

# PLANNING COMMISSION

## ***REGULAR MEETING***

**Date: January 10, 2019**

**Time: 6:30 P.M.**

### **COMMISSION MEMBERS**

Tom Murphy, Chair

Cody Leis, Vice Chair

Rusty Caldwell, Commissioner

Joline Hahn, Commissioner

Jim Heywood, Commissioner

\* - \* - \* - \* - \* - \* - \*

Chris Borchert, Principal Planner

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 Jeff Codega, Principal Planner (760) 947-1200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.10235.104 ADA Title 11]

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



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# City of Hesperia

## Meeting Agenda Planning Commission

City Council Chambers  
9700 Seventh Ave.  
Hesperia CA, 92345  
[www.cityofhesperia.us](http://www.cityofhesperia.us)

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Thursday, January 10, 2019

6:30 PM

Council Chambers

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### AGENDA HESPERIA PLANNING COMMISSION

**As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.**

*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 PM**

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

*Tom Murphy Chair  
Cody Leis Vice Chair  
Rusty Caldwell Commissioner  
Joline Bell Hahn Commissioner  
James Heywood Commissioner*

#### **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 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**

- 1. Page 5 Consideration of the December 20, 2018 Planning Commission Draft Meeting Minutes

#### **Recommended Action:**

It is recommended that the Planning Commission approve the Draft Minutes from the Special Meeting held on December 20, 2018.



**Staff Person:** Planning Secretary Cecilia Alonzo

**Attachments:** 12-20-2018 PC MINUTES

## **PUBLIC HEARINGS**

2. Page 9

Consideration of Conditional Use Permit CUP18-00009 to allow for the sale of beer, wine and liquor for on-site consumption (Type 47) in conjunction with a restaurant on 1.08 gross acres within the Regional Commercial zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Catapa Road (Applicant: Mexico Lindo Restaurant; APN: 3064-601-16)

### **Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-03, approving CUP18-00009.

**Staff Person:** Senior Planner Ryan Leonard

**Attachments:** Staff Report

Attachment 1- General Plan Map

Attachment 2-Aerial Photo

Attachment 3- Census Tract Map

Resolution No. PC-2019-03

Attachment A-Conditions of Approval

3. Page 19

Consideration of Site Plan Review SPR18-00010 to construct a 50-unit multi-family development for seniors in conjunction with Density Bonus Agreement DA18-00001 and Specific Plan Amendment SPLA18-00001 from LDR to HDR located on 2.3 gross acres located 250 feet south of Main Street, on the west side of Eleventh Avenue. The Planning Commission is also considering the project's Mitigated Negative Declaration under CEQA. (Applicant: Hickory Tree II, L.P; APN: 0408-183-12)

### **Recommended Action:**

It is recommended that the Planning Commission approve Resolution Nos. PC-2019-01 & PC-2019-02 recommending that the City Council approve SPLA18-00001, DA18-00001 & SPR18-00010 to construct a 50-unit multi-family development for seniors in conjunction with a Density Bonus and Incentive Agreement and a Specific Plan Amendment from LDR to HDR located on 2.3 gross acres located 250 feet south of Main Street, on the west side of Eleventh Avenue.

**Staff Person:** Senior Planner Daniel Alcayaga



**Attachments:** Staff Report  
Attachment 1- Site Plan  
Attachment 2 - General Plan Map  
Attachment 3 - Aerial Photo  
Attachment 4 - Floor Plans  
Attachment 5 - Building Elevations  
Attachment 6 - Density Bonus Agreement  
Attachment 7 - CEQA Documents  
Attachment 8 - Resolution PC-2019-01  
Exhibit A  
Attachment 9 - Resolution PC-2019-02  
Conditions of Approval

### **PRINCIPAL PLANNER'S REPORT**

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

D. DRC Comments

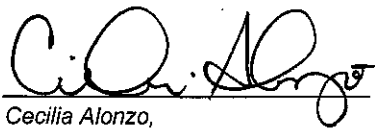
E. Major Project Update

### **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**

*I, Cecilia Alonzo, Planning Commission Secretary of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Wednesday, January 2, 2019 at 5:30 p.m. pursuant to California Government Code §54954.2.*



Cecilia Alonzo,  
Planning Commission Secretary



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# City of Hesperia

## Meeting Minutes

### Planning Commission

City Council Chambers  
9700 Seventh Ave.  
Hesperia CA, 92345  
www.cityofhesperia.us

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Thursday, December 20, 2018

6:30 PM

Council Chambers

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#### **CALL TO ORDER - 6:30 PM**

##### **A. Pledge of Allegiance to the Flag**

Pledge of Allegiance led by Vice Chair Cody Leis

##### **B. Invocation**

Invocation led by Commissioner Joline Hahn

##### **C. Roll Call**

###### **PRESENT**

Chair Tom Murphy  
Vice Chair Cody Leis  
Commissioner James Heywood  
Commissioner Joline Hahn  
Commissioner Rusty Caldwell

#### **PUBLIC COMMENTS**

Chair Tom Murphy opened the Public Comments at 6:34

There were no Public Comments.

