

City of Hesperia
STAFF REPORT



Attachment 11

DATE: March 26, 2026
TO: Planning Commission
FROM: Orlando Acevedo, Director of Development Services
BY: Ryan Leonard, Principal Planner
Leilani Henry, Associate Planner
SUBJECT: Conditional Use Permit CUP24-00012; Applicant: AUE Energy LLC; APN: 3064-401-10

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2026-01 recommending that the City Council approve Conditional Use Permit CUP24-00012 and adopt the associated mitigated negative declaration pursuant to the provisions of CEQA.

BACKGROUND

Proposal: A Conditional Use Permit (CUP) has been filed to allow for the development of a 5,915 square foot convenience store with alcohol sales for off-site consumption along with a 4,080 square foot fueling station canopy with 10 pumps and a 1,968 square foot drive through carwash (Attachments 1 and 2).

Location: This project is located on the northwest corner of Phelan Road and Highway 395. (Attachment 3).

Current General Plan, Zoning and Land Uses: The site is within the Neighborhood Commercial (NC) zone of the Main Street and Freeway Corridor Specific Plan. The adjacent properties to the north and west are vacant and located within the Neighborhood Commercial zone (NC). The property to the east, across Highway 395, and the property to the south, across Phelan Road, are also vacant and within the Neighborhood Commercial (NC) zone (Attachment 4).

ISSUES/ANALYSIS

Land Use: The proposed convenience store is a permitted use within the Neighborhood Commercial (NC) zoning district. However, pursuant to the Development Code and the Main Street and Freeway Corridor Specific Plan, approval of a Conditional Use Permit (CUP) is required for the establishment and operation of a vehicle fuel station, carwash facility, and the sale of alcoholic beverages for off-site consumption. Additionally, 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) for establishments that are below 12,000 square feet in floor area be forwarded to the City Council for final action.

Conformance with Development Standards: The project complies with development standards of the Main Street and Freeway Corridor Specific Plan including the minimum building requirements, landscaping, and parking. Moreover, the project includes 26,572 square feet of total landscape

coverage, or 13.5% of total landscape coverage, which is greater than the required minimum landscape coverage of 10%.

Establishments selling alcoholic beverages for off-site consumption are required to be located within 500 feet of the intersection of two arterial or major arterial streets as identified in 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.

Alcohol Sales: The applicant will file an application for a Type 20 (Off-Sale Beer and Wine) license with the California Department of Alcoholic Beverage Control (ABC). Table 2 identifies four active off-sale alcoholic beverage licenses within Census Tract 100.09 (Attachment 5). ABC authorizes this census tract to have three off-sale licenses. Therefore, approval of CUP24-00012 will exceed the limitation of three licenses and ABC will require that the City make a finding of public convenience and necessity (Attachment 9).

Table 1: Existing On-Sale Licenses in Census Tract 100.09

Status	Business Name	Business Address	Type of License
Active	Walmart	11896 Amargosa Road (Victorville)	21-Beer, Wine, and Liquor
Active	Sky Market	12720 Main Street	21-Beer, Wine, and Liquor
Active	G & M Oil Co.	12080 Amargosa Road (Victorville)	20-Beer and Wine
Active	7 Eleven	12750 Main Street.	20-Beer and Wine

In determining whether to approve an additional license in an overconcentrated census tract, the Planning Commission may consider the surrounding context and availability of alcohol sales within the immediate service area. While four licenses are reported within the census tract, the Walmart and G & M Oil locations are outside the City limits and located more than four miles from the proposed project site. The remaining establishments, Sky Market and 7-Eleven, are located approximately one mile away along the I-15 freeway corridor and primarily serve motorists traveling along that corridor.

The proposed project is located along Highway 395 and would serve a different travel corridor. As such, the project would provide sales to residents and motorists traveling along Highway 395 and would not substantially increase the concentration of alcohol sales within the immediate vicinity of the project site. Therefore, the Planning Commission may determine that approval of the proposed off-sale beer and wine license would serve the public convenience and necessity.

Building Design: The convenience store and carwash building design comply with the architectural guidelines of the Development Code. The buildings incorporate a combination of stucco and tile, in addition to a brick wainscot. The buildings incorporate changes in wall and roof planes and include tower elements to highlight the entry features. In addition, the fuel canopy will be conditioned to incorporate the brick wainscot material to the supportive beams. (Attachment 6).

