- *Add westbound left-turn lane; and*
- *Install traffic signal.*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvement:

- *Convert the westbound right-turn lane to an optional through-or-right-turn lane.*

4.2.4 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvement at the intersection of Escondido Avenue at Sultana Street:

- *Install a traffic signal.*

4.2.5 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Main Street at Cataba Road:

- *Add a westbound through lane;*
- *Add a northbound left-turn lane; and*
- *Add an eastbound left-turn lane.*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvements:

- *Convert the existing westbound right-turn lane to an optional through-or-right-turn lane (resulting in three lanes in the westbound direction; and*
- *Provide northbound right-turn overlap phasing.*

4.2.6 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Main Street at Key Pointe Avenue:

- *Add an eastbound left-turn lane;*
- *Add a westbound left-turn lane;*
- *Add a westbound through lane.*

Additionally, the Project Applicant shall contribute fair share fees toward the following improvements:

- *Provide westbound and southbound right-turn overlap phasing.*

4.2.7 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute fair share fees toward the following improvements at the intersection of Main Street at Mountain Vista Avenue:

- *Convert the westbound right-turn lane to an optional through-or-right-turn lane.*

4.2.8 Prior to the issuance of the first certificate of occupancy within the Project site, the Project Applicant shall contribute Development Impact Fees toward the following improvements at the intersection of Main Street at 7th Avenue:

- *Add a southbound right-turn lane; and*
- *Add a westbound right-turn lane.*

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under CMP Horizon Year (2030) traffic conditions, ten (10) intersections are projected to operate at an unacceptable level of service ("LOS"). (DEIR p. 4.2-59.) The mitigation measures listed above will ensure compliance with the City's Development Impact Fee Program and payment of appropriate Fair Share Traffic Fees. As part of its larger Development Impact Fee Program, the City currently implements a qualified Traffic Impact Fee Program which is assessed on new development to pay for the development's share of roadway improvements needed to maintain adequate levels of service and to prevent further degradation of roadway facilities operating at deficient levels. (DEIR pp. 4.2-16 to 4.2-18.) In addition to its Development Impact Fee, the City collects Fair Share Traffic Fees, which are assessed on a project-by-project basis as identified by each project's traffic impact analysis, to ensure that sufficient funds are available for needed roadway improvements. (DEIR p. 4.2-20.) With the implementation of Mitigation Measures 4.2.1 to 4.2.8, the following intersections are projected to operate at a satisfactory LOS, reducing this potentially significant impact to a less than significant level: (1) Main Street – Cataba Road; (2) Main Street – Mountain Vista

Avenue; (3) Main Street – Escondido Avenue; (4) Main Street – Maple Avenue; (5) Main Street – 7th Avenue; (6) Ranchero Road – Maple Avenue; (7) Escondido Avenue – Sultana Street. (DEIR pp. 4.2-58 to 4.2-69; 4.2-75 to 4.2-84.) Accordingly, potential traffic impacts to the above-referenced intersections are determined to be less than significant with appropriate mitigation.

2. Air Quality

a) Construction Emissions

Potential Significant Impact:

The DEIR evaluated and concluded air pollution emissions generated by the Project during the construction phase could potentially violate an air quality standard, and/or contribute substantially to an existing or projected air quality violation.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a less than significant level through the implementation of Mitigation Measures 4.3-1 to 4.3-7. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.3.1 During grading and construction of the proposed improvements, the Project Applicant will implement all applicable Best Available Control Measures listed in Table 4, and Contingency Measures listed in Table 5, of the Draft EIR Appendix D, Air Quality Analysis Report for the Wal-Mart/Home Depot Shopping Center Project, Chambers Group, Inc., February 2008.

4.3.2 During construction, all active areas and any unpaved haul routes shall be watered a minimum of three times daily.

4.3.3 Construction traffic speeds shall be reduced to 15 mph on unpaved roads.

4.3.4 The construction contractor shall ensure that soil stabilizers and/or seeding is applied to inactive areas during Project construction.

4.3.5 Groundcover in disturbed areas shall be replaced as soon as possible.

4.3.6 Construction activities that result in grading or other surface disturbances shall be limited to eight (8) acres per day.

4.3.7 Low or no-VOC paints shall be used for painting buildings onsite.

Facts in Support of the Finding:

Section 4.3 of the Draft EIR discusses impacts related to Air Quality. Prior to application of mitigation, maximum daily ROG emissions from painting and PM_{10} emissions generated by Project grading activities are anticipated to exceed MDAQMD thresholds. (DEIR p. 4.3-34.) Application of the proposed mitigation measures, however, would successfully reduce construction-related PM_{10} emissions to below MDAQMD daily regional thresholds. (DEIR p. 4.3-36.) The

proposed mitigation measures will also result in corollary reductions in construction-related $PM_{2.5}$ emissions. Additionally, with all construction period mitigation incorporated into the Project as described above, localized concentrations of all criteria pollutants will not exceed applicable Level of Significance thresholds ("LSTs"). (*Id.*) Accordingly, with implementation of Mitigation Measures 4.3.1 to 4.3.7 construction-related air quality impacts would be less than significant. (DEIR pp. 4.3-36 and 4.3-37.)

3. Noise

a) Vehicular Source Noise

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce vehicular source noise resulting in exposure of persons to, or generation of, noise levels in excess of standards established in the City's General Plan or Noise Ordinance.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.4.5. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.4.5 An acoustical analysis shall be conducted as part of the final design of the individual buildings at Parcels 1 and 2 in order to ensure that interior noise levels comply with the City of General Plan Noise Element Table N-2 standards for commercial retail interior spaces.

Facts in Support of the Finding:

Frontage commercial uses proposed by the Project will be exposed to exterior noise levels ranging from 71.0 to 76.0 dB CNEL. (DEIR p. 4.4-27.) The City General Plan has no established exterior noise standards for commercial uses, but stipulates under Noise Element Table N-2 (DEIR, Table 4.4-5), that interior noise levels of 55 dB CNEL are to be achieved for commercial retail projects. (*Id.*) Interior commercial spaces will typically realize an estimated 20 dB in structural noise attenuation, and such attenuation may be increased through additional structural enhancements, at the discretion of the Project Applicant. Mitigation Measure 4.4.5, enumerated above, will act to ensure that the Project commercial interior spaces comply with the City of Hesperia commercial retail interior noise standards. The City Noise Ordinance does not specifically regulate mobile source/ vehicular noise, other than as required for individual vehicles under the California Vehicle Code. (DEIR p. 4.4-27.)

b) Project Operational Noise – General Plan or Noise Ordinance Standards

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise resulting in exposure of persons to, or generation of,

noise levels in excess of standards established in the City's General Plan or Noise Ordinance.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.4.6 to 4.4-12. These mitigation measure, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.4.6 As soon as is practicable, a noise barrier with a minimum height of ten (10) feet (measured relative to the grade elevation of the adjacent driveway or the adjacent residential properties, whichever is greater) shall be constructed along the entire southeast property line of the Project site. This barrier shall be a continuous structure without gaps or gates. The noise barrier shall be constructed to either: (a) provide a minimum surface density of four (4) pounds per square foot, and be lined with sound absorptive panels on the side facing the Project site; or (b) use sound absorptive masonry blocks (e.g., SoundBlox) to provide an equivalent degree of noise protection.

4.4.7 The following activities shall be limited to the hours between 7:00 a.m. and 10:00 p.m.: truck deliveries, loading dock activities, lumber offloading, trash pickups, lumber sawing, forklift operations, and use of outdoor public address system(s). Project tenants shall be provided written notice of these requirements and limitations by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

4.4.8 Delivery trucks shall not be permitted to idle in the parking lots or loading areas, and shall be required to have properly maintained, factory-approved mufflers. Delivery truck drivers shall minimize acceleration and maintain reduced vehicle speeds while on site. Project tenants shall be provided written notice of these requirements by the Applicant or designee, and these requirements shall be incorporated as part of the delivery services contract documentation, and/or shall be provided and recognized separately. Copies of such notification shall be provided to the Lead Agency.

4.4.9 Between 10:00 p.m. and 7:00 a.m. trash shall not be dumped into the outdoor trash bins, and the trash compactor at Parcel 1 shall not be used. Carts if any, used to transport trash to the outdoor bins shall have large-diameter rubber wheels to minimize noise. Project tenants shall be provided written notice of this requirement by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency. To the satisfaction of the City, signage indicating these restrictions and requirements shall be placed on the trash compactors and compactor bins prior to the issuance of occupancy permits.

4.4.10 All forklifts to be used at the major anchors shall be electric. Project tenants shall be provided written notice of this requirement by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

4.4.11 Administrative controls within Parcels 1 and 2 (the major anchor parcels) shall be implemented to ensure that exterior doors, including any loading dock doors, on the south, east, and west elevations of buildings shall be kept closed when not in use, and to ensure that employee shouting and the use of radios is minimized when loading dock doors are open. Project tenants shall be provided written notice of these requirements by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

4.4.12 Trash compacting activities, including the pickup and drop-off of compactor bins, shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Any carts which may be used to transport trash from buildings to outdoor bins shall use large-diameter rubber wheels. Project tenants shall be provided written notice of these requirements by the Applicant or his designee. Copies of such notification shall be provided to the Lead Agency.

Facts in Support of the Finding:

The Project's unmitigated operational composite noise level, as well as unmitigated noise levels attributable to individual Project operational noise sources – including noise events related to trash compactors, loading docks, lumber off-loading, and truck deliveries – would exceed applicable Noise Ordinance Standards for day time and/or nighttime conditions. (DEIR pp. 4.4-37 and 4.4-38.) With implementation of Mitigation Measures 4.4.6 to 4.4.12, however, this potentially significant impact will be reduced to a less than significant level. Mitigation Measure 4.4.6 requires the construction of a noise barrier to provide noise protection to the adjacent residential properties; Mitigation Measure 4.4.7 restricts certain noise producing activities, including truck deliveries, loading dock activities etc. to the hours of 7:00 a.m. and 10:00 p.m.; Mitigation Measure 4.4.8, among other things, prohibits delivery truck idling in the parking lots and loading docks; Mitigation Measure 4.4.9 limits the hours during which trash may be dumped into the outdoor trash bins and the trash compactor can be used; Mitigation Measure 4.4.10 mandates the exclusive use of electric forklifts; Mitigation Measure 4.4.11 requires implementation of administrative controls to minimize operational noise stemming from use of exterior doors, loading dock doors, and radio use; Mitigation Measure 4.4.12 limits trash compacting activities to the hours between 7:00 a.m. and 10:00 p.m. In combination, these mitigation measures would act to reduce noise generated by Project operations below Ordinance Standards. (DEIR p. 4.4-42.) Accordingly, with implementation of Mitigation Measures 4.4.6 to 4.4-12, the Project's operational noise will not result in exposure of persons to, or generation of, noise levels in excess of standards established in the City's General Plan or Noise Ordinance. (DEIR p. 4.4-38.)

c) Project Operational Noise – Temporary Increase in Ambient Noise Levels

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise resulting in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.4.6 to 4.4.12. These mitigation measures, enumerated in Section V(B)(3)(b) above, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

Facts in Support of the Finding:

Temporary and periodic peak noise events generated by Project operations and area/site sources would result in a substantial temporary and periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-38.) However, with implementation of Mitigation Measures 4.4.6 to 4.4.12, enumerated and discussed in Section V(B)(3)(b) above, this potentially significant impact will be reduced to a less than significant level. Accordingly, with implementation of Mitigation Measures 4.4.6 to 4.4-12, the Project's operational noise will not result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-39.)

d) Project Operational Noise – Permanent Increase in Ambient Noise Levels

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially produce operational noise resulting in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.4.6 to 4.4.12. These mitigation measures, enumerated in Section V(B)(3)(b) above, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

Facts in Support of the Finding:

Ambient noise conditions at the nearest sensitive receptors are estimated at 46.7 to 54.4 dBA daytime/45.5 to 54.5 dBA nighttime. Absent mitigation, noise generated by Project operations and site activities will increase the ambient conditions at these receptors by an estimated 13.3 to 21.5 dBA. (DEIR p. 4.4-39.) However, with implementation of Mitigation Measures 4.4.6 to 4.4.12, enumerated and discussed in Section V(B)(3)(b) above, this potentially significant impact will be reduced to a less than significant level. Project composite noise levels plus ambient conditions at potential affected residential land use would be less than the applicable daytime/nighttime standard, and therefore, would not be considered a substantial permanent increase in noise levels. (DEIR pp. 4.4.40 to 4.4-42.) Accordingly, with implementation of Mitigation Measures 4.4.6 to 4.4-12, the Project's operational noise will not result

in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project. (DEIR p. 4.4-39.)

4. Biological Resources

a) Candidate, Sensitive, or Special Status Species

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially substantially affect, either directly or through habitat modifications, species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game ("CDFG") or United States Fish and Wildlife Service ("USFWS").