Chair Tom Murphy closed Public Comments at 6:34

#### **CONSENT CALENDAR**

1. Consideration of the November 8, 2018 Planning Commission Draft Meeting Minutes

##### **Recommended Action:**

**It is recommended that the Planning Commission approve the Draft Minutes from the Regular Meeting held on November 8, 2018.**

**Sponsors:** Executive Secretary Erin Baum

**A motion was made by Commissioner Joline Hahn, seconded by Vice Chair Cody Leis, that this item be approved. The motion carried by the following vote:**

**Aye:** Vice Chair Cody Leis  
Commissioner James Heywood  
Commissioner Joline Hahn  
Commissioner Rusty Caldwell

**Abstain:** Chair Tom Murphy



## **PUBLIC HEARINGS**

2. Consideration of Conditional Use Permit CUP18-00002 to construct a 54,366 square foot retail development and to allow the sale of beer and wine on 11.6 gross acres within the C2 zone located on the south side of Bear Valley, approximately 1,400 feet to the east of Jacaranda Avenue. The Planning Commission is also considering the project's Mitigated Negative Declaration under CEQA. (Applicant: Rich Development Enterprises, LLC; APN: 0399-011-24)

### **Recommended Action:**

**It is recommended that the Planning Commission adopt Resolution No. PC-2018-20, approving CUP18-00002 to construct a 54,366 square foot retail development and to allow the sale of beer and wine.**

**Sponsors:** Senior Planner Daniel Alcayaga

Senior Planner Daniel Alcayaga gave a presentation on the project.

Chair Tom Murphy opened Public Hearing at 6:42

There were no public comments.

Applicant(s) spoke in favor of the project

Commissioners asked questions regarding the project.

Project Engineer Shane Sherwood (David Evans) answered Commission questions regarding sewer capacity.

Chair Tom Murphy closed the Public Hearing at 6:44

**A motion was made by Leis, seconded by Caldwell, that this item be approved.**

**The motion carried by the following vote:**

**AYES:** Chair Tom Murphy

Vice Chair Cody Leis

Commissioner James Heywood

Commissioner Joline Hahn

Commissioner Rusty

3. Consideration of Specific Plan Amendment SPLA18-00003 to allow vehicle fuel stations and ancillary vehicle wash facilities within the Pedestrian Commercial zone of Main Street and Freeway Corridor Specific Plan (Area City Wide; Applicant: City of Hesperia)

### **Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2018-21 recommending that the City Council introduce and place on first reading an ordinance approving SPLA18-00003.

**Sponsors:** Senior Planner Ryan Leonard



Senior Planner Ryan Leonard gave a presentation on the project  
Chair Tom Murphy opened the Public Hearing at 6:55  
There were no public comments  
Chair Tom Murphy closed the Public Hearing at 6:51  
Commissioners asked questions regarding Specific Plan Amendment.

**A motion was made by Hahn, seconded by Caldwell, that this item be approved. The motion carried by the following vote:**

**Aye:** Chair Tom Murphy  
Vice Chair Cody Leis  
Commissioner James Heywood  
Commissioner Joline Hahn  
Commissioner Rusty Caldwell

4. Pedestrian Commercial Workshop

**Recommended Action:**

Discussion regarding potential changes to the Pedestrian Commercial zone within the Main Street and Freeway Corridor Plan to include the vision for the area, land uses, comparison to other districts in the specific plan, and multi-family residential, with the changes to return in a specific plan amendment in the near future.

**Sponsors:** Senior Planner Ryan Leonard

Senior Planner Ryan Leonard led discussion regarding item. Discussion ensued.

**PRINCIPAL PLANNER'S REPORT**

Principal Planner, Chris Borchert, gave updates on current projects in the city.

**D. DRC Comments**

**E. Major Project Update**

**PLANNING COMMISSION BUSINESS OR REPORTS**

No reports given.

**ADJOURNMENT**

Meeting adjourned at 7:34 pm until Thursday, January 10, 2019.

\_\_\_\_\_  
Cecilia Alonzo  
Planning Commission Secretary

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Tom Murphy  
Chair



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# City of Hesperia STAFF REPORT



**DATE:** January 10, 2019  
**TO:** Planning Commission  
**FROM:** Chris Borchert, Acting Principal Planner  
**BY:** Ryan Leonard, Senior Planner  
**SUBJECT:** Conditional Use Permit CUP18-00009; Applicant: Mexico Lindo Restaurant; APN: 3064-601-16

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## RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2019-03, approving CUP18-00009.