Traffic/Street Improvements: According to the City's General Plan Circulation Element, Highway 395 is constructed as a 130-foot wide Special Street Section, which provides two travel lanes in

each direction (plus ancillary lanes) and Phelan Road is to be constructed as a 120-foot wide Major Arterial Street Section which currently provides 2 travel lanes in each direction. As part of developing the site, the developer is required to dedicate right-of-way and construct street improvements, including curb, gutter and sidewalk along the project frontages of Highway 395 and Phelan Road. In addition, the driveway approach onto Highway 395 will be restricted to right-in and right-out only. The eastern driveway approach on Phelan Road will also be restricted to a right-in and right-out only. In addition, the project will include rubberized curbs with flexible posts along the Phelan Road median to restrict left hand turns from the project site.

Drainage: Any additional runoff created on-site will be detained in an approved storm drain storage system and an underground drainage system is proposed to store the necessary volume. Upon completion of the on-site drainage improvements, the impact of the project upon properties downstream is not considered significant.

Water and Sewer: The project will connect to an existing 12-inch PVC water line in Phelan Road and a 12-inch PVC sewer main along Caliente Road via a lateral line which extends through an easement on the north property line of the west adjacent property.

Environmental: Approval of this development requires adoption of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA). The IS/MND prepared for the project concluded that the project will not have any significant negative impacts on the environment upon implementation of the recommended mitigation measures. (Attachment 8)

The environmental analysis included a biological resources assessment to evaluate potential impacts to sensitive habitats and special-status species. The analysis concluded that Joshua Trees are present on the site and will require an Incidental Take Permit from the California Department of Fish and Wildlife. Additionally, the biological report shows that the site does not contain habitat for the desert tortoise nor any other threatened or endangered species. However, a pre-construction surveys for the burrowing owl and nesting bird will be conducted prior to issuance of a grading permit.

The environmental analysis also concluded that the proposed project would not result in any impacts to known archaeological resources or tribal cultural resources. However, there is potential for project-related construction to impact unknown or previously unrecorded archaeological resources. For this reason, mitigation measures are proposed in the event that cultural resources are inadvertently encountered during excavation activities. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law.

The environmental document was circulated to local, state and federal agencies and organizations as well as surrounding property owners for public review from January 20, 2026, through February 18, 2026 (SCH#2026010656). During the public review period, five comment letters were received (Attachment 7).

The table below identifies the origin of each comment letter and summarizes how the comments were addressed and incorporated into the Project's Conditions of Approval and/or the updated Initial Study/Mitigated Negative Declaration (IS/MND). Additionally, response letters were provided to the California Department of Transportation (Caltrans) and the California Department of Water Resources (DWR) (Attachment 8).

Table 2: Comment Letters and Responses

Agency/Individual	Comments and Responses
<p>Chris Anderson</p>	<p>Comments: A community member raised concerns with traffic safety stating the environmental study does not adequately evaluate traffic impacts on westbound traffic along Phelan Road near the proposed gas station entrance and the need for a right-turn lane onto the project site</p>
	<p>Response: A traffic study prepared by a California-licensed traffic engineer was submitted to the City during the entitlement review process and was accepted prior to scheduling the project for public hearing. The project is conditioned to submit a final traffic study to the City and Caltrans prior to ground disturbance. Additionally, the project applicant will be required to obtain all necessary Caltrans permits before commencing any ground-disturbing activities.</p>
<p>Mojave Desert Air Quality Management District (MDAQMD)</p>	<p>Comments: MDAQMD requested the project's compliance with air quality regulations and implementation of dust control best management practices as well as district permits be obtained.</p>
	<p>Response: The IS/MND confirms that construction and operation will comply with MDAQMD rules and regulations. The project is also conditioned to provide evidence of acceptance by MDAQMD prior to ground-disturbing activities, ensuring CEQA consistency with air quality requirements.</p>
<p>California Department of Fish and Wildlife (CDFW)</p>	<p>Comments: CDFW offered comments and recommendations to assist in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Specifically, these recommendations focused on Burrowing Owl and Nesting Birds.</p>
	<p>Response: The IS/MND and Mitigation Monitoring and Reporting Program were updated to incorporate CDFW's recommendations. Biological mitigation measures now include MM BIO-2 (Pre-Construction Surveys), MM BIO-3 (Burrow Avoidance), and MM BIO-4 (Nesting Bird Survey), ensuring project compliance with CEQA biological resource requirements.</p>
<p>California Department of Transportation (DOT)</p>	<p>Comments: Caltrans requests additional traffic analyses, including truck turning templates, queuing studies, corrected trip distribution, and a stand-alone safety review with potential mitigation. The project must maintain ADA-compliant pedestrian and bicycle access during construction. Any work encroaching on Caltrans right-of-way requires an encroachment permit.</p>
	<p>Response: A traffic study prepared by a California-licensed traffic engineer was submitted to the City during the entitlement review process and accepted prior to scheduling the project for public hearing. The project is conditioned to submit a final traffic study to the City and Caltrans prior to any ground-disturbing activities. Caltrans' requests have been addressed through a response letter and updates to the Conditions of Approval and IS/MND. The applicant has been issued an encroachment permit for the proposed driveway onto Highway 395 and will obtain all additional necessary Caltrans permits before commencing construction, ensuring CEQA compliance with transportation and safety requirements. A response letter documenting these actions was also provided to Caltrans</p>