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.8.1 to 4.8.6. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.8.1 No more than thirty (30) days prior to grading or ground disturbing activities, a qualified biologist shall conduct pre-construction protocol surveys for the desert tortoise. If continued absence of this species is confirmed, no additional mitigation will be required. If however, desert tortoise is located on site, all activities shall be halted and the appropriate resource agencies (CDFG and USFWS) shall be contacted. As soon as possible after notification, the Project Applicant shall construct permanent desert tortoise exclusion fencing around the perimeter of the site using the USFWS's fence specifications to ensure that no desert tortoise moves onto the site. A qualified biologist will be present during the installation of the desert tortoise exclusion fence to ensure that the installation process does not result in take of the desert tortoise. The desert tortoise exclusion fence will be repaired immediately (within 48 hours) if it is not serving its intended purpose.

Immediately after the desert tortoise exclusion fence is constructed around the Proposed Site, the qualified biologist will conduct a presence-absence survey using belt transects with a maximum width of 30 feet. If the site has vegetation or topography that obscures or reduces the biologist's ability to see a desert tortoise or desert tortoise sign, the width of the transect will be reduced, as appropriate. The qualified biologist will examine every location that the desert tortoise may use as shelter within the site; therefore, a special emphasis will be placed on examining the interior of all burrows that could be used by the desert tortoise as shelter sites. Burrows would not be excavated to determine if desert tortoises are present. Results of fence construction monitoring and the presence-absence surveys will be reported to the USFWS and CDFG. Any tortoises found on-site shall be relocated to other locations as approved by the City, CDFG, and USFWS.

Prior to initiation of any further construction-related activities (including equipment or vehicle staging), the limits of disturbance will be clearly marked with temporary construction fencing or lath with flagging tape, and the qualified biologist will survey the entire area within limits of disturbance in the morning prior to the initiation of any such activities. During construction, a biological monitor (may be different than the qualified biologist, as approved by the USFWS and CDFG) will survey ahead of all equipment to ensure that no desert tortoises are present in the anticipated path of the equipment. Results of the daily surveys and construction monitoring will be reported to the USFWS and CDFG following construction documenting compliance with these measures.

4.8.2 Focused breeding season surveys for the burrowing owl shall be conducted in order to quantify and locate any owls and owl burrows that may occur within the Project site. Based on location of owls and owl burrows, if identified, active eviction of owls (i.e., placing a one-way door at the burrow entrance to ensure that owls cannot access the burrow once they leave) shall be accomplished.

If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

4.8.3 Should Project-related grading or ground disturbing activities not commence before June 27, 2009, which is the expiration of the California Department of Fish and Game stipulation period for the Mohave ground squirrel ("MGS"), a qualified biologist shall conduct pre-construction surveys for the MGS consistent with the January 1991 Guidelines, as modified in January 2003. Such surveys shall be performed no more than thirty (30) days prior to grading or ground disturbing activities. Visual surveys to determine activity and habitat quality must be undertaken between March 16 and April 15, during daylight hours. If visual surveys do not reveal the presence of this species, trapping grids shall be established to trap for a minimum of five consecutive days, or until a MGS is captured, between March 21 and April 30. If no MGS is captured during the first five-day period, the grid will be sampled a second time, at least two weeks after the first period and between May 1 and May 31. If no MGS is captured during the second five-day period, the grid will be sampled a third time, at least two weeks after the end of the second period and between June 15 and July 15. If the continued absence of the MGS is confirmed, no further mitigation shall be required. If Project-related grading or ground disturbance commences prior to June 27, 2009, no further mitigation shall be required.

4.8.4 In order to avoid impacts to nesting birds within the Project area, vegetation clearing and grading shall be conducted outside the nesting season. The nesting season generally occurs from February 1 through August 31, but can vary slightly from year to year. If clearing of the site will occur during the nesting season, no more than thirty (30) days prior to site clearing/grading, a breeding bird survey shall be conducted by a qualified biologist. This survey shall identify any potential nesting activities within the Project site. If an active nest is observed, a minimum 200-foot

radius buffer area shall be established and clearly designated by flags or other suitable means around the occupied nests(s). Until any nestlings have fledged, periodic monitoring by a qualified biologist shall be conducted throughout construction activities to ensure that nesting birds are not disturbed. Such monitoring shall be conducted at least once per week.

4.8.5 A Biological Monitor must be on-site during all ground disturbance activities, and will halt any such activities if, in his or her professional opinion, such activities will result in the take of a protected species.

4.8.6 Limits of the Project site shall be clearly marked by stakes or other mean to ensure that offsite areas are not disturbed by Project construction activities.

Facts in Support of the Finding:

Because no protected special status species – including the desert tortoise, burrowing owl, and Mohave ground squirrel – nor their sign, were observed in the course of general and focused surveys of the Project site, each is currently considered to be absent from the Project site. (DEIR pp. 4.8-19 to 4.8-26.) These negative results do not necessarily prove that the considered species do not exist on the site, would not inhabit the site at some future date, nor that the site is not actual or potential habitat of the species. Further, based on general site conditions and the presence of Joshua tree woodland, suitable habitat exists for raptor foraging, and presumably for other resident and migratory bird foraging as well. However, with implementation of Mitigation Measures 4.8.1 to 4.8.6, enumerated above, potentially significant impacts to the desert tortoise, burrowing owl and Mohave ground squirrel, as well as to migratory bird species are considered less than significant. (DEIR pp. 4.8-23 to 4.8-26.)

b) Riparian Habitat or Other Sensitive Natural Communities

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could substantially affect a riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service; and/or substantially and adversely affect federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruptions or other means.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measures 4.8.7 and 4.8.8. These mitigation measures, enumerated below, are adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.8.7 Prior to any earthmoving activities, the Project Applicant shall complete and submit to CDFG a notification package pursuant to Fish and Game Code section 1602, together with the requisite fee. Based on it's review of the notification package, CDFG shall determine applicable provisions of a

Project Lake or Streambed Alteration Agreement ("LSAA"). The Applicant shall comply with all included LSAA measures to protect fish and wildlife resources. Such measures may include but are not limited to:

- *Avoiding potential impacts altogether by not taking a certain action or parts of an action;*
- *To the extent feasible, impacts will be minimized by limiting the degree or magnitude of disturbance;*
- *Rectifying any impacts by repairing, rehabilitating, or restoring the impacted environment;*
- *Reducing or eliminating impacts over time by preservation and maintenance operations conducted over the life of the Project; and*
- *Compensation for any impacts by replacing or providing substitute resources or environments.*

4.8.8 Prior to any earthmoving or vegetation-disturbing activities, the Applicant shall comply with water quality protection requirements pursuant to the Porter-Cologne Act as administered by the Lahontan Regional Water Quality Control Board ("LRWQCB").

Facts in Support of the Finding:

The dominant plant community on-site, Joshua tree woodland, is not considered to be a sensitive natural community. Nor does the Project propose uses or activities that would potentially adversely affect any off-site sensitive natural communities. (DEIR p. 4.8-27.) The Project will, however, affect approximately 0.53 acres of CDFG jurisdictional areas, as well as 0.9 acres of RWQCB jurisdictional areas under the Porter-Cologne Act. (*Id.*) Implementation and operations of the Project, to include modifications of existing drainage course, construction of new storm water management/detention areas, and subsequent discharge of storm waters, will alter or otherwise affect all delineated jurisdictional areas, wetlands and riparian habitat within the Project site. (*Id.*) With implementation of Mitigation Measures 4.8.1 to 4.8.6, enumerated above, this potentially significant impact will be reduced to a level of less than significant. (DEIR pp. 4.8-27 to 4.8-28.)

c) Cumulative Impacts Related to Biological Resources

Potential Significant Impact:

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

Finding:

Potential impacts of the Project on biological resources are discussed in detail in Section 4.8 of the Draft EIR. In addition, Section 5.1.1.8 of the Draft EIR discusses cumulative impacts related to biological resources in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to biological resources.

Facts in Support of the Finding:

Mitigation of Project-specific biological resources impacts will reduce the Project's potential incremental contributions to cumulative biological resources impacts within the region. (DEIR p. 5-36.) To the extent that each development

proposal within the cumulative impact area provides appropriate mitigation, cumulative impacts to biological resources will be reduced to levels that are less than significant. (*Id.*) Accordingly, with application of the proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to biological resources is not considerable, and the cumulative effects of the Project are determined to be less than significant.

5. Cultural Resources

a) Historic and/or Archeological Resources

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could potentially cause a substantial adverse change in the significance of a historic and/or archeological resource as defined in section 15064.5 of the State CEQA Guidelines.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.9.1. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.9.1 A professional archaeological monitor (Project Archaeological Monitor) shall conduct fulltime monitoring of site excavation and grading activities. The monitor shall be equipped to salvage and record the location of archaeologic and/or historic resources as they may be unearthed to avoid construction delays. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. All recovered resources shall then be curated in an established, accredited museum repository with permanent retrievable archaeological/historic resource storage. A report of findings shall also be prepared by the Project Archaeological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered resources from an accredited museum repository shall signify completion of the program to mitigate impacts to archaeological/historic resource resources. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.

Facts in Support of the Finding:

No known cultural resources of significance exist within the Project site. (DEIR p. 4.9-7.) Further, no comments were received from any Native American representative in regard to the Project. (DEIR p. 4.9-8.) The research and field survey conducted as part of the Project's cultural resources study identified no evidence of prehistoric remains within the site. (*Id.*) Although no prehistoric or historic resources were identified as part of the Cultural Resources Assessment, the Hesperia General Plan indicates that "[b]ecause so much of Hesperia's

history has been lost over time, conservation of its few remaining historic resources has been identified as a community goal. Prehistoric and Indian artifacts should be identified and retrieved." On this basis, the mitigation measure presented above shall be employed to ensure the protection of resources which may not yet have been identified, or which may be present on the Project site in a buried context. Accordingly, with implementation of Mitigation Measure 4.9.1, potential impacts to historic and/or archeological resources are determined to be less than significant.

b) Unique Paleontological Resources or Geological Features

Potential Significant Impact:

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

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.9.2. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.9.2 A professional paleontological monitor (Project Paleontological Monitor) shall conduct fulltime monitoring of site excavation and grading activities. The paleontological monitor shall be equipped to salvage and record the location of paleontologic and/or fossil resources as they may be unearthed to avoid construction delays. The monitor shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens or finds and to allow the preparation of recovered resources to a point of identification. All recovered specimens shall then be curated in an established, accredited museum repository with permanent retrievable paleontologic storage. A report of findings shall also be prepared by the Project Paleontological Monitor, and shall include an itemized inventory of any specimens recovered. The report and confirmation of curation of any recovered specimens from an accredited museum repository shall signify completion of the program to mitigate impacts to paleontologic resources.

Facts in Support of the Finding:

The Paleontological Overview prepared for the Project identifies the potential for paleontological fossils to be present on-site. (DEIR p. 4.9-9.) Further, the Overview recommends that any substantial subsurface excavation in the Project area should be monitored closely to quickly and professionally recover any fossil remains discovered. (DEIR p. 4.9-10.) The Hesperia General Plan notes the location of several fossil-rich geologic formations within the City, and states that "[s]ite grading for new development in areas other than alluvial fans may encounter such paleontological resources. However, these impacts may be avoided by careful monitoring throughout the development process of areas with potential paleontological resources; grading in such areas should be monitored by an onsite paleontological monitor." Mitigation Measure 4.9.2 will be employed

to ensure the protection of paleontological resources which may be present on the Project site in a buried context. Accordingly, with implementation of Mitigation Measure 4.9.2, potential impacts to unique paleontological resources and/or geological features are determined to be less than significant. (DEIR p. 4.9-10.)

c) Cumulative Impacts Related to Cultural Resources

Potential Significant Impact:

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

Finding:

Potential impacts of the Project on cultural resources are discussed in detail in Section 4.9 of the Draft EIR. In addition, Section 5.1.1.9 of the Draft EIR discusses cumulative impacts related to cultural resources in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to cultural resources.

Facts in Support of the Finding:

Impacts to any cultural resources within the cumulative impact area would be site-specific. (DEIR p. 5-36.) To the extent that each development proposal within the cumulative impact area provides appropriate mitigation during landform modification activities (as is the case for the Project), cumulative impacts to cultural resources are reduced to levels that are less than significant. (DEIR p. 5-37.) Accordingly, with application of the proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to cultural resources is not considerable, and the cumulative effects of the Project are determined to be less than significant.