## BACKGROUND

**Proposal:** A Conditional Use Permit to allow the sale of beer, wine and liquor for on-site consumption within a restaurant (Mexico Lindo Restaurant).

**Location:** 12693 Main Street #210

## Current General, Plan, Zoning and Land Uses:

The site is within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor Specific Plan (Attachment 1). The surrounding land is designated as noted on Attachment 2. The restaurant will occupy an approximately 2,900 square foot tenant space within the Lewis Phase II shopping center that is currently under construction. The owner anticipates that the restaurant will be complete and ready to open in January 2019. The properties to the south and west are vacant. The High Desert Gateway Center is east of the site on the opposite side of Cataba Road. The property to the north was recently developed with a Sleep Train (Attachment 3).

## ISSUES/ANALYSIS:

**Land Use:** Mexico Lindo Restaurant will be opening a new restaurant at 12693 Main Street and would like to sell beer, wine and liquor as part of its dining service. The owner of the restaurant has two other locations in Phelan and Wrightwood that also serve beer, wine and liquor. The Main Street and Freeway Corridor Specific Plan requires approval of a Conditional Use Permit (CUP) for the sale of alcohol. The applicant has applied for a Type 47 license with the California Department of Alcoholic Beverage Control (ABC), which allows for on-site (on-sale) sales of beer, wine and liquor.

The proposal is situated within Census Tract 100.17, which is bounded by Main Street to the north, a Southern California Edison utility corridor to the west, the California aqueduct to the east, and Highway 138 and Summit Valley Road to the south (Attachment 3).

ABC allows a maximum of 11 on-sale licenses within Census Tract 100.17 before the census tract is considered to be over concentrated. As shown in Table 1 below, there are currently 9



active on-sale licenses within this census tract and one license that is pending construction. Therefore, this area is not over-concentrated and the City is not required to make a finding of public convenience and necessity.

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

Status	Business Name	Business Address	Type of License
Active	Courtyard by Marriott.	9619 Mariposa Rd.	47-Beer, Wine, & Liquor
Active	Love Oasis Sushi	12719 Main St.	41-Beer & Wine
Active	Walmart	13401 Main St.	86-Instructional Tasting
Active	B&B Pizzeria	13312 Ranchero Rd.	41-Beer & Wine
Active	Outpost Café	8685 Highway 395	47-Beer, Wine, & Liquor
Active	Wingstop	13259 Main St.	41-Beer & Wine
Active	Thorny's Sports Bar	13330 Ranchero Rd	47-Beer, Wine, & Liquor
Active	Flavor of India	8853 Three Flags Ave	47-Beer, Wine, & Liquor
Active	Springhill Suites Marriott	9625 Mariposa Rd	70-On Sale- Restrictive Service
Pending	Texas Roadhouse	9601 Mariposa Rd	47-Beer, Wine, & Liquor

The closest establishment similar in nature to the proposed restaurant is Love Sushi which is located across the street from the proposed restaurant. An on-sale license that permits the sale of beer, wine and liquor is necessary in order to allow the restaurant to meet customer demand. In addition, the applicant will be required to comply with all state beverage control regulations

**Schools and Parks:** Mission Crest Elementary School and Malibu Park are located across Interstate 15 approximately 1 mile southeast of this restaurant.

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

**Conclusion:** The Census Tract is not considered over-concentrated by ABC with respect to on-sale alcohol outlets. Approval of an alcoholic beverage license is necessary in order to allow the restaurant to meet customer demand.