<p>California Department of Water Resources (DWR)</p>	<p>Comments: DWR raised concerns that the project’s maps are outdated and lack sufficient detail to show existing development and local drainage features. The IS/MND does not provide adequate analysis of off-site stormwater flows, potential erosion, or impacts to the Oro Grande Wash and DWR rights-of-way. DWR requests a Hydrology/Drainage Study to evaluate pre- and post-development runoff and ensure the proposed underground retention facility can manage flows without affecting DWR facilities. Updated drainage plans and analyses are needed to prevent ponding, sedimentation, and scour.</p>
	<p>Response: DWR’s concerns were addressed in a response letter as well as the updated conditions of approval and IS/MND. The IS/MND was updated to include additional detail on existing site conditions, drainage patterns, and the proposed storm drain system, as well as pre- and post-construction stormwater peak flow rates. The Project-specific Hydrology Report will be reviewed and approved by the City and provided to DWR as per the conditions of approval. All required DWR permits will be obtained prior to any ground-disturbing activities, ensuring CEQA compliance with hydrology and drainage requirements.</p>

Conclusion: The project conforms to the policies of the City’s General Plan and meets the standards of the Development Code and the Main Street Freeway Corridor Specific Plan. Further, approval of the sale of beer and wine is appropriate, particularly to allow the convenience store to be competitive with similar businesses and to meet customer demand.

CITY GOAL SUPPORTED BY THIS ITEM

Future Development: Facilitate balanced growth to ensure cohesive community development and pursue economic development.

FISCAL IMPACT

The development would generate tax revenue and is subject to applicable development impact, business license and permit fees.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. Floor plan
3. Aerial Photo
4. General Plan Map
5. Census Tract Map 100.09
6. Colored Elevations (3)
7. Comment Letters (5)
8. Updated IS/MND and (2) Response Letters
9. Resolution No. PC-2026-01 and Draft Conditions of Approval

ATTACHMENT 9

RESOLUTION NO. PC-2026-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE CONDITIONAL USE PERMIT CUP24-00012 AND ADOPT 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 A 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 for 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 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 March 26, 2026, hearing, including public testimony and written and

oral staff reports, this Commission 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 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 proposed project will be required to comply with the City's Noise Ordinance which limits the maximum noise level to 60 dB(A) for the daytime hours (7 a.m. to 10 p.m.). 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 vehicle wash and fuel facilities.
- (c) The proposed project 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 nonresidential uses within the NC Zone of the Main Street and 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 subsequent adopted amendments.
- (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 Planning Commission finds that approval of a Type 20 (Off-Sale Beer and Wine) license at the project site will serve the 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 Planning Commission 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. Based on the findings and conclusions set forth in this Resolution, the Planning Commission hereby recommends that the City Council approve Conditional Use Permit CUP24-00012, subject to the conditions of approval attached hereto as Attachment "A."

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

ADOPTED AND APPROVED on this 26th day of March 2026.

Roger Abreo, Chair, Planning Commission

ATTEST:

Maricruz Montes, Secretary, Planning Commission