6. Geology and Soils

a) Seismic Ground Shaking or Seismic-Related Ground Failure

Potential Significant Impact:

The DEIR evaluated and concluded that Project implementation could result in exposure of people or structures to potentially substantial adverse effects, including the risk of loss, injury or death involving strong seismic ground shaking or seismic-related ground failure, including liquefaction.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.10.1. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.10.1 Prior to the issuance of construction permits, and to the satisfaction of the City, the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address exposure of people or structures to potentially substantial adverse effects of strong seismic ground shaking or seismic-related ground failure

(including liquefaction) are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

No potentially active faults exist on, or in the immediate vicinity of the Project area. (DEIR p. 4.10-9.) As such, the potential for fault rupture within the Project area is considered low. However, strong seismic ground shaking may occur at the site due to earthquakes along regional faults. (*Id.*) Short of a catastrophic event, design of structures in accordance with the Project Geotechnical Investigation, the California Building Code (CBC), and current professional engineering practices is sufficient to reduce potential effects of ground shaking at the Project site below the level of significance. (DEIR p. 4.10-10.) Additionally, the Project is required to conform with site- and design- specific geotechnical investigations that will be prepared for each increment or phase of construction. Through established Site Plan, Building Permit, and Certificate of Occupancy requirements, the City will verify that required design and construction measures are incorporated in the site/Project designs and in the completed structures and facilities. (*Id.*) It is anticipated that any site-specific geologic constraints which may be encountered during the course of Project implementation can be mitigated to a level that is less than significant through compliance with the recommendations of the Project Geotechnical Investigation, and existing City/CBC seismic design regulations, standards, and policies. Implementation of Mitigation Measure 4.10.1 will ensure adherence to, and provide monitoring of compliance with the findings and recommendations of the Project geotechnical documents. Accordingly, potential impacts from seismic ground shaking or seismic-related ground failure are determined to be less than significant. (DEIR p. 4.10-11.)

b) Soil Stability

Potential Significant Impact:

The DEIR evaluated and concluded that the Project could be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.10.2. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.10.2 Prior to the issuance of construction permits, and to the satisfaction of the City, the recommendations, performance standards, and requirements established within the Project Geotechnical Investigation which address potential location on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, are incorporated

into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

As identified in the Project Geotechnical Investigation, the potential for liquefaction at the site is considered low. (DEIR p. 4.10-11.) Further, consistent with the recommendations of the Project Geotechnical Investigation, compressible soils within building areas will be removed and replaced with compacted engineered fill, thereby reducing the already low potential for liquefaction. (*Id.*) The Project site is essentially level, as are adjacent properties, and as such the potential for landslide does not exist. (DEIR p. 4.10-12.) Because liquefaction potential at the site is low, and the site is essentially level, the site does not exhibit conditions that would result in potential lateral spread. (*Id.*) Implementation of Mitigation Measure 4.10.2 will ensure adherence to, and provide monitoring in compliance with the findings and recommendations of the Project geotechnical documents. Accordingly, potential soil stability impacts are determined to be less than significant. (DEIR p. 4.10-13.)

c) Expansive Soils

Potential Significant Impact:

The DEIR evaluated and concluded that the Project could be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risk to life or property.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be mitigated to a level of less than significant with the implementation of Mitigation Measure 4.10.13. This mitigation measure, enumerated below, is adopted and incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein.

4.10.3 Prior to the issuance of construction permits, and to the satisfaction of the City, the recommendations, performance standards and requirements established within the Project Geotechnical Investigation which address potential location on expansive soils are incorporated into Project site design and construction plans. A qualified geotechnical engineer shall be retained on-site to ensure that Project implementation is realized consistent with specifications and requirements identified in the Project Geotechnical Investigation.

Facts in Support of the Finding:

As discussed in the Project Geotechnical Investigation, near-surface loose soils exhibit low strength characteristics and are highly compressible when saturated. (DEIR p. 4.10-13.) These soil types will require removal and replacement with properly compacted fills within the limits of proposed grading, to a minimum depth of five feet below existing grades, and at least twelve inches below paved areas, as detailed in the Project Geotechnical Investigation. (*Id.*) The Project Geotechnical Investigation presents further recommendations addressing soils

and site conditions within the Project area, providing direction in the areas of subgrade preparations, and placement and compaction of fills. Recommendations are also provided in regard to foundations, building floor slabs, drainage, exterior concrete and masonry, and paved areas to be constructed within the Project site. Implementation of Mitigation Measure 4.10.3 will ensure adherence to, and provide monitoring in compliance with the findings and recommendations of the Project geotechnical documents. Accordingly, potential impacts related to expansive soils are determined to be less than significant. (DEIR p. 4.10-14.)

d) Cumulative Impacts Related to Geology and Soils

Potential Significant Impact:

Whether implementation of the proposed Project could result in significant cumulative impacts related to geology and soils.

Finding:

Potential impacts of the Project on geology and soils are discussed in detail in Section 4.10 of the Draft EIR. In addition, Section 5.1.1.10 of the Draft EIR discusses cumulative impacts related to geology and soils in particular. Based on the entire record before us, this Commission finds no significant cumulative impacts related to cultural resources.

Facts in Support of the Finding:

The Project will incrementally increase concentrations of persons, structures, and infrastructure systems on a previously undeveloped site within an earthquake-prone region. (DEIR p. 5-38.) However, potential impacts of increased exposure to seismic effects as a result of new development were considered and determined to be less than significant with implementation of Project mitigation measures. Further, potential cumulative impacts related to erosion, subsidence, shrinkage, expansion, and soil consolidation are mitigated through conformance with local, regional, State, and Federal permitting and regulatory requirements. Locally and regionally, project-by-project compliance with seismic design and engineering standards, soil conservation and erosion protection is mandated through existing regulations and requirements as outlined above, thereby reducing potential cumulative geology and soils impacts within the region. (*Id.*) Accordingly, with application of proposed mitigation measures, the Project's potential contribution to cumulative impacts in regard to geology and soils is not considerable, and the cumulative effects of the Project are determined to be less than significant.

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

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

1. Traffic and Circulation

a) Year 2010 (Opening Year) – Potential Intersection Impacts

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Opening Year traffic conditions, will result in a substantial increase in traffic exceeding, either individually of cumulatively, an established level of service standard at the intersections of Main Street/Phelan Road at U.S. 395 and Escondido Avenue at Ranchero Road even after implementation of all available and feasible mitigation measures.

Finding:

Based on the entire record before us, this Commission finds that the Project's potential impacts to Opening Year traffic conditions at the intersections of Main Street/Phelan Road at U.S. 395 and Escondido Avenue at Ranchero Road will remain significant notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.4 presented in Section V(B)(1)(a) above.

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under Opening Year traffic conditions, six intersections are projected to operate at an unacceptable level of service ("LOS"). (DEIR p. 4.2-53.) With the implementation of Mitigation Measures 4.2.1 to 4.2.4, four of the six intersections are projected to operate at a satisfactory LOS. (DEIR pp. 4.2-53 to 4.2-58; 4.2-75 to 4.2-84.) However, notwithstanding Mitigation Measures 4.2.1 to 4.2.4, Project-related impacts to the intersections of Main Street/Phelan Road at U.S. 395 and Escondido Avenue at Ranchero Road will not be mitigated to a less than significant level. The DEIR, identifies improvements necessary to achieve acceptable LOS standards at the intersections of Main Street/Phelan Road at U.S. 395 and Escondido Avenue at Ranchero Road, but the identified improvements are outside the control and jurisdiction of the City. (DEIR pp. 4.2-54 and 4.2-56.) Furthermore, there are no identified programs or plans that would facilitate completion of the recommended improvements to these intersections, or that would provide for fair share payments or contributions to ensure construction of the improvements. (DEIR pp. 4.2-54 to 4.2-56.) Accordingly, Opening Year traffic impacts at the above-referenced intersections are determined to be significant and unavoidable.

b) Year 2010 (Opening Year) – Potential Freeway Segment Impacts

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Opening Year traffic conditions, will result in a substantial increase in traffic exceeding, either individually of cumulatively, an established level of service standard at the freeway segment of northbound I-15 between Joshua Street and Main Street even after implementation of all available and feasible mitigation measures.

Finding:

Based on the entire record before us, this Commission finds that the Project's potential impacts to Opening Year traffic conditions at the freeway segment of northbound I-15 between Joshua Street and Main Street will remain significant

notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.4 presented in Section V(B)(1)(a) above.

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under Opening Year traffic conditions, only one I-15 freeway segment – the northbound segment between Joshua Street and Main Street – is projected to operate unsatisfactorily. (DEIR p. 4.2-58.) The DEIR identifies improvements necessary to achieve an acceptable LOS along this segment. However, the identified improvements are under Caltrans jurisdiction, and outside the control of the City. (DEIR p. 4.2-58.) Furthermore, there are no identified programs or plans that would facilitate completion of the recommended improvements to these intersections, or that would provide for fair share payments or contributions to ensure construction of the improvements. (DEIR pp. 4.2-58 and 4.2-59.) Accordingly, Opening Year traffic impacts at the above-referenced freeway segment are determined to be significant and unavoidable.

c) CMP Horizon Year (2030) – Potential Intersection Impacts

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Horizon Year traffic conditions, will result in a substantial increase in traffic exceeding, either individually of cumulatively, an established level of service standard at the at the intersections of Main Street/Phelan Road at U.S. 395, Escondido Avenue at Ranchero Road, and Main Street/Key Pointe Avenue even after implementation of all available and feasible mitigation measures.

Finding:

Based on the entire record before us, this Commission finds that the Project's potential impacts to Horizon Year traffic conditions at the intersections of Main Street/Phelan Road at U.S. 395, Escondido Avenue at Ranchero Road, and Main Street/Key Pointe Avenue will remain significant notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.8 presented in Section (V)(B)(1)(b) above.

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under Horizon Year traffic conditions, ten intersections are projected to operate at an unacceptable level of service ("LOS"). (DEIR p. 4.2-59.) With the implementation of Mitigation Measures 4.2.1 to 4.2.8, seven of the ten intersections are projected to operate at a satisfactory LOS, reducing this potentially significant impact to a less than significant level. (DEIR pp. 4.2-58 to 4.2-69; 4.2-75 to 4.2-84.) However, notwithstanding Mitigation Measures 4.2.1 to 4.2.8, Project-related impacts to the intersections of Main Street/Phelan Road at U.S. 395, Escondido Avenue at Ranchero Road, and Main Street/Key Pointe Avenue will not be mitigated to a less than significant level. The DEIR, identifies improvements necessary to achieve acceptable LOS standards at these intersections. With respect to Main Street/Key Pointe Avenue, the Project will be required to pay – in accordance with Mitigation Measure 4.2.6 – Development Impact Fees toward the addition of an eastbound left-turn lane, a westbound left-turn lane, and a westbound through lane; and will be required to pay fair-share fees toward the provision of westbound and southbound right-turn overlap

phasing. (DEIR, p. 4.2-61.) Payment of fees for these improvements will act to reduce Project-related Horizon Year traffic impacts to the extent feasible. (DEIR, p. 4.2-62.) Nonetheless, there is insufficient right-of-way to construct the recommended widening improvement for Main Street/Key Pointe Avenue, due to existing, surrounding development. (*Id.*) The DEIR also identifies improvements necessary to achieve acceptable LOS standards at the intersections of Main Street/Phelan Road at U.S. 395 and Escondido Avenue at Ranchero Road, but the identified improvements are outside the control and jurisdiction of the City. (DEIR pp. 4.2-64 and 4.2-67.) Furthermore, there are no identified programs or plans that would facilitate completion of the recommended improvements to these intersections, or that would provide for fair share payments or contributions to ensure construction of the improvements. (*Id.*) Accordingly, Horizon Year traffic impacts at the above-referenced intersections are determined to be significant and unavoidable.

d) CMP Horizon Year (2030) – Potential Freeway Segment Impacts

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project implementation, with Horizon Year traffic conditions, will result in a substantial increase in traffic exceeding, either individually of cumulatively, an established level of service standard at the freeway segments of northbound and southbound I-15 from Joshua Street to Main Street, Main Street to Eucalyptus Avenue, and Eucalyptus Avenue to Bear Valley Road even after implementation of all available and feasible mitigation measures.

Finding:

Based on the entire record before us, this Commission finds that the Project's potential impacts to Horizon Year traffic conditions at the freeway segments of northbound and southbound I-15 from Joshua Street to Main Street, Main Street to Eucalyptus Avenue, and Eucalyptus Avenue to Bear Valley Road will remain significant notwithstanding imposition of Mitigation Measures 4.2.1 to 4.2.8 presented in Section V(B)(1)(b) above.