## ALTERNATIVE

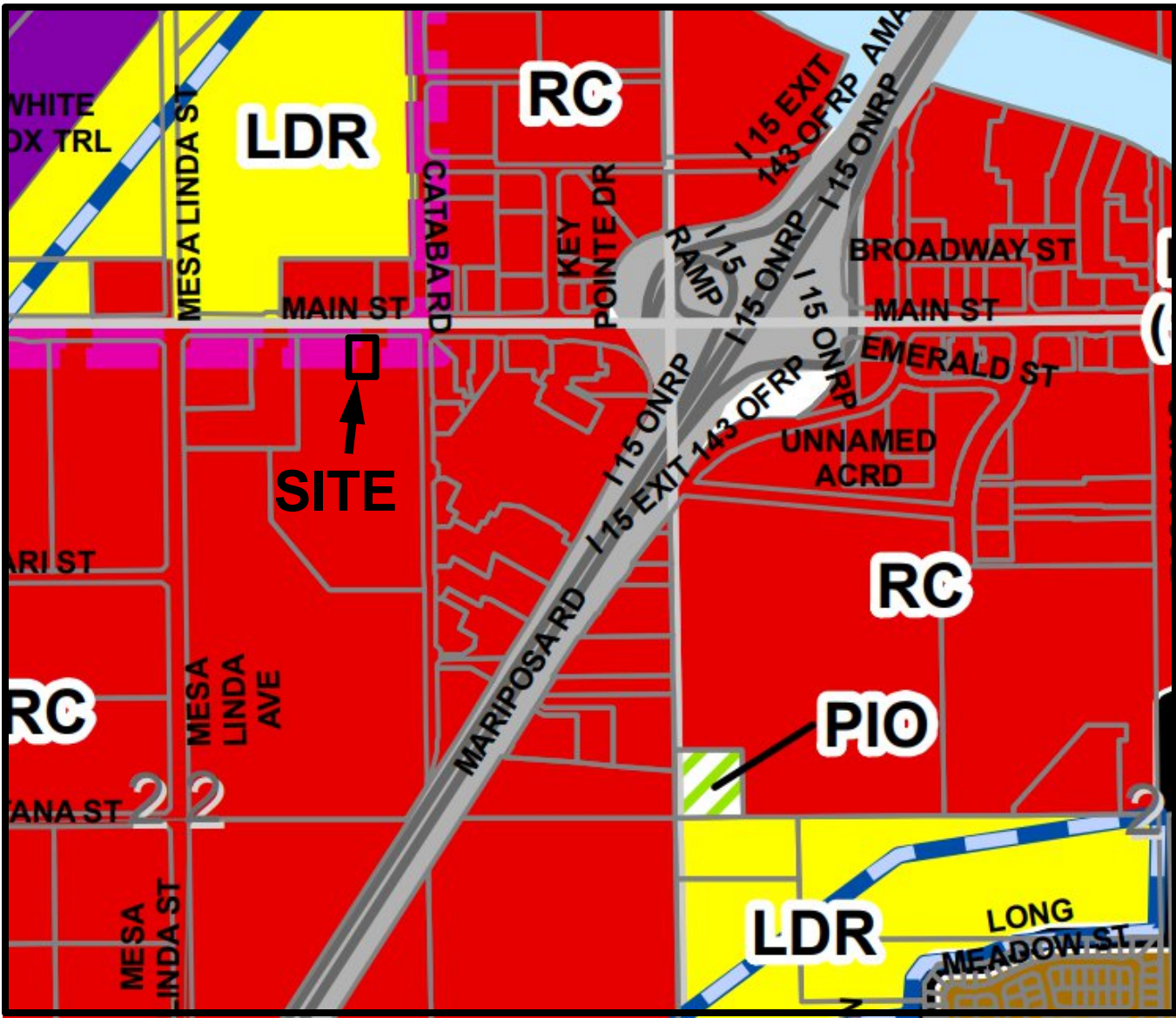
1. Provide alternative direction to staff.

## ATTACHMENTS

1. General Plan
2. Aerial photo
3. Census Tract Map
4. Resolution No. PC-2019-03, with list of conditions



ATTACHMENT 1



**APPLICANT(S):**  
MEXICO LINDO RESTAURANT

**FILE NO(S):**  
CUP18-00009

**LOCATION:**  
12693 MAIN STREET

**APNs:**  
3064-601-16

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP18-00009, TO ALLOW THE SALE OF BEER, WINE AND LIQUOR FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT (MEXICO LINDO RESTAURANT).



