

**RESOLUTION NO. 2026-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT CUP24-00012 AND ADOPTING THE ASSOCIATED MITIGATED NEGATIVE DECLARATION PURSUANT TO CEQA TO ALLOW FOR THE DEVELOPMENT OF A CONVENIENCE STORE WITH ALCOHOL SALES FOR OFF-SITE CONSUMPTION, A FUELING STATION CANOPY WITH 10 PUMPS, AND DENYING A PROPOSED DRIVE-THRU CARWASH ON A 2.36 ACRE SITE WITHIN THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN, LOCATED AT THE NORTHWEST CORNER OF PHELAN ROAD AND U.S. HIGHWAY 395**

**WHEREAS**, AUE Energy LLC has filed an application requesting approval of CUP24-00012 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to approximately 2.36 acres of an existing land also referenced Assessor's Parcel Number 3064-401-10; and

**WHEREAS**, the Application proposes the development of a convenience store with alcohol sales for off-site consumption, a fueling station canopy with 10 pumps and a drive-thru carwash which requires approval of a conditional use permit; and

**WHEREAS**, the City Council adopted Ordinance No. 2017-08 on October 3, 2017, which requires that all applications for off-sale alcohol (type 20 and 21 ABC licenses) below 12,000 square feet in floor area be forwarded to the City Council for final action; and

**WHEREAS**, the subject site is located within the Neighborhood Commercial (NC) zone of the Main Street and Freeway Corridor Specific Plan. The properties to the north, south, east and west are within the Neighborhood Commercial (NC) zone; and

**WHEREAS**, the subject site, as well as surrounding properties are vacant; and

**WHEREAS**, an environmental Initial Study for the proposed project was circulated for a 30-day public review period from January 20, 2026, through February 18, 2026. During the public review period five comment letters were received. It was determined that no significant adverse environmental impacts to either the man-made or physical environmental setting would occur with the inclusion of mitigation measures. A Mitigated Negative Declaration was subsequently prepared; and

**WHEREAS**, on March 26, 2026, the Planning Commission of the City of Hesperia conducted a public hearing pertaining to the proposed application, and, upon concluding the hearing on that date, forwarded the item to the City Council with a 5-0 vote recommending approval of the project; and

**WHEREAS**, on April 21, 2026, the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application; and

**WHEREAS**, following consideration of staff reports, public testimony, and deliberation, a motion was made to continue the item to the next regular meeting and to direct staff to revise the proposed resolution and findings to approve Conditional Use Permit No. CUP24-00012, excluding the proposed car wash use and said motion was approved by a 5-0 vote; and

**WHEREAS**, on May 5, 2026, the City Council 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 CITY COUNCIL AS FOLLOWS:

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

Section 2. Based upon substantial evidence presented to the City Council during the above-referenced May 5, 2026, hearing, including public testimony and written and oral staff reports, this Council specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use. The site is approximately 2.36 acres and can accommodate the proposed 5,915 square foot convenience store with off-sale of alcohol along with a 4,080 square foot fueling station canopy with 10 pumps and a 1,968 square foot drive-thru carwash with 40 parking spaces provided on the site. The development complies with the development standards for landscaping, driveway aisles, parking stall dimensions, building heights, trash enclosure, loading areas, and all other applicable development standards. The project also complies with the Americans with Disabilities Act (ADA), as the required accessible parking spaces and paths of travel meet the standards within the ADA as well as state and federal handicapped accessible regulations. The development will be constructed pursuant to the California Building and Fire Codes and subsequent adopted amendments.
- (b) The proposed use, excluding the drive-thru carwash, will not have a substantial adverse effect on abutting properties or the permitted use thereof because the proposed project is consistent with the Neighborhood Commercial (NC) zone of the Main Street and Freeway Corridor with approval of this Conditional Use Permit. The project meets all of the development standards of the NC zone as well as specific land use standards established in the Development Code for fuel facilities.

The proposed drive-thru carwash will have substantial adverse effects on abutting properties. The project site is located within a 1.5-mile radius of 6 existing car wash facilities; 4 of which are an accessory use to a fuel station as proposed. The high concentration of carwashes in the area creates a shift in character to the area and an unpleasant environment and limits adjacent lots of particular uses. The establishment of the carwash would contribute to an overconcentration of similar uses within not only the City, but a 1.5-mile radius of the subject site, resulting in a cumulative nuisance and adverse impacts on the community and adjacent lots.