Facts in Support of the Finding:

Section 4.2 of the Draft EIR discusses impacts related to traffic and circulation. Under Horizon Year traffic conditions, all six of the Study Area freeway segments are projected to be deficient per CMP standards. (DEIR p. 4.2-69.) The DEIR identifies improvements necessary to achieve an acceptable LOS along these freeway segments. (DEIR pp. 4.2-69 and 4.2-70.) However, the identified improvements are under Caltrans jurisdiction, and outside the control of the City. (DEIR p. 4.2-70.) Furthermore, there are no identified programs or plans that would facilitate completion of the recommended improvements to these intersections, or that would provide for fair share payments or contributions to ensure construction of the improvements. (*Id.*) Accordingly, project-related and cumulative Horizon Year traffic impacts at the above-referenced freeway segments are determined to be significant and unavoidable.

e) Cumulative Impacts – Intersections and Roadway Segments

Significant Unavoidable Impact:

The EIR evaluated and concluded that traffic generated by the Project, in

combination with traffic from other existing, approved, or probable development proposals, as well as traffic volumes and distribution patterns modeled for long range growth projections, will contribute to, and will be affected by, potentially significant cumulative intersection and roadway segment deficiencies under both Opening Year (2010) and CMP Horizon Year (2030) conditions.

Finding:

Based on the entire record before us, this Commission finds that even after the application of all feasible mitigation measures, the Project will result in the following cumulatively significant traffic impacts:

VI. Opening Year and Horizon Year traffic impacts at the intersection of Main Street/Phelan Road at U.S. 395;

VII. Opening Year and Horizon Year traffic impacts at the intersection of Escondido Avenue and Ranchero Road;

VIII. Horizon Year traffic impacts at the intersection of Main Street and Key Point Avenue;

IX. Opening Year traffic impacts at the segment of northbound I-15 from Joshua Street to Main Street; and

X. Horizon Year traffic impacts at the segments of the northbound and southbound I-15 from Joshua Street to Main Street, Main Street to Eucalyptus Avenue; and Eucalyptus Avenue to Bear Valley Road.

Facts in Support of the Finding:

As discussed by DEIR Sections 4.2 and 5.1.1.2, and discussed above in Sections V(C)(1)(a)-(d) of these Findings, deficiencies at the intersection of Main Street/Phelan Road at U.S. 395, and Escondido Avenue at Ranchero Road could be remedied by the construction of certain improvements. (*See e.g.* DEIR pp. 5-14 and 5-15; 5-17 and 5-18.) However, the City does not have jurisdictional authority to construct the improvements nor to adopt or enforce mitigation measures requiring the construction of the improvements. (*Id.*) Further, there are no identified programs or plans that would ensure timely and successful completion of the required improvements. (DEIR p. 5-15.) At the intersection of Main Street and Key Point Avenue, insufficient right-of-way exists to construct the necessary improvements, due to existing, surrounding development. (DEIR p. 5-18.) The required improvements for the affected freeway segments are under the Caltrans jurisdiction, and outside the control of the City. (DEIR p. 5-16 and 5-18.) Moreover, there are no identified programs or plans that would facilitate completion of the recommended improvements, or that would provide for fair share payments or contributions to ensure construction of the improvements. (DEIR p. 5-16.) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments. (CEQA Guidelines § 15126.4.) Furthermore, in assessing whether feasible mitigation exists economic, environmental, legal, social, and technological factors must be taken into account. (CEQA Guidelines § 15364.) This Council has properly determined that no feasible mitigation exists for the intersection and

roadway segments listed above. Accordingly, the Project's potential contribution to Cumulative Impacts at Intersections and Roadway Segments are determined to be significant.

2. Air Quality

a) Operational Emissions

Significant Unavoidable Impact:

The EIR evaluated and concluded that the Project operations could generate carbon monoxide (CO) and PM_{10} emissions exceeding Mohave Desert Air Quality Management District ("MDAQMD") regional thresholds after mitigation.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Commission finds that Mitigation Measures 4.3.8 to 4.3.21 are incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein, thereby reducing the potentially significant operational emissions impacts. However, the Commission finds that the Project's potential operational emissions impacts may be potentially significant after mitigation. Air quality impacts are discussed in detail in Section 4.3 of the Draft EIR. The following mitigation measures will mitigate CO and PM_{10} emissions impacts related to Project operations to the extent feasible, but the impacts will remain significant and unavoidable.

4.3.8 Wal-Mart shall display up-to-date information concerning transit routes for the Project area in a visible and convenient location for employees and customers.

4.3.9 The Project Applicant, in cooperation with the construction contractors, shall ensure that secure bicycle parking is made available at the site at a rate of at least one bike space per every 50-vehicle spaces (totaling 30 bicycle parking spaces for the Project). A bicycle rack (or combination of bicycle racks) holding approximately ten bicycles shall be placed near the east and west entrance canopies of the Wal-Mart store. Additionally, a bicycle rack (or combination of bicycle racks) holding approximately five bicycles shall be placed near the north and south entrance canopies of the Home Depot store. The combination of bicycle racks throughout the shopping center shall equal a minimum of capacity of 30 bicycles.

4.3.10 Wal-Mart and Home Depot shall provide employee lockers as a safe repository for helmets and biking gear and encourage the use of alternate transportation means.

4.3.11 To the satisfaction of the City, the Project Applicant shall provide a sidewalk along Main Street and Escondido Avenue, and provide safe pedestrian access between the site boundaries and the storefronts to allow access from all major pedestrian points of entrance (including sidewalks and the bus stop) to store entrances. The Project Applicant shall provide pedestrian pathways connecting each of the retail shopping storefronts. The pedestrian walkways shall be designed for high visibility (brightly painted, colored pavers, or colored concrete, etc.) where they cross parking lots and vehicle accesses so that they are clearly distinguished and easily seen by both vehicle drivers and pedestrians.

4.3.12 Employee incentives for carpooling shall be provided by the Project's major anchor stores. If employees participate in carpooling, preferential parking spaces shall be provided for carpool vehicles.

4.3.13 The Project parking lot shall provide no more than 1,943 parking spaces.

4.3.14 All loading dock and delivery areas of the Wal-Mart shall be posted with signs informing truck drivers of the California Air Resources Board (CARB) regulations including the following:

- *Truck drivers shall turn off engines when not in use.*
- *All diesel delivery trucks servicing the Project shall not idle more than five minutes per truck trip per day (three minutes for Wal-Mart trucks).*

4.3.15 Electric outlets shall be provided in the docking areas of the Wal-Mart to serve delivery trucks not equipped with auxiliary power units, thereby restricting idling emissions of heavy-duty diesel delivery trucks carrying refrigerated or frozen cargo.

4.3.16 Energy efficiencies equal, or superior to, Title 24 performance standards shall be achieved.

4.3.17 Preferential parking spaces shall be allocated to ultra-low emission vehicles and alternative fueled vehicles to encourage the use of alternative fuels and ultra-low emission vehicles.

4.3.18 Project landscaping shall utilize drought-tolerant and smog-tolerant plants to ensure long-term viability and conserve water and energy.

4.3.19 Landscape plans shall include drought-resistant trees, shrubs, and groundcover within the parking lot and perimeter.

4.3.20 Project design shall incorporate light colored roofing materials that will deflect heat away from buildings and conserve energy.

4.3.21 The Project design shall provide for controls to allow the selective use of all illumination elements within the Project as an energy conservation measure.

Facts in Support of the Finding:

The EIR found that unmitigated operational emissions, including mobile-source emissions (e.g., automobile and trucks) and area-source emissions (e.g. building heating/cooling), of CO, NOx, ROG, and PM_{10} will exceed applicable Mohave Desert Air Quality Management District ("MDAQMD") regional thresholds. (DEIR pp. 4.3-38 to 4.3-43.) The EIR recommends implementation of Mitigation Measures 4.3.8 to 4.3.21 to reduce potentially significant operational emissions impacts. However, even after compliance with applicable MDAQMD Rules, and application of all feasible mitigation measures, CO and PM_{10} emissions generated by Project operations will exceed applicable MDAQMD thresholds. The magnitude of exceedance would, however, be reduced. (DEIR p. 4.3-46.) Accordingly, the Project's operational CO and PM_{10} emissions are determined to be significant and unavoidable.

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

Significant Unavoidable Impact:

The EIR evaluated and concluded that the Project could result in a cumulatively considerable net increase of PM_{10} emissions within a designated PM_{10} non-attainment area.

Finding:

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

Facts in Support of the Finding:

The Project area is designated as a non-attainment area for ozone and $PM_{10.}$ (DEIR p. 4.3-48.) With mitigation, ozone precursors NOx and ROG will not exceed MDAQMD regional operational thresholds. However, even after application of all feasible mitigation measures, impacts of the Project are still significant on a regional basis for $PM_{10.}$ (DEIR pp. 4.3-48 and 5-22.) Even though localized concentrations of all criteria pollutants show that the Project will not result in high concentrations of air pollutants, the fact that the Project generates long-term emissions of PM_{10} in excess of the MDAQMD regional thresholds indicates the Project is significant on an individual basis and may contribute cumulatively significant PM_{10} air quality impacts within a PM_{10} nonattainment area. (*Id.*) Accordingly, the Project's operational exceedance of PM_{10} emissions thresholds is determined to be cumulatively significant and unavoidable.

c) Cumulative Impacts – Operational Emissions

Significant Unavoidable Impact:

The EIR evaluated and concluded that operations of the Project will result in long-term increases in CO, and PM_{10} emissions levels which would exceed applicable MDAQMD regional thresholds.

Finding:

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

Facts in Support of the Finding:

As discussed in Section V(C)(2)(a) above, Project-specific operational emissions impacts (CO and PM_{10}), are determined to be significant; cumulative impacts in these regards are similarly considered to be significant. (DEIR p. 5-22.) Accordingly, CO and PM_{10} emissions regional threshold exceedances resulting from long-term operations of the Project are determined to be individually and cumulatively significant.

3. Noise

a) Construction Source Noise

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project construction activities could result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Commission finds that Mitigation Measures 4.4.1 to 4.4.4 are incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein, thereby reducing the potentially significant construction source noise impacts. However, the Commission finds that the Project's potential construction source noise impacts may be potentially significant after mitigation. Noise impacts are discussed in detail in Section 4.4 of the Draft EIR. The following mitigation measures will mitigate construction source noise impacts to the extent feasible, but the impacts will remain significant and unavoidable.

4.4.1 Project construction activities shall only occur between 7:00 a.m. and 7:00 p.m., Monday through Saturday. Construction activities are prohibited on Sundays and federal holidays.

4.4.2 In order to minimize the effects of construction noise on nearby residential uses, the Project's masonry sound wall (please refer to Mitigation Measure 4.4.6) shall be constructed at the earliest feasible date.

4.4.3 All construction equipment shall be equipped with noise control features including but not limited to: state of the art mufflers, silencers, shields, shrouds, ducts, and engine enclosures.

4.4.4 "Fixed" or relatively immobile noise producing construction activities such as loading, staging, and prefabrication areas, as well stationary construction equipment such as concrete mixers, table saws, etc., shall be located a minimum of 100 feet from the south/southeasterly boundaries of Parcels 1 and 2 and shall be oriented so as to direct noise away from residential uses located to the south/southeast.

Facts in Support of the Finding:

While the mitigation measures above will reduce construction noise to the extent feasible, it is anticipated that construction noise generated by the Project may temporarily and periodically result in exceedance of the City's Noise Ordinance Standards at sensitive receptors located nearest the Project site. (DEIR p. 4.4-25.) Specifically, it is anticipated that construction noise received at residential uses located south southeasterly adjacent to the Project site may temporarily and periodically range from 75 to 81 dB, exceeding City of Hesperia Noise Ordinance Standards. (*Id.*) Project construction noise will be temporary and intermittent. The highest noise levels will occur for a relatively short time during the early construction phases when heavy equipment is utilized, and will dissipate entirely by the end of construction activities. (*Id.*) Nevertheless, it is recognized that Project construction activities could result in a substantial temporary and periodic increase in ambient noise levels in the Project vicinity even with implementation of mitigation measures. (*Id.*) Accordingly, the Project's construction source noise impacts are determined to be significant and unavoidable.

b) Cumulative Impacts – Construction Source Noise

Significant Unavoidable Impact:

The EIR evaluated and concluded that Project construction activities could result in a cumulatively significant temporary or periodic increase in ambient noise levels in the Project vicinity.

Finding:

Based on the entire record before us, this Commission finds that this impact is potentially significant but will be reduced to the extent feasible through mitigation measures. The Commission finds that Mitigation Measures 4.4.1 to 4.4.4 are incorporated into the Mitigation Monitoring and Reporting Program for the Project, and will be implemented as specified therein, thereby reducing the potentially significant construction source noise impacts. However, the Commission finds that the Project's potential construction source noise impacts may be cumulatively significant after mitigation. Noise impacts are discussed in detail in Section 4.4 of the Draft EIR. In addition, Section 5.1.1.4 of the Draft EIR discusses cumulative impacts related to noise in particular. The above-referenced mitigation measures will mitigate construction source noise impacts to the extent feasible, but the impacts will remain cumulatively significant and unavoidable.