GENERAL PLAN MAP



# ATTACHMENT 2



**APPLICANT(S):**  
MEXICO LINDO RESTAURANT

**FILE NO(S):**  
CUP18-00009

**LOCATION:**  
12693 MAIN STREET

**APNs:**  
3064-601-16

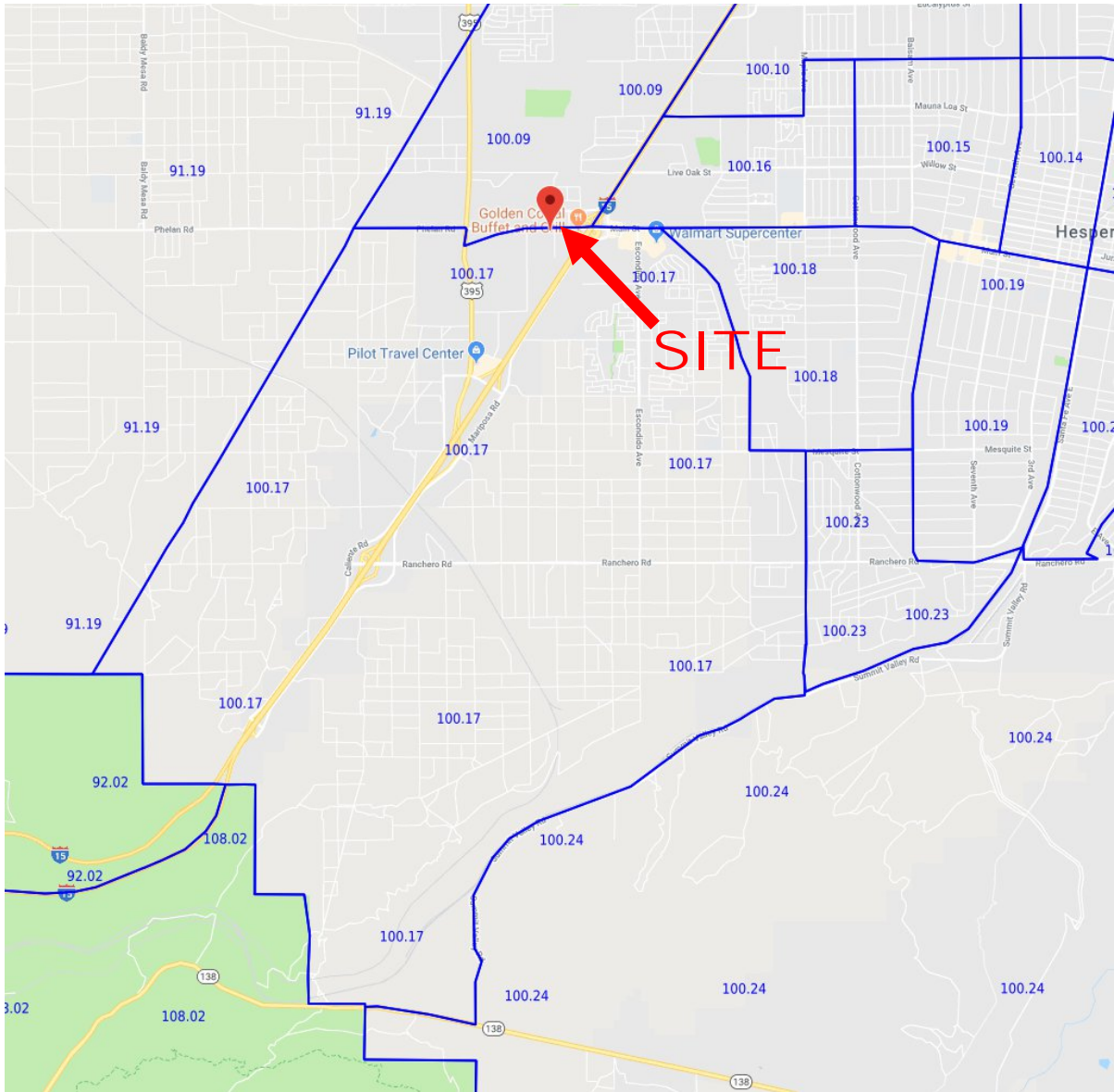
**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP18-00009, TO ALLOW THE SALE OF BEER, WINE AND LIQUOR FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT (MEXICO LINDO RESTAURANT).



## AERIAL PHOTO



# ATTACHMENT 3



**APPLICANT(S):**  
MEXICO LINDO RESTAURANT

**FILE NO(S):**  
CUP18-00009

**LOCATION:**  
12693 MAIN STREET

**APNs:**  
3064-601-16

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP18-00009, TO ALLOW THE SALE OF BEER, WINE AND LIQUOR FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT (MEXICO LINDO RESTAURANT).



## CENSUS TRACT MAP



# ATTACHMENT 4

## RESOLUTION NO. PC-2019-03

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, TO ALLOW THE SALE OF BEER, WINE AND LIQUOR FOR ON-SITE CONSUMPTION WITHIN A RESTAURANT AT 12693 MAIN STREET SUITE 210 (CUP18-00009)**

**WHEREAS**, Mexico Lindo Restaurant has filed an application requesting approval of Conditional Use Permit CUP18-00009 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to a restaurant at 12693 Main Street, Suite 210 and consists of Assessor's Parcel Number 3064-601-16; and

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

**WHEREAS**, the restaurant will occupy an approximately 2,900 square foot tenant space. The surrounding properties to the south and west are vacant. The properties to the north and east are developed with a mix of commercial uses; and

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

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

**WHEREAS**, on January 10, 2019, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced January 10, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed on-sale sales of alcohol in conjunction with a restaurant is a conditionally allowed use within the Regional Commercial zone of the Specific Plan and complies with all applicable provisions of the Specific Plan and Development Code. The proposed use would not impair the integrity and character of the surrounding neighborhood. The site is suitable for the type and intensity of the use that is proposed.
- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public convenience, health, safety or general welfare. The proposed serving of beer, wine and liquor as



part of the dining experience will not have a detrimental impact on adjacent properties.

- (c) The proposed use is consistent with the objectives, policies, land uses and programs of the Specific Plan, General Plan, and Development Code. The proposed use will take place within an approximately 2,900 square foot tenant space. The sale of alcohol (beer, wine and liquor) is consistent with the allowable uses within the Regional Commercial zone of the Specific Plan with approval of a conditional use permit.
- (d) There are adequate provisions for sanitation, public utilities and general services to ensure the public convenience, health, safety and general welfare. The proposed use will occur within an existing building with adequate infrastructure. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP18-00009, subject to the conditions of approval as shown in Attachment 'A'.