- (c) The proposed project, excluding the drive-thru carwash, is consistent with the goals, policies, standards and maps of the adopted zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the project is consistent with the regulations allowing non-residential uses within the NC Zone of the Main Street and Freeway Corridor Specific Plan. A convenience store is an allowable use, and the off-site alcohol sales, fueling station and carwash uses are allowed with approval of a Conditional Use Permit. The project is also subject to conditions of approval and complies with the standards for driveway aisles, parking stall dimensions, building heights, trash enclosure and all other applicable development standards. The project meets all of the development standards of the NC zone. The project will be constructed pursuant to the California Building and Fire Codes and subsequently adopted amendments.

The proposed drive-thru carwash is not consistent with the goals, policies, standards of the General Plan. There are 6 existing carwashes within a 1.5-mile radius of the site. The overconcentration of carwash uses has the potential to undermine the City's land use objectives by limiting diversity of commercial services, contributing to economic imbalance, and creating conditions that may lead to property neglect or vacancy if market demand is exceeded. These conditions can result in visual blight and degradation of the surrounding area, thereby constituting a nuisance. As such, the proposed drive-thru carwash would be detrimental to public health, safety, and welfare, and would be inconsistent with the intent of the Development Code.

- (d) Establishments with the sale of alcoholic beverages for off-site consumption must be located within 500 feet of an intersection of two arterial or major arterial streets identified on the City's adopted Circulation Plan. The proposed project is located at the northwest corner of Phelan Road and Highway 395. Phelan Road is designated as a Major Arterial with a 120-foot-wide ultimate right-of-way, while Highway 395 is designated as a Special Street section with a 130-foot-wide ultimate right-of-way and is identified as a major transportation corridor in the Circulation Plan. As a major regional corridor, Highway 395 satisfies the intent of an arterial roadway classification.
- (e) Although Census Tract 100.09 exceeds the recommended number of off-sale alcohol licenses identified by the California Department of Alcoholic Beverage Control (ABC), the City Council finds that approval of a Type 20 (Off-Sale Beer and Wine) license at the project site will serve Public Convenience and Necessity. Two of the licensed establishments identified within the census tract are located outside the City limits and more than four miles from the project site, limiting their service to the immediate project area. The remaining licensed establishments within the tract are located along the Interstate 15 freeway corridor and primarily serve motorists traveling along that corridor.

The proposed project is located along the U.S. Highway 395, which serves a separate travel route and surrounding neighborhood area. The requested license is limited to the sale of beer and wine for off-site

consumption and does not include the sale of distilled spirits. Based on the distance from existing establishments, the separation of commercial corridors, and the limited nature of the proposed license, the City Council finds that approval of the requested license would serve the public convenience and necessity and would not result in undue impacts to the surrounding community.

- (f) The project site will have adequate access based upon the installation of two new drive approaches. Project access is proposed via two right-in/right-out commercial driveway approaches. The first approach is located along Phelan Road near the southwestern portion of the project site. The second approach is located along U.S. Highway 395 at the northeastern portion of the site. There are also general services for sanitation, water, and public utilities to ensure the public convenience, health, safety and general welfare. Additionally, the site is currently served with adequate infrastructure to operate without a major extension of infrastructure.

Section 3. The City Council has independently reviewed and analyzed the Mitigated Negative Declaration and finds that it reflects the independent judgement of the City Council, and that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment. Pursuant to State CEQA Guidelines Section 15074 and Public Resources Code Section 21081.6 the City Council hereby approves the Mitigated Negative Declaration. The City Council finds that the mitigation measures are fully enforceable on the Project and shall be binding upon the City and affected parties.

Section 4. Based on the findings and conclusions set forth in this Resolution, the City Council hereby approves Conditional Use Permit CUP24-00012, excluding the proposed drive-thru carwash, subject to the conditions of approval attached hereto as Attachment "A."

Section 5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** on this 5 day of May 2026.

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Brigit Bennington, Mayor

ATTEST:

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Jessica Giber, Assistant City Clerk