Facts in Support of the Finding:

Even after compliance with regulations and application of Mitigation Measures 4.4.1 to 4.4.4, Project construction noise levels received at residential properties located south/southeasterly of the Project site will represent a substantial temporary increase in ambient noise conditions without the Project. (DEIR p. 5-26.) Although this impact will diminish over the course of Project construction, and dissipate entirely at the conclusion of construction activities, Project construction noise impacts are recognized as both individually and cumulatively significant.

D. PROJECT ALTERNATIVES

Section 5.2 of the Draft EIR analyzed the following four alternatives to the Project as proposed, and evaluated these alternatives for their ability to meet the Project's goals and objectives as described in Section II(B) above. CEQA requires the evaluation of a "No Project Alternative" to assess a maximum net change in the environment as a result of implementation of the Project. CEQA also requires evaluation of alternatives which would avoid or substantially lessen any of the significant environmental effects of the proposal and feasibly attain the basic Project objectives. (DEIR p. 5-38.) Thus, in order to develop a range of reasonable alternatives, the Project objectives must be considered when this Commission evaluates the alternatives.

1. No Project Alternative

The No Project Alternative is considered to be equivalent to a "No Build" scenario. (DEIR p. 5-41.) The No Project Alternative assumes continuing use of the subject site in its present state. Under the No Project Alternative, the Project's significant and unavoidable traffic impacts, air quality impacts, and noise impacts would not occur. (DEIR pp. 5-54, 5-56, and 5-58.)

Finding:

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

2. Alternative Site Alternative

An Alternative Site within the City would be considered potentially viable if it were located along a regional commercial corridor or at regional commercial transportation hub; was also locally accessible; was currently available; could feasibly be configured at an appropriate size and configuration; exhibited appropriate General Plan and Zoning Designations or could be feasible so designated; and was provided, or could feasibly be provided, adequate service utilities infrastructure. (DEIR p. 5-42.) To this end, the EIR selected the currently vacant property located northeasterly of the Project, at the northwest corner of Main Street at Escondido Avenue for analysis. (DEIR pp. 5-42 and 5-43.) Similar to the Project, the Alternative Site Alternative would result in less than significant impacts in the following areas: Land Use, Public Services and Utilities; Water Supply; Hydrology and Water Quality; Biological Resources; Cultural Resources; and Geology and Soils. However, no substantive reductions in significant and unavoidable traffic, air quality, and noise impacts would be achieved through relocation of the Project. (DEIR pp. 5-52 to 5-67.)

Finding:

Based on the entire record, this Commission finds that most of the stated Project objectives identified in Section II(B) above could be achieved under the Alternative Site Alternative. (DEIR p. 5-67.) However, no substantive reductions in significant and unavoidable traffic, air quality, and noise impacts would be achieved through relocation of the Project. (DEIR pp. 5-52 to 5-67.) Furthermore, development of this alternative would require willing sellers, negotiations and acquisition, whereas Wal-Mart already owns the Project site. Accordingly, this alternative is not feasible and there is no environmental benefit for or rationale for locating the Project at the Alternative site. (DEIR p. 5-67.)

3. Reduced Intensity Alternative A

Reduced Intensity Alternative A assumes elimination of the Home Depot, all retail outparcels, and four of the five fast food restaurants proposed by the Project, while leaving the site's proposed Wal-Mart and gas station components intact. (DEIR, p. 5-47.) Based on the reduced scope of development, the Reduced Intensity Alternative would generally result in proportionately reduced environmental impacts. Similar to the Project, the Reduced Intensity alternative would result in less than significant impacts in the following areas: Land Use, Public Services and Utilities; Water Supply; Hydrology and Water Quality; Biological Resources; Cultural Resources; and Geology and Soils. (DEIR pp. 5-52 to 5-65.) Reduced Intensity Alternative A would realize a reduction of traffic generation of approximately 40 to 48 percent. (DEIR p. 5-55.) Even though the volumes of traffic distributed to the affected locations would be reduced under this alternative, significant project-related and cumulative traffic impacts would still occur as under the Project (*Id.*) Unlike the Project, Reduced Intensity Alternative A would not exceed applicable MDAQMD annual PM_{10} emissions thresholds. However, operational CO emissions under this alternative – as with the Project – would exceed applicable MDAQMD thresholds. (DEIR, p. 5-57.)

Finding:

Based on the entire record, this Commission finds that although Reduced Intensity Alternative A would reduce Project impacts, it will not reduce significant and unavoidable Project-related air quality and traffic impacts to a less than significant level. Furthermore, while it would generally achieve the Project objectives, the 40 to 48 percent reduction in Project scope would:

1) Reduce the scope and variety commercial/retail uses at the subject property, and would minimize the effective use of commercial property at the City's Main Street/I-15 interchange regional commercial hub and would also restrict potential synergy between uses at this location and along the City's Main Street commercial corridor;
2) Minimize effective use of commercial property located in the vicinity of the Main Street/I-15 interchange, and would similarly not take full advantage of existing and proposed infrastructure available to the Project site;
3) Reduce the capacity to satisfy existing and projected unmet market demands within the trade area;
4) Reduce the variety and scope of products and services which may otherwise attract new customers to the trade area;
5) Restrict locally available commercial/retail opportunities, and would tend to reduce trip capture within the trade area;
6) Limit or preclude food items other than the Wal-Mart Supercenter grocery component (i.e. restaurant/fast food choices);
7) Underutilize the Project site, and would not reflect the site's highest and best use. Such a reduced in scope would likely result in similar reductions in sales and sales tax revenues. Moreover, the remaining undeveloped portion(s) of the subject site would not realize any substantive increase in property value or property tax revenue;
8) Likely result in similar (i.e. 40-to-48 percent) reductions in sales and sales tax revenues and would not realize any substantive increase in property value or property tax revenue for underdeveloped or underutilized portions of the site; and
9) Likely result in a similar (i.e. 40-to-48 percent) reduction in potential employment opportunities. (DEIR pp. 5-67 to 5-69.)

4. Reduced Intensity Alternative B

Reduced Intensity Alternative B assumes elimination of the Home Depot, all retail outparcels, and all five of the fast food restaurants proposed by the Project, while leaving the site's proposed Wal-Mart and gas station components intact. (DEIR, p. 5-50.) Based on the reduced scope of development, the Reduced Intensity Alternative would generally result in proportionately reduced environmental impacts. Similar to the Project, the Reduced Intensity alternative would result in less than significant impacts in the following areas: Land Use, Public Services and Utilities; Water Supply; Hydrology and Water Quality; Biological Resources; Cultural Resources; and Geology and Soils. (DEIR pp. 5-52 to 5-65.) Reduced Intensity Alternative B would realize a reduction of traffic generation of approximately 40 to 48 percent. (DEIR p. 5-55.) Even though the volumes of traffic distributed to the affected locations would be reduced under this alternative, significant project-related and cumulative traffic impacts would still occur as under the Project (*Id.*) Unlike the Project, however, the Reduced Intensity Alternative B would not exceed applicable MDAQMD annual PM_{10} and CO emissions thresholds. (DEIR p. 5-57.)

Finding:

Based on the entire record, this Commission finds that although Reduced Intensity Alternative B would reduce Project impacts, it will not reduce significant and unavoidable Project-related traffic impacts to a less than significant level. Furthermore, while it would generally achieve the Project objectives, the 40 to 48 percent reduction in Project scope would:

1) Reduce the scope and variety commercial/retail uses at the subject property, and would minimize the effective use of commercial property at the City's Main Street/I-15 interchange regional commercial hub and would also restrict potential synergy between uses at this location and along the City's Main Street commercial corridor;
2) Minimize effective use of commercial property located in the vicinity of the Main Street/I-15 interchange, and would similarly not take full advantage of existing and proposed infrastructure available to the Project site;
3) Reduce the capacity to satisfy existing and projected unmet market demands within the trade area;
4) Reduce the variety and scope of products and services which may otherwise attract new customers to the trade area;
5) Restrict locally available commercial/retail opportunities, and would tend to reduce trip capture within the trade area;
6) Limit or preclude food items other than the Wal-Mart Supercenter grocery component (i.e. restaurant/fast food choices);
7) Underutilize the Project site, and would not reflect the site's highest and best use. Such a reduced in scope would likely result in similar reductions in sales and sales tax revenues. Moreover, the remaining undeveloped portion(s) of the subject site would not realize any substantive increase in property value or property tax revenue;
8) Likely result in similar (i.e. 40-to-48 percent) reductions in sales and sales tax revenues and would not realize any substantive increase in property value or property tax revenue for underdeveloped or underutilized portions of the site; and
9) Likely result in a similar (i.e. 40-to-48 percent) reduction in potential employment opportunities. (DEIR pp. 5-67 to 5-69.)

5. Environmentally Superior Alternative

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

The Reduced Intensity Alternative B is the environmentally superior alternative without taking the No Project alternative into account. (DEIR p. 5-70.) The Reduced Intensity Alternative B would achieve all operational emissions thresholds established by the MDAQMD; by contrast, the Project is estimated to exceed this threshold by approximately 48 percent. (*Id.*) However, because scope and variety of land uses would be substantively reduced under this alternative, the resulting effective realization of the Project objectives, to include economic benefits to the City and region, would likely be similarly diminished. (DEIR p. 5-70.)

E. GROWTH INDUCING IMPACTS

CEQA requires a discussion of ways in which a Project could be growth inducing. This topic is discussed in Section 5.3 of the Draft EIR. The CEQA Guidelines, specifically Section

15126.2 (d), identify a Project as growth inducing if fosters economic or population growth, or the construction of additional housing either directly (such as by proposing new homes and businesses) or indirectly (such as through extension of roads or other infrastructure) in the surrounding environment.

The Project will not directly result in any significant population growth. The estimated 600 to 900 jobs which may be created by the Project would likely be filled by the resident population, given the City's unemployment rate. Further, construction employment opportunities associated with the Project may result in a temporary increase in local jobs, likely filled by City or area residents, with no significant permanent growth-inducing effect. (DEIR pp. 5-71 and 5-72.)

The Project, however, may result in indirect growth-inducing effects. Specifically, the Project's potential economic benefits could indirectly result in employment growth in the region. This growth, in combination with other anticipated employment growth in the region, could indirectly result in population growth. Accordingly, the Project, in combination with other planned or anticipated projects in the area, could contribute to employment and population growth which, regionally, is anticipated to be substantial. (DEIR p. 5-72.)

Infrastructure improvements necessitated by the implementation of the Project may facilitate and encourage development of nearby properties. However, the characteristics and intensities of development that could occur on these properties is governed by the City's General Plan. Development of these properties within the context of the approved General Plan should not result in unforeseen nor unmitigatable impacts. (DEIR p. 5-73.)

F. SIGNIFICANT AND IRREVERSIBLE ENVIRONMENTAL CHANGES

The *CEQA Guidelines* §§ 15126(c), 15126.2(c), 15127, require that for certain types or categories of projects, an EIR must address significant irreversible environmental changes that would occur should the Project be implemented. The Project does not propose any of the actions or elements identified under the *CEQA Guidelines*; therefore, a discussion of Significant and Irreversible Environmental Impacts of the Project is not required. (DEIR p. 5-75.)

VI. STATEMENT OF OVERRIDING CONSIDERATIONS

The Hesperia Planning Commission hereby declares that, pursuant to CEQA Guidelines Section 15093, the Planning Commission has balanced the benefits of the proposed Project against any significant and unavoidable environmental impacts in determining whether to approve the proposed Project. If the benefits of the proposed Project outweigh the unavoidable adverse environmental impacts, those impacts are considered "acceptable."

The Planning Commission hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impacts discussed in Section V(C) herein. (*See also,* DEIR, §5.4 "Significant Environmental Effects".)

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

The Planning Commission hereby declares that to the extent any mitigation measures recommended to the City are not incorporated, such mitigation measures are infeasible

because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this Planning Commission finds outweigh the unmitigated impacts.

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

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

- The Project will create a new mix of uses that capitalizes on the site's location in proximity to surrounding commercial/retail facilities;
- The Project will capitalize on the site's visibility and accessibility provided by its location at an intersection of major thoroughfares in the City of Hesperia, and to take advantage of existing and anticipated infrastructure systems;
- The Project will provide a retail development that meets the current unmet demand for goods and services from consumers residing in the trade area for the High Desert area generally and the City of Hesperia specifically, as well as goods demands generated by future residential developments;
- The Project will provide a commercial/retail shopping center that serves the local market area and beyond, and to attract new customers and a wider range of retailers into the City of Hesperia;
- The Project will provide goods and services at a local site, thereby reducing the number of trips currently being made to shop for these same goods and services outside the City of Hesperia;
- The Project will provide a convenient source of grocery and food items to serve the local community;
- The Project will improve and maximize economic viability of the currently vacant and underutilized Project site and area through the establishment of a new commercial center;
- The Project will maximize and broaden the City's sales tax base by providing local and regional tax-generating uses and by increasing property tax revenues. The Project is estimated to generate an annual net fiscal benefit to the City's General Fund in the range of $1.5 million; and
- The Project will create additional employment-generating opportunities for the citizens of Hesperia and surrounding communities. The Project is estimated to provide approximately 600 to 800 employment opportunities, most of which are expected to be filled by workers currently living in the Hesperia area. (DEIR, p. 4.1-9.); and

- The Project will provide (where necessary) adequate infrastructure and public amenities.