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

**ADOPTED AND APPROVED** this 10<sup>th</sup> day of January 2019.

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Tom Murphy, Chair, Planning Commission

ATTEST:

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Cecilia Alonzo, Secretary, Planning Commission



**ATTACHMENT "A"**  
**List of Conditions for CUP18-00009**

**Approval Date: January 10, 2019**

**Effective Date: January 22, 2019**

**Expiration Date: January 22, 2022**

**This list of conditions applies to: Consideration of Conditional Use Permit CUP18-00009 to allow for the sale of beer, wine and liquor for on-site consumption (Type 47) in conjunction with a restaurant on 1.08 gross acres within the Regional Commercial zone of the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Main Street and Cataba Road (Applicant: Mexico Lindo Restaurant; APN: 3064-601-16)**

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

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

**Others**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

EMPLOYEE AGE. All employees selling alcohol must be at least 21 years of age. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ABC REQUIREMENTS. The use must comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ALCOHOL CONSUMPTION. Alcoholic beverages shall not be consumed outside the restaurant nor on any property adjacent to the licensed premises under the control of the licensee. This includes all sidewalks and the parking lot. (P)

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

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



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# City of Hesperia STAFF REPORT



**DATE:** January 10, 2019  
**TO:** Planning Commission  
**FROM:** Chris Borchert, Acting Principal Planner  
**BY:** Daniel Alcayaga, Senior Planner  
**SUBJECT:** Specific Plan Amendment SPLA18-00001, Density Bonus Agreement DA18-00001 & Site Plan Review SPR18-00010; Applicant: Hickory Tree II, L.P; APN: 0408-183-12

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## RECOMMENDED ACTION

It is recommended that the Planning Commission approve Resolution Nos. PC-2019-01 & PC-2019-02 recommending that the City Council approve SPLA18-00001, DA18-00001 & SPR18-00010.

## BACKGROUND

**Proposal:** A Site Plan Review to construct a 50-unit multi-family development for seniors in conjunction with a Density Bonus Agreement and a Specific Plan Amendment from LDR to HDR located on 2.3 gross acres (Attachment 1).

**Location:** 250 feet south of Main Street, on the west side of Eleventh Avenue

**Current General Plan, Zoning and Land Uses:** The site is within the Low Density Residential (LDR) Zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 2. Two commercial buildings and a bank are located to the north of the project site. The land to south is vacant. There is a shopping center on the opposite side of Eleventh Avenue to the east. A church exists to the west (Attachment 3).

## ISSUES/ANALYSIS

**Project description:** There are a total of five multi-family residential buildings and a club house. The residential buildings will be two story, three of which will have 12 units, one building will have 8 units, and one building will have six units. The units will consist of 36, 1 Bedroom, 1 Bath units, and 14, 2 Bedroom, 2 Bath units. The project conforms to most development standards of the Specific Plan. The one-bedroom units will be 707 square feet and the two-bedroom units will be 1,171 square feet in size (Attachment 4). The development will be gated with a solid block wall along its perimeter and a six-foot high wrought iron fence along the front. Approximately 9,000 square feet of common open space is provided, which includes a pool and spa, a fire pit, a clubhouse, and a barbeque area. The developer owns the commercial property to the north. Fire access is being provided through this property. It will also serve as exit only access from the development. Likewise, the proposed building elevations comply with the architectural standards. The buildings are designed with contemporary architecture incorporating tile roofs, decorative trim, false vents and arches over windows (Attachment 5).



The development does not comply with two development standards, which are being offered as concessions to incentivize this deed restricted affordable and senior housing development. As part of concessions, the City will accept 69 parking spaces, instead of 79 parking spaces. The City will also accept a front yard setback of 15-feet, instead of a front yard setback of 25-feet. The development will include 50 spaces beneath carports with 3 handicapped parking spaces consistent with the parking regulations.

The area contains a mix of uses, including a church to the west, and commercial uses to the north and east. A high density residential development intended for seniors would fit nicely into this area. The project is located in a geographically opportune area, as it is in proximity to Civic Plaza Center and Main Street, so there are services and activities available to residents within walking distances. The development offers a new supply of housing for seniors, which is mandated by State Housing laws, and the development is the type of housing that the City's Housing Element would support. The amendment, density bonus, and development concessions are appropriate considerations to incentivize a project like this.

### **Density Bonus and Incentive Agreement and Covenant Restricting Use**

The Applicant is requesting a Specific Plan Amendment from Low Density Residential (LDR) to High Density Residential (HDR). The HDR Zone allows residential densities between 15 and 20 dwelling units per gross acre (du/ac). In conjunction with this Amendment, a Density Bonus and Incentive Agreement has been filed in conjunction with the Site Plan Review application to allow the density bonus, which affords 4 additional dwelling units. This development will yield a density of 21 du/ac with approval of a density bonus (Attachment 6). In return, the development will provide housing for seniors and 20% of the units will be affordable.

As mentioned above, the project exceeds the allowable density of the HDR Zone. The City's Density Bonus Program (Program) provides a tool to encourage development of affordable housing, consistent with state law and the adopted Housing Element. A density bonus allowing four units beyond the density restriction of the HDR Zone is proposed. In exchange for the density bonus, twenty percent of the development or 10 units will be restricted to Low-income Qualified Households. These units will count towards the City's RHNA for the 2014-2021 planning period and will contribute towards meeting the City's affordable housing goals. In exchange for the density bonus, this Program requires that the City offer design concessions. Therefore, it is recommended that this project not be required to meet the minimum parking and front setback regulations. The proposed density bonus requires that the low income units be deed-restricted for a period of 55 years.

### **Housing Goals**

The City of Hesperia and its Housing Authority are obligated under the State's Planning and Zoning Law to address the current and future housing needs of Hesperia residents. These are reflected in the City's General Plan Housing Element. The Regional Housing Needs Assessment (RHNA) provides the number of units required to meet future housing needs. These housing numbers are broken down into different income categories based on household income. According to the Southern California Association of Governments which prepares the RHNA, Hesperia needs to plan for 986 units of housing affordable by very low, low and moderate income families, and 729 units of housing affordable to families above moderate incomes. The City's RHNA for the 2014-2021 planning period also calls for construction of 389 units for persons within the very low and 274 for persons within the low income level. 189 very



low income and 232 low income units were constructed within the 2008-2014 planning period. To date, there have been 96 affordable housing units constructed within the current planning period. While the recession has slowed the projected growth rate under which the RHNA was based, the City is still required to make strides in creation of affordable housing, consistent with the goals of the General Plan.

**Drainage:** All drainage created on-site will be detained/retained in an underground retention system beneath the parking lot. The site is not affected by upstream drainage. As a result, this project will not be significantly affected by off-site storm water flow nor will it impact properties downstream.

**Water and Sewer:** The project will connect to an existing 12-inch water line in Eleventh Avenue. The project will extend an 8" minimum sewer main along Eleventh Avenue from Main Street to the southerly property line of the project

**Traffic/Street Improvements:** The Institute of Transportation Engineers' (ITE) Trip Generation Manual estimates that 50 residential units would generate approximately 186 daily vehicle trips. This is based upon 3.71 vehicular trips per dwelling unit. As compared, the LDR Zone would support a maximum of 18 units. The ITE Trip Generation Manual estimates that 18 residential units would generate approximately 172 daily vehicle trips. This is based upon 9.57 vehicular trips per dwelling unit. The Specific Plan Amendment and Density Bonus Agreement will result in an increase in 13 more trip ends than the number of trip ends currently allowed by the LDR Zone. The trip generation for senior housing is substantially lower when compared to market rate housing because seniors tend to drive less or have less vehicles as a whole.

The proposed development fronts upon Eleventh Avenue, which will be constructed as a rural collector street. As part of development of this project, this street will be constructed to City standards, including curb, gutter, and sidewalk across the project frontages and pavement tapers beyond the frontage. The City has established a 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.

**Environmental:** Approval of this development requires adoption of a mitigated negative declaration pursuant to the California Environmental Quality Act (CEQA). The mitigated negative declaration and initial study (Attachment 7) prepared for the development conclude that there are no significant adverse impacts resulting from the project. A biological assessment was required. The biological assessment shows that the site does not contain habitat for the desert tortoise nor any other threatened or endangered species. However, a pre-construction survey for the burrowing owl will be conducted prior to issuance of a grading permit. There are no protected plants on the property. The cultural report states that the property does not contain any historical or paleontological resources. Local Native American tribes were notified consistent with AB 52 and SB 18. No tribe elected consultation for this project pursuant to CEQA.

**Conclusion:** The project conforms to the policies of the City's General Plan, specifically affordable housing goals. The City's Density Bonus Program allows the project to vary from development standards. Therefore, the Site Plan Review and Density Bonus Agreement is consistent with the General Plan and meets all applicable development standards.

## **FISCAL IMPACT**



Development will be subject to payment of all development impact fees adopted by the City.