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

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

California Public Resource Code section 21002 provides: "In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof." Section 21002.1(c) provides: "In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency..." Finally, California Code of Regulations, Title 4, 15093 (a) states: "If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'"

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

VII. CERTIFICATION OF EIR

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

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

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

1. Findings:

The Project would have the potential for creating significant adverse impacts. These significant adverse environmental impacts have been identified in the EIR and will require mitigation as set forth in the Findings. Significant adverse impacts which cannot be mitigated to

a level of insignificance after mitigation include traffic and circulation, air quality, and noise, as discussed in the Findings.

2. Conclusions:

Except as to those impacts stated above relating to traffic and circulation, air quality, and noise, all other significant environmental impacts from the implementation of the proposed Project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to a level of insignificance.

Alternatives to the proposed Project, which could potentially achieve the basic objectives of the proposed Project, have been considered and rejected in favor of the proposed Project.

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

VIII. RESOLUTION ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

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

IX. RESOLUTION REGARDING CUSTODIAN OF RECORD

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

X. RESOLUTION REGARDING STAFF DIRECTION

A Notice of Determination shall be filed with the County of San Bernardino within five (5) working days of final Project approval.

XI. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 29th day of January 2009.

_____
Stephen S. James, Chair, Planning Commission

ATTEST:

_____
Eva Heter, Secretary, Planning Commission

ATTACHMENT 10

RESOLUTION NO. PC-2009-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 425,038 SQUARE FOOT RETAIL CENTER ON APPROXIMATELY 43.84 ACRES ZONED REGIONAL COMMERCIAL LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE (CUP-2006-05)

WHEREAS, Wal-Mart Stores, Inc., has filed an application requesting approval of a conditional use permit to construct a 425,038 square foot retail center on approximately 43.84 acres (hereinafter referred to as "Application").

WHEREAS, the subject property is currently vacant.

WHEREAS, the property is located on the southeast corner of Main Street and Escondido Avenue and consists of Assessor's Parcel Numbers 3057-011-07, 09, 11 thru 13. The property is bounded by Main Street to the north and Escondido Avenue to the west. The property is also bounded by the California Aqueduct to the east. The uses to the south include single-family residences. The land on the opposite side of Main Street to the north is vacant and an existing parking lot exists to the west. Commercial uses also exist on the opposite side of the California Aqueduct to the east; and

WHEREAS, the subject property is currently designated Planned Mixed Use (PMU) on the City's Land Use map. The property and surrounding properties designated Planned Mixed Use (PMU) are within the Main Street and Freeway Corridor Specific Plan. The properties to the north and west are also designated Planned Mixed Use (PMU). The property is bounded by the California Aqueduct designated Public (P) to the east. The properties on the opposite side of the California Aqueduct to the east are also designated Planned Mixed Use (PMU). The properties to the north are designated Medium (M) on the City's General Plan Map; and

WHEREAS, the subject property is currently zoned Regional Commercial on the Main Street and Freeway Corridor Specific Plan. The properties to the north and west are also zoned Regional Commercial. The properties on the opposite side of the California Aqueduct to the east are also zoned Regional Commercial. The properties to the south are zoned Single-family Residence (R-1) on the City's Zone Map; and

WHEREAS, on January 29, 2009, the Planning Commission of the City of Hesperia adopted Resolution PC-2009-04 adopting environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH # 2006061064), and adopting a Mitigation Monitoring and Reporting Plan; and

WHEREAS, on January 29, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced January 29, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) Based on adoption of Resolution PC-2009-04, the Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and the Final Environmental Impact Report (SCH # 2006061064) has been certified pursuant to the California Environmental Quality Act (CEQA) for this project.

(b) The site for the proposed use is adequate in size and shape to accommodate the proposed use. The site is approximately 43.84 acres and can accommodate the 425,038 square foot shopping center, including a 240,000 square foot Wal-Mart Superstore selling alcoholic beverages with a minor vehicle repair facility and fuel station. On-site improvements required by the Hesperia Development Code can be constructed on the property including 1,836 parking spaces, minimum 26-foot wide drive aisles, landscaping, trash enclosures, and loading areas. The shopping center also meets all of the San Bernardino County Fire Department standards including fire lanes, two-points of access, fire truck turn-around, fire department connections/post indicator valves (FDC/PIV) and fire hydrants. The proposed development also complies with all state and federal regulations, including the Americans with Disability Act (ADA). The project is designed with an on-site retention/detention basin to accommodate the required capacity of a 100-year storm. The 128 existing Joshua trees will be transplanted within the development's landscaping or placed in an adoption program to be transplanted to an off-site location.

(c) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof because the proposed project is consistent with the City's Planned Mixed Use (PMU) General Plan Land Use designation and each of the uses envisioned under the proposed project is permitted in the Regional Commercial Zone. The proposed retail and restaurant uses have long been expected to develop within the proposed area and are substantially similar to existing adjacent uses. Commercial uses exist on the opposite side of the California Aqueduct to the east. Surrounding land along Main Street is expected to develop with similar commercial uses as the proposed uses as permitted in the Main Street and Freeway Corridor Specific Plan. The uses to the south include single-family residences. A 10-foot high noise barrier wall will

be constructed along the southern boundary of the project site to mitigate construction and operational noise impacts to the adjacent residences. The project is designed with an on-site retention/detention basin to accommodate the required capacity of a 100-year storm. In a major storm event which exceeds the capacity of the system, the overflow from the system will be discharged into the over chute at the California Aqueduct. The City has established Traffic Impact Mitigation Fee Program to fund the construction of traffic improvements to maintain adequate levels of service standards. The developer is required to pay all applicable City development impact fees towards these improvements.

(d) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code, Main Street and Freeway Corridor Specific Plan and all applicable codes and ordinances adopted by the City of Hesperia because each of the uses envisioned under the proposed project is permitted in the Regional Commercial Zone. The development complies with standards for landscaping, driveway aisles, parking stall dimensions, building heights, fire lanes and turn-arounds, trash enclosures, and loading areas. The development complies with Americans with Disability Act (ADA) by providing 48 handicap parking spaces with loading areas and a 4-foot-wide path of travel to the streets, parking spaces, and all buildings. The development will be constructed pursuant to the California Building and Fire Codes and adopted amendments. The development must comply with the project's condition of approval for off-site and on-site improvements required prior to grading and building construction and prior to issuance of a Certificate of Occupancy.

(e) The site for the proposed use will have adequate access based upon the site's current accessibility to Main Street and Escondido Avenue. Main Street is an existing major arterial road with access to Highway 395 and I-15 freeway to the west. Two driveway approaches are located in Main Street and four in Escondido Avenue. A new traffic signal will be placed at the easterly driveway at Main Street to include a south-bound entrance to safely access the shopping center. A traffic signal will also be placed on the main driveway entrance, which is the third approach south of Main Street, along Escondido Avenue. The City has established a Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service. The developer is required to pay all applicable City development impact fees towards these improvements.

(f) The proposed project is consistent with the adopted General Plan of the City of Hesperia because an objective in the City's General Plan seeks to "...Promote balanced, efficient commercial development that is functional, safe, attractive, and convenient to users, and which will strengthen the local economy." The primary objective of the proposed

project is to expand retail opportunities to the residents of the City. Implementation of the proposed project will accomplish this General Plan objective by establishing the City's presence along the Main Street corridor, in vicinity to the freeway, by locating nationally recognized retail businesses and restaurants. The Shopping Center's location is convenient and creates a broad selection of retail and restaurant opportunities to the residents of the City. The Commercial Center provides new employment opportunities to residents of the City and will augment the City's economic base by increasing revenue-generating retail uses in the City.

Section 3. The Planning Commission hereby finds that the Environmental Impact Report has discussed the project's environmental impacts. Findings regarding the EIR are found in Resolution No, PC-2009-04.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP-2006-05, subject to the Conditions of Approval as set forth in ATTACHMENT "A."

Section 5. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 29th day of January 2009.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP-2006-05:

Approval Date: January 29, 2009
Effective Date: February 10, 2009
Expiration Date: February 10, 2011

This list of conditions apply to a conditional use permit to construct a 425,038 square foot retail center on 43.84 acres zoned Regional Commercial located on the southeast corner of Main Street and Escondido Avenue. Any change of use or expansion of area may require approval of a revised or modified conditional use permit application (APNs: 3057-011-07, 09, 11 thru 13).

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 two (2) 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 at least thirty (30) days prior to the expiration date.

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS:
(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

___ _____ 1. **Fish & Game Fee**. The applicant shall submit a check to the City in the amount of $2,818.25 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

___ _____ 2. **Final Map**. A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in Article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)

___ _____ 3. **Drainage Study**. The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)

___ _____ 4. **Geotechnical Report:** The Developer shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)

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

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

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

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

___ _____ 9. **Plan Check Fees**. Prior to improvement plan submittal, the Developer shall pay applicable plan-checking fees. Fees must be paid along with plan submittal. The Improvement Plans, requested studies must be submitted as a package. (E)

___ _____ 10. **Vacation**. The Developer shall vacate Major Place and Mesa Avenue along with a portion of the sewer easement on proposed PM-18187 while maintaining a minimum 20-foot easement for the re-alignment of the sewer. (E)

___ _____ 11. **Erosion Control**. The Developer shall provide an erosion control plan with the improvement plans submittal per City Standards. (E)

___ _____ 12. **Offer Of Dedication (I.O.D.)**. The Developer shall show all offer of dedications on the Final Map. (E)

___ _____ 13. **Easement(s)**. The Developer shall show all water, sewer and storm drain easements on the Final Map. (E)

___ _____ 14. **Jurisdiction**. The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein ("Fire Department"). Prior to any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

___ _____ 15. **Indemnification**. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval

issued by the City (whether by the Development Advisory Board, 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)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITIES:

___ _____ 16. **Mitigation Monitoring and Reporting Program**. The applicant shall comply with the mitigation measures that are required prior to grading permit issuance or ground disturbing activities as identified in the Mitigation Monitoring and Reporting Program and the Environmental Impact Report (EIR), as adopted by Planning Commission.

___ _____ 17. **Cultural Resources**. A copy of an executed contract with a qualified archaeologist and paleontologist for monitoring during grading operations shall be submitted for Planning Division review and approval prior to issuance of a grading permit. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)

___ _____ 18. **Pre-construction Survey**. A pre-construction survey for burrowing owls, the Mojave ground squirrel and the desert tortoise shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading. If these species are found, all activities shall be halted and appropriate agency shall be consulted to determine appropriate mitigation. (P)

___ _____ 19. **Protected Plants**. Three copies of a protected plant plan shall be submitted to the Building Division showing the present location and proposed treatment of all smoke tree, species in the Agavacea family, mesquite, large creosote bushes, Joshua Trees, and other plants protected by the State Desert Native Plant Act. The grading plan shall be consistent with the approved protected plant plan. No clearing or grading shall commence until the protected plant plan is approved and the site is inspected and approved for clearing. (P)

___ _____ 20. **Pre-construction Meetings**. Pre-construction meetings shall be held between the City, the Developer, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, P)

___ _____ 21. **Design for Required Improvements**. Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

___ _____ 22. **Easement**. An access easement shall be recorded which allows for the perpetual use of the driveway and/or off-street parking spaces for the benefit of the adjacent property. The easement shall be recorded in a form approved by the City or as part of the parcel map. (P)

___ _____ 23. **Survey**. The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)

___ _____ 24. **Approval of Improvement Plans:** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)

25. **Off-Site / On Site Improvements**. The Developer shall design the following off-site/on-site improvements:

A. **Improvement Plans (Streets, Water, Sewer, Storm Drain, etc.)**

___ _____ i. **Dedication(s)**. The Developer shall grant to the City an Irrevocable Offer of Dedication for Main Street and Escondido Avenue based on the number of lanes required per the approved Traffic Impact Analysis. The Developer shall also grant to the City an Irrevocable Offer of Dedication for any part of the Path of Travel located behind any commercial drive approaches that encroach onto private property. **Corner cut-off right of way dedication per City standards is required at all intersections.** (E)

___ _____ ii. **Traffic Signal(s)**. The Developer shall design to construct / relocate, modify traffic signal(s) per the approved Traffic Impact Analysis. Traffic signal preemption device for emergency vehicle operation shall be included. (E)

___ _____ iii. **Utility Non-interference / Quitclaim Document(s)**. The Developer shall provide non-interference and or quitclaim letter(s) from all applicable utility agencies for all utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies.

___ _____ iv. **Utility Grant of Easement**. The Developer shall provide Grant of Easement, Vacation, or Quitclaim documents from all applicable utility companies for all utility easements that affect the site per the City's discretion. All documents shall be subject to review and approval by the Engineering Department. **Grading permits will not be issued until the required documents are reviewed and approved by all applicable**

agencies. Any fees associated with the required documents are the Developer's responsibility. (E)

___ _____ v. **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)

___ _____ vi. **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)

___ _____ vii. **Plans**. All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department, Engineering Department for plan review with the required checking fees. All Public Works plans shall be submitted as a complete set. (E)

___ _____ viii. **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 Developer's expense.** (E)

___ _____ iix. **Grading Plan**. The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. (E)

___ _____ ix. **Grading Requirements**. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw) and top of footing (tf) elevations and the finish grade (fg) elevations. (E)

___ _____ x. **Off-Site Grading Letter(s).** It is the Developer's responsibility to obtain signed Off-Site Grading Letters from the adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)

___ _____ xi. **On-site Retention.** The Developer shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter

elements. All dry wells / injection wells shall have a minimum depth of 30' with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Developer shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems.** (E)

___ _____ B. **Street Improvement Plan:** The Developer shall design street improvements in accordance with City standards and as indicated below. (E)

___ _____ i. **Escondido Avenue:** Saw-cut (2-foot min.) and match-up asphalt pavement on Escondido Avenue across the project frontage. Right-of-way will be based upon the required number of lanes per the approved Traffic Impact Analysis. These improvements shall consist of:

1. 8" Curb and Gutter per City standards.
2. Sidewalk (width = 6 feet) per City standards.
3. Roadway drainage device(s).
4. Streetlights per City standards.
5. Intersection improvements including handicapped ramps per City standards.
6. Commercial driveway approaches per City standards.
7. Pavement transitions per City Standards.
8. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 12 and per the soils report.
9. Cross sections every 50-feet per City standards.
10. Traffic control signs and devices as required by the traffic study and / or the City Engineer.
11. Provide a signage and striping plan per City standards.
12. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.
13. Relocate existing overhead utilities to underground. The Developer shall coordinate with affected utility companies.
14. Provide signage and striping for a Class 2 bike trail, per City's adopted non-motorized transportation plan.

___ _____ ii. **Main Street:** Saw-cut (2-foot min.) and match-up asphalt pavement on Main Street across the project frontage. Right-of-way will be based upon the required number of lanes per the approved Traffic Impact Analysis. These improvements shall consist of:

1. 8" Curb and Gutter per City standards.
2. Sidewalk (width = 6 feet) per City standards.
3. Roadway drainage device(s).

4. Streetlights per City standards.
5. Intersection improvements including handicapped ramps per City standards.
6. Commercial driveway approaches per City standards.
7. Pavement transitions per City Standards.
8. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 12 and per the soils report.
9. Cross sections every 50-feet per City standards.
10. Traffic control signs and devices as required by the traffic study and / or the City Engineer.
11. Provide a signage and striping plan per City standards.
12. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.
13. Relocate existing overhead utilities to underground. The Developer shall coordinate with affected utility companies.
14. Provide signage and striping for a Class 2 bike trail, per City's adopted non-motorized transportation plan.

___ _____ C. **Water Improvements:** Developer shall disconnect and remove existing water main in Major Place and Mesa Street from Escondido Avenue to West Nolina Drive.

___ _____ D. **Sewer Improvements:** Developer shall design and construct an 8" minimum SDR-35 sewer main, in 20' minimum easement, to replace the proposed vacation of a portion of the existing sewer.

___ _____ E. **Utilities (Every Parcel Shall Satisfy the Requirements as Outlined below).** (E)

1. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
2. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic connection(s) can be made from the existing 12" AC water line in Escondido Avenue or the existing 12" AC water line in Main Street per City Standards. Meters shall be placed in the City right of way. Fire connection(s) shall be a looped system with double detector checks in the City right of way.
3. It is the Developer's responsibility to connect to sewer and pay the appropriate fees.
4. The Developer will be required to connect to the proposed 8" SDR 35 sewer main in the proposed minimum 20-foot sewer easement per City standards.
5. 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.

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

___ _____ 26. **Mitigation Monitoring and Reporting Program**. The applicant shall comply with the mitigation measures that are required prior to building permit issuance as identified in the Mitigation Monitoring and Reporting Program and the Environmental Impact Report (EIR), as adopted by Planning Commission.

___ _____ 27. **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)

___ _____ 28. **Landscape Plans**. The Developer shall submit four sets of landscape and irrigation plans to the Building Division with the required application fees. 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)

___ _____ 29. **Solid Masonry Sound Wall**. The Developer shall submit four sets of masonry wall plans to the Building Division with the required application fees. The plans shall provide a ten-foot high split-face masonry sound wall with decorative cap along the southern and southeast project boundary. The south and southeast project boundary is defined as the dividing property line between the development and the drainage channel. The wall height shall be measured from north and northeast side of the wall. (P)

30. **Development Fees**. The Developer shall pay required development fees as follows:

___ _____ A. The Developer shall connect to sewer and pay applicable fees. (W/S)

___ _____ B. School fees. (B)

___ _____ 31. **Building Construction Plans**. Four 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. The plans shall also address the following special environmental concerns: (B)

___ _____ 32. **AQMD Approval**. The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

33. **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 the required application fees.

___ _____ 34. **Community Facilities District**. Applicant shall annex the site into Community Facilities District CFD 94-01 and insure the reapportionment of all existing obligations affecting the property.

___ _____ 35. **Water System.** Prior to any land disturbance, the water system shall be designed to meet the required fire flow for the Wal-Mart Superstore and shall be approved by the Fire Department. The required fire flow shall be determined by using Appendix B of the California Fire Code. (F)

___ _____ 36. **Fire Flow Test**. The Developer shall provide a current flow test report from the water purveyor to the Fire Department demonstrating that the public water supply is capable of meeting the project's fire flow demand or an approved fire sprinkler system shall be installed. This requirement shall be completed prior to inspection by Building and Safety. (F)

___ _____ 37. **Access**. The development shall have a minimum of four (4) points of vehicular access. These are for fire/emergency equipment access and for evacuation routes.

___ _____ 38. **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.

___ _____ 39. **Turnaround/Cul-de-Sac/Turning Radius:** An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12 % grade and have a minimum of forty five (45) foot radius for all turns. In the FS1, FS2 or FS-3 Fire Safety Overlay District areas, there are additional requirements.

___ _____ 40. **Water System Large Commercial**. A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. The applicant is required to provide a minimum of one new six (6) inch fire hydrant assembly with one (1) two and one half (2 1/2) inch and two (2) four (4) inch outlets. Install fire hydrant(s) within 300 feet of the buildings and within 50 feet of the FDC/PIV in accordance with the approved design. The hydrants shall be in operable condition prior to delivery of combustible materials to the site. (F)

___ _____ 41. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The plans (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)

___ _____ 42. **High-Piled Storage.** The applicant shall submit an application for high-piled storage (internal storage over 12' in height), three (3) sets of detailed plans and a commodity analysis report to the Fire Department for review and approval. The applicant shall submit the approved plan to Building and Safety Division for review with building plans. If the occupancy classification is designated as S-2, commodities to be stored will be limited to products of light hazard classification only. The required fees shall be paid at the time of plan submittal. (F)

___ _____ 43. **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)

___ _____ 44. **Utility Relocation / Undergrounding.** If the Developer is required to install water, sewer, or construct street improvements or when required utilities shall be placed underground, it shall be the developer's responsibility to relocate / underground any existing utilities at his / her own expense. Relocation / undergrounding of utilities shall be identified upon submittal of construction plans. (E)

___ _____ 45. **Architectural Elevations**. The Developer is required to submit two copies and one reduced color copy of the architectural elevations for building(s) on Parcels 3 thru 8, and the Home Depot Store. The architectural elevations shall include compatible features as the Wal-Mart Superstore. These elevations shall be approved by the Principal Planner or his/her designee. (P)

___ _____ 46. **Easements**. Should off-site offers of dedication or easements be required for off-site improvements, it shall be the responsibility of the Developer to obtain such dedications or easements at no cost to the City. (E)

___ _____ 47. **Reclaimed Water.** The development shall be plumbed for future use of reclaimed water usage in parkland and landscaped areas adjacent to Main Street and Escondido Avenue.

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

___ _____ 48. **Mitigation Monitoring and Reporting Program**. The applicant shall comply with the mitigation measures that are required during grading and building construction and prior to obtaining a certificate of occupancy as identified in the Mitigation Monitoring and Reporting Program and the Environmental Impact Report (EIR), as adopted by Planning Commission.

___ _____ 29. **Development Fees**. The Developer shall pay required development fees as follows:

___ _____ A. Development Impact fees.

___ _____ B. The developer shall pay a replacement impact fee in the amount of $164,500.00 for developing within 6.58 acres of the Un-named Wash.

___ _____ 50. **Utility Clearances**. The Building Division will provide utility clearances on individual buildings after required permits are obtained, the inspections are approved and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. (B)

___ _____ 51. **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 Principal Planner. (P)

___ _____ 52. **Recordation of Final Map**. A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. Final Map shall be approved by Council and Recorded with the County of San Bernardino. (E)

___ _____ 53. **As-Built Plans**. The Developer shall provide as-built plans, Notice of Completion, One-Year Maintenance Bonds to the Engineering Department. (E)

___ _____ 54. **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)

___ _____ 55 **Easements for On-Site Utilities**. The Developer shall submit a grant of easement for on-site utilities on forms provided at the Engineering Division. (E)

___ _____ 56. **Fire Division Access**. The Developer shall provide a key box security system to provide building access as well as access to all fire protection systems. (F)

CONDITIONS REQUIRED DURING THE OPERATION OF THE DEVELOPMENT:

___ _____ 57. **Mitigation Monitoring and Reporting Program**. The applicant shall comply with the mitigation measures that are required during the operation of the development as identified in the Mitigation Monitoring and Reporting Program and the Environmental Impact Report (EIR), as adopted by Planning Commission. (P)

___ _____ 58. **Limitation on Outdoor Activities**. There shall be no truck deliveries, loading dock activities, lumber off-loading, trash pick-ups, lumber sawing, compactors, forklift operations, movement of outdoor display and stored merchandise, outdoor seasonal sales of merchandise and use of public address systems between the hours 10:00 pm and 7:00 am. In addition, the garden center pick-up facility and tire and lube express shall not be operational between the hours 10:00 pm and 7:00 am. (P)

___ _____ 59. **Valid License**. 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)

___ _____ 60. **Permit Revocation**. 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)

___ _____ 61. **ABC Requirements**. The use shall comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P)

___ _____ 62. **Trucks Delivery.** Delivery trucks shall not be permitted to idle in the parking lots or loading areas, and shall be required to have properly maintained, factory-approved mufflers. Delivery truck drivers shall minimize acceleration and maintain reduced vehicle speeds while on site.

___ _____ 63. **Trash Dumping.** Between 10:00 p.m and 7:00 a.m trash shall not be dumped into the outdoor trash bins, and the trash compactor at Wal-Mart's parcel shall not be used. Carts if any, used to transport trash to the outdoor bins shall have large-diameter rubber wheels to minimize noise.

___ _____ 64. **Forklifts.** All forklifts to be used at the major anchors shall be electric.

___ _____ 65. **Loading Dock Doors**. Administrative controls within Wal-Mart's and Home Depot's parcels shall be implemented to ensure that exterior doors, including any loading dock doors, on the south, east, and west elevations of buildings shall be kept closed when not in use, and to ensure that employee shouting and the use of radios is minimized when loading dock doors are open.

___ _____ 66. **Trash Activities.** Trash compacting activities, including the pickup and drop-off of compactor bins, shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Any carts which may be used to transport trash from buildings to outdoor bins shall use large-diameter rubber wheels.

IF YOU NEED 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**	**947-1474**
(F)	**Fire Prevention Division**	**947-1623**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

ATTACHMENT 11

RESOLUTION NO. PC-2009-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP TO CREATE EIGHT PARCELS ON APPROXIMATELY 43.84 ACRES ZONED REGIONAL COMMERCIAL LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET AND ESCONDIDO AVENUE (PM-18187)

WHEREAS, Wal-Mart Stores, Inc., has filed an application requesting approval of Tentative Parcel Map PM-18187 to create eight parcels on approximately 43.84 acres described herein (hereinafter referred to as "Application"); and

WHEREAS, the subject property is currently vacant.

WHEREAS, the property is located on the southeast corner of Main Street and Escondido Avenue and consists of Assessor's Parcel Numbers 3057-011-07, 09, 11 thru 13. The property is bounded by Main Street to the north and Escondido Avenue to the west. The property is also bounded by the California Aqueduct to the east. The uses to the south include single-family residences. The land on the opposite side of Main Street to the north is vacant and an existing parking lot exists to the west. Commercial uses also exist on the opposite side of the California Aqueduct to the east; and

WHEREAS, the subject property is currently designated Planned Mixed Use (PMU) on the City's Land Use map. The property and surrounding properties designated Planned Mixed Use (PMU) are within the Main Street and Freeway Corridor Specific Plan. The properties to the north and west are also designated Planned Mixed Use (PMU). The property is bounded by the California Aqueduct designated Public (P) to the east. The properties on the opposite side of the California Aqueduct to the east are also designated Planned Mixed Use (PMU). The properties to the north are designated Medium (M) on the City's General Plan Map; and

WHEREAS, the subject property is currently zoned Regional Commercial on the Main Street and Freeway Corridor Specific Plan. The properties to the north and west are also zoned Regional Commercial. The properties on the opposite side of the California Aqueduct to the east are also zoned Regional Commercial. The properties to the south are zoned Single-family Residence (R-1) on the City's Zone Map; and

WHEREAS, on January 29, 2009, the Planning Commission of the City of Hesperia adopted Resolution PC-2009-04 adopting environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH # 2006061064), and adopting a Mitigation Monitoring and Reporting Plan; and

WHEREAS, on January 29, 2009, 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 January 29, 2009 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The proposed map is consistent with the City's General Plan of the City of Hesperia, because the proposed eight parcels will allow the tenants of the Main Street Marketplace to individually own and control their property. The proposed map is consistent with the adopted General Plan of the City of Hesperia because an objective in the City's General Plan seeks to "...Promote balanced, efficient commercial development that is functional, safe, attractive, and convenient to users, and which will strengthen the local economy." The primary objective of the proposed project is to expand retail opportunities to the residents of the City. Implementation of the proposed project on these parcels will accomplish this General Plan objective by establishing the City's presence along Main Street, in vicinity to the freeway, by locating nationally recognized retail and restaurant businesses. The Shopping Center's location is convenient and creates a broad selection of retail and restaurant opportunities to the residents of the City. The Commercial Center provides new employment opportunities to residents of the City and will augment the City's economic base by increasing revenue-generating retail uses in the City. The parcel map complies with the Municipal Code and the Main Street and Freeway Corridor Specific Plan.

(b) The design or improvement of the proposed subdivision is consistent with the General Plan of Hesperia as the project supports the existing land use and circulation pattern in the area. The proposed map is consistent with the City's Planned Mixed Use (PMU) General Plan Land Use designation and each parcel size is permitted in the Regional Commercial Zone. The proposed parcels support the development and control of the intended retail and restaurant businesses. Main Street and Escondido Avenue will be developed as specified on the City's General Plan Circulation Element along the project frontages. The site for the proposed use will have adequate access based upon the site's current accessibility to Main Street and Escondido Avenue. Main Street is an existing major arterial road with access to Highway 395 and I-15 freeway to the west. Two driveway approaches are located in Main Street and four in Escondido Avenue. A new traffic signal will be placed at the easterly driveway at Main Street to include a south-bound entrance to safely access the shopping center. A traffic signal will also be placed on the main driveway entrance, which is the third approach south of Main Street, along Escondido Avenue.

The uses to the south include single-family residences. A 10-foot high noise barrier wall will be constructed along the southern boundary of the project site to mitigate construction and operational noise impacts to the adjacent residences. The City has established Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service standards. The developer is required to pay all applicable City development impact fees towards these improvements.

(c) The site is physically suitable for the type of development because the site can accommodate all proposed improvements and required infrastructure necessary for development because the site is approximately 43.84 acres and can accommodate all proposed improvements including the required landscaping, fire lanes, and a total of 1,836 parking spaces. The site for the proposed use will have adequate access based upon the site's current accessibility to Main Street and Escondido Avenue. Main Street is an existing major arterial road with access to Highway 395 and I-15 freeway to the west. Two driveway approaches are located in Main Street and four in Escondido Avenue. A new traffic signal will be placed at the easterly driveway at Main Street to include a south-bound entrance to safely access the shopping center. A traffic signal will also be placed on the main driveway entrance, which is the third approach south of Main Street, along Escondido Avenue. The shopping center includes a retention/detention basin located on the southeast portion of the site. In a major storm event which exceeds the capacity of the system, the overflow from the system will be discharged into the over chute at the California Aqueduct. The project will comply with the fire flow required by the California Fire Code. The development will connect to 12-inch water lines located in both Main Street and Escondido Avenue. Sewer connections will be made off of the existing 8-inch sewer in Escondido Avenue and the existing 10-inch sewer located on the southeast portion of the property. The project developer is required to construct on-site and off-site wastewater infrastructure including reclaimed water usage in parkland and landscape areas adjacent to Main Street and Escondido Avenue. The City has established Traffic Impact Mitigation Fee Program to fund the construction of traffic improvements to maintain adequate levels of service standards. The developer is required to pay all applicable City development impact fees towards these improvements.

(d) The site is physically suitable for the proposed density of development because the site is approximately 43.84 acres and can accommodate a 425,038 square foot retail center that includes an 240,000 square foot Wal-Mart Supercenter and a 141,038 square foot Home Depot Store. A total of ten buildings consisting of fast food restaurants, retail facilities, and a gas station, ranging from 2,000 to 13,000 square feet, are proposed to be located on outpads

near the street. The proposed project is consistent with the City's Planned Mixed Use (PMU) General Plan Land Use designation and each of the uses under the proposed project is permitted in the Regional Commercial Zone. The project conforms to the policies of the City's General Plan and is in conformance with municipal codes, and the Main Street & Freeway Corridor Specific Plan.

(e) Based on adoption of Resolution PC-2009-04, Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and Final Environmental Impact Report (SCH # 2006061064) has been certified pursuant to California Environmental Quality Act (CEQA) for this project. The Final Environmental Impact Report has discussed the project's environmental impacts. Findings regarding the EIR are found in Resolution No. PC-2009-04.

(f) The design of the subdivision or type of improvements are not likely to cause serious public health problems because the subdivision will physically improve and extend street access, public utilities and infrastructure to ensure adequate public services to the site. The developer is required to construct street improvements, including curb, gutter and sidewalk along the project's street frontages. A new traffic signal will be placed at the easterly driveway at Main Street to include a south-bound entrance into the new center. A traffic signal will also be placed on the main driveway entrance, which is the third approach south of Main Street, along Escondido Avenue. The shopping center will use a retention/detention basin and excess water run-off will be conveyed to an existing over chute at the California Aqueduct. The development will connect to 12-inch water lines located in both Main Street and Escondido Avenue. Sewer connections will be made off of the existing 8-inch sewer in Escondido Avenue and the existing 10-inch sewer located on the southeast portion of the property. The project developer is required to construct on-site and off-site wastewater infrastructure including reclaimed water usage in parkland and landscape areas adjacent to Main Street and Escondido Avenue. The City has established Traffic Impact Mitigation Fee Program to fund the construction of traffic improvements to maintain adequate levels of service standards. The developer is required to pay all applicable City development impact fees towards these improvements. The development complies with Americans with Disability Act (ADA) by providing a 4-foot-wide path of travel from the street to the development. The development must comply with the project's condition of approval for off-site improvements required prior to grading and building construction and prior to issuance of a Certificate of Occupancy.

(g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. The

property does contain an on-site sewer main line that will be relocated. Before recordation of the map, a new utility easement is required to be provided for the relocation of the sewer main line and the existing easement must be abandoned. As a condition of approval, the developer is required to relocate the existing sewer main line and re-align the existing easement per City standards. The property does not contain any easements that will interfere with the public at large.

Section 3. The Planning Commission hereby finds that the Environmental Impact Report has discussed the project's environmental impacts. Findings regarding the EIR are found in Resolution No. PC-2009-04.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Tentative Parcel Map PM-18187, subject to the Conditions of Approval as set forth in ATTACHMENT "A."

Section 5. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 29th day of January 2009.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Tentative Parcel Map PM-18187:

Approval Date: January 29, 2009
Effective Date: February 10, 2009
Expiration Date: February 10, 2012

This list of conditions apply to a Tentative Parcel Map to create eight parcels on approximately 43.84 acres zoned Regional Commercial located on the southeast corner of Main Street and Escondido Avenue (APN's: 3057-011-07, 09, 11 thru 13).

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

PRIOR TO RECORDATION OF THE PARCEL MAP:

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

Init	Date	
___	_____	1. **Final Map**. A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)
___	_____	2. **Title Report**. The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)
___	_____	3. **Survey**. The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (E)
___	_____	4. **Plan Check Fees**. Prior to improvement plan submittal, a customer request form, available from Engineering, shall be completed and submitted to the Engineering Department. Upon receipt of form, plan-checking fees will be provided to the developer. Fees must be paid along with plan submittal. The Final Map, CDP, Improvement Plans, requested studies, and CFD annexation must be submitted as a package. (E)
___	_____	5. **Lettered Lots**. Lettered lots shall be dedicated to the City of Hesperia for drainage, storm drain, retention basin, slope maintenance, and open space purposes. (E)
___	_____	6. **Vacation(s)**. The Developer shall identify any required vacations on parcel map. (E)

___ _____ 7. **Dedication(s)**. The Developer shall grant to the City an Irrevocable Offer of Dedication for Main Street and Escondido Avenue based on the number of lanes required per approved Traffic Impact Analysis. Developer shall also grant to the City an Irrevocable Offer of Dedication for corner cut off and for any part of the path of travel located behind any commercial drive approach that encroaches onto private property. (E)

___ _____ 8. **Utility Easements.** The Developer shall grant to the City, Utility Easements as required to install the required water, sewer and storm drain facilities as conditioned below. Said easements shall be indicated on the Final Map. (E)

___ _____ 9. **Easements**. Should off-site offers of dedication or easements be required for off-site improvements, it shall be the responsibility of the Developer to obtain such dedications or easements at no cost to the City, pursuant to section 66462.5 of the Subdivision Map Act. (E)

___ _____ 10. **Plans**. All required plans shall be prepared by a registered Civil Engineer per City standards and to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department, Engineering Department for plan review with the required checking fees. The Final Map, CDP, Improvement Plans, requested studies, and CFD annexation must be submitted as a package. (E)

___ _____ 11. **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 Advisory Board, 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)

CONDITIONS REQUIRED PRIOR TO GROUND DISTRUBING ACTIVITIES:

___ _____ 12. **Approval of Grading Plans**. Grading plans shall be prepared by a registered Civil Engineer per City standards and shall be approved and signed by the City Engineer. (E)

___ _____ 13. **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)

PRIOR TO DEVELOPMENT OF ANY PARCEL OF THE PARCEL MAP:

___ _____ 14. **Recordation of Final Map**. A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)

___ _____ 15. **Utility Relocation / Undergrounding.** If the Developer is required to install water, sewer, or construct street improvements or when required utilities shall be placed underground, it shall be the developer's responsibility to relocate/underground any existing utilities at his/her own expense. Relocation / under-grounding of utilities shall be identified upon submittal of construction plans. (E)

CONDITIONS REQUIRED PRIOR TO OCCUPANCY OF ANY UNIT:

___ _____ 16. **As-Built Plans**. The Developer shall provide as-built plans, Notice of Completion, One-Year Maintenance Bonds to the Engineering / Water-Sewer Departments. (E)

___ _____ 17. **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.

___ _____ 18. **Electronic Copies**. The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2004 or later to the City's Engineering Department. (E)

___ _____ 19. **Development Fees.** The Developer shall pay required development fees pursuant to CUP-2006-05. (B)

NOTE TO DEVELOPER: THIS CONCLUDES THE REQUIREMENTS FOR RECORDATION OF THE FINAL MAP. IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:

(P)	**Planning Division**	**947-1200**
(B)	**Building Division**	**947-1300**
(E)	**Engineering Division**	**947-1474**
(F)	**Fire Prevention Division**	**947-1623**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

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CITY OF HESPERIA

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, JANUARY 21, 2009

A. PROPOSALS:

1. AT & T (CUP-2008-06)

Proposal: To establish an 80-foot high wireless monopole facility on 800 square feet.

Location: East side of Mariposa Road, approximately 1500 feet south of Main Street at an existing Hesperia Water Tank 23 site.

Planner: Paul Rull

Action: Forwarded to Planning Commission

2. City of Hesperia (PFR-2008-07)

Proposal: To construct a 2 story 66,778 square foot government office building on 4.8 acres.

Location: Northwest corner of Seventh Avenue and Smoke Tree Street.

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to Planning Commission