**ALTERNATIVE(S)**

1. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Site Plan
2. General Plan Land Use Map
3. Aerial Photo
4. Floor Plans
5. Building Elevations
6. Density Bonus and Incentive Agreement
7. Initial Study and Mitigated Negative Declaration ND18-06
8. Resolution No. 2019-01, Exhibit "A"
9. Resolution No. 2019-02, with list of conditions



# ATTACHMENT 1



**APPLICANT(S):**  
HICKORY TREE II, L.P

**FILE NO(S):** SPLA18-00001, DA18-00001  
& SPR18-00010

**LOCATION:**  
250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH  
AVENUE

**APN(S):**  
0408-183-12

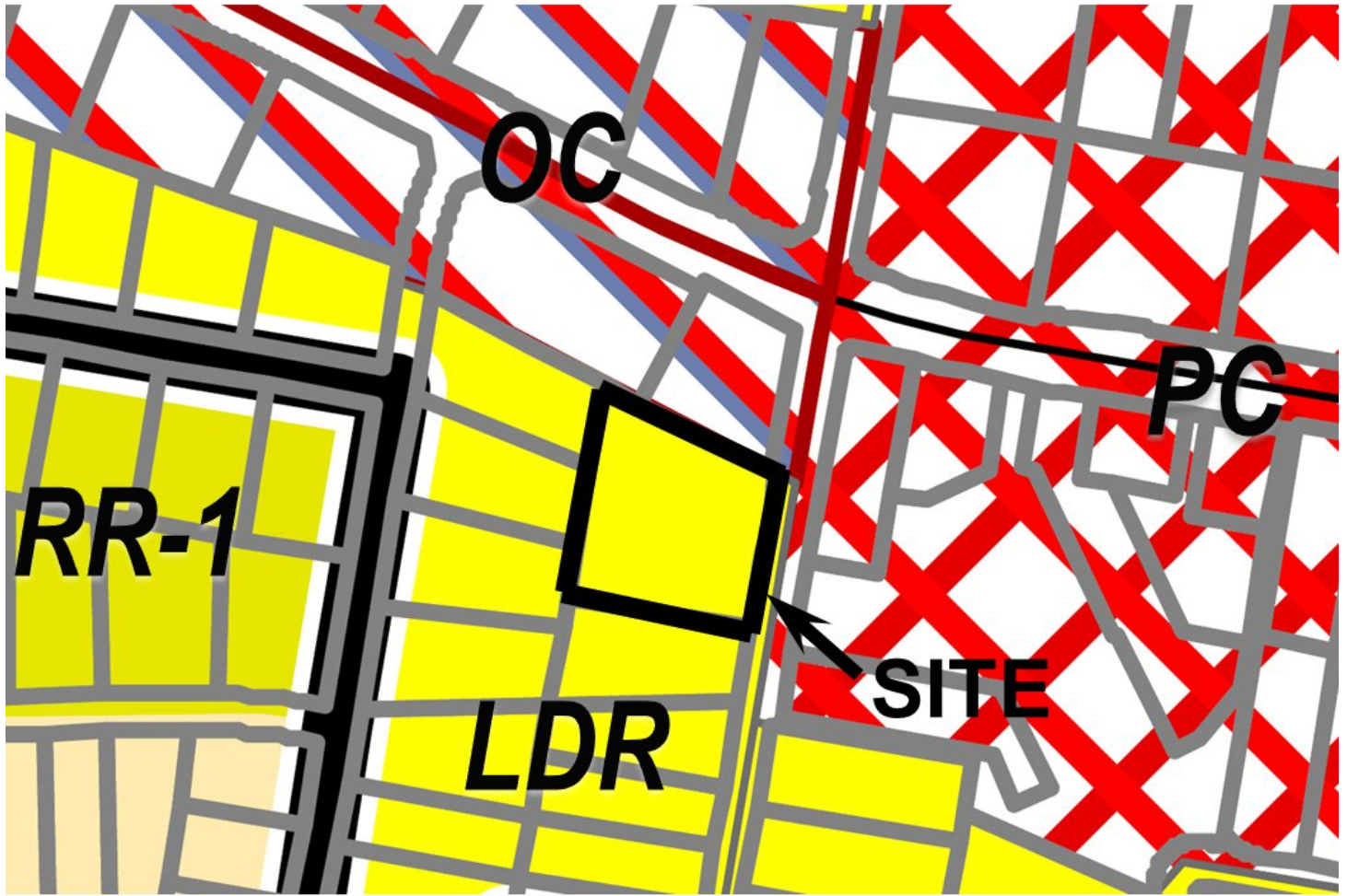
**PROPOSAL:**  
CONSIDERATION OF A SITE PLAN REVIEW TO CONSTRUCT A 50-UNIT MULTI-FAMILY  
DEVELOPMENT FOR SENIORS IN CONJUNCTION WITH A DENSITY BONUS  
AGREEMENT AND A SPECIFIC PLAN AMENDMENT FROM LDR TO HDR LOCATED ON  
2.3 GROSS ACRES



## SITE PLAN



## ATTACHMENT 2



**APPLICANT(S):**  
HICKORY TREE II, L.P

**FILE NO(S):** SPLA18-00001, DA18-00001  
& SPR18-00010

**LOCATION:**  
250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH  
AVENUE

**APN(S):**  
0408-183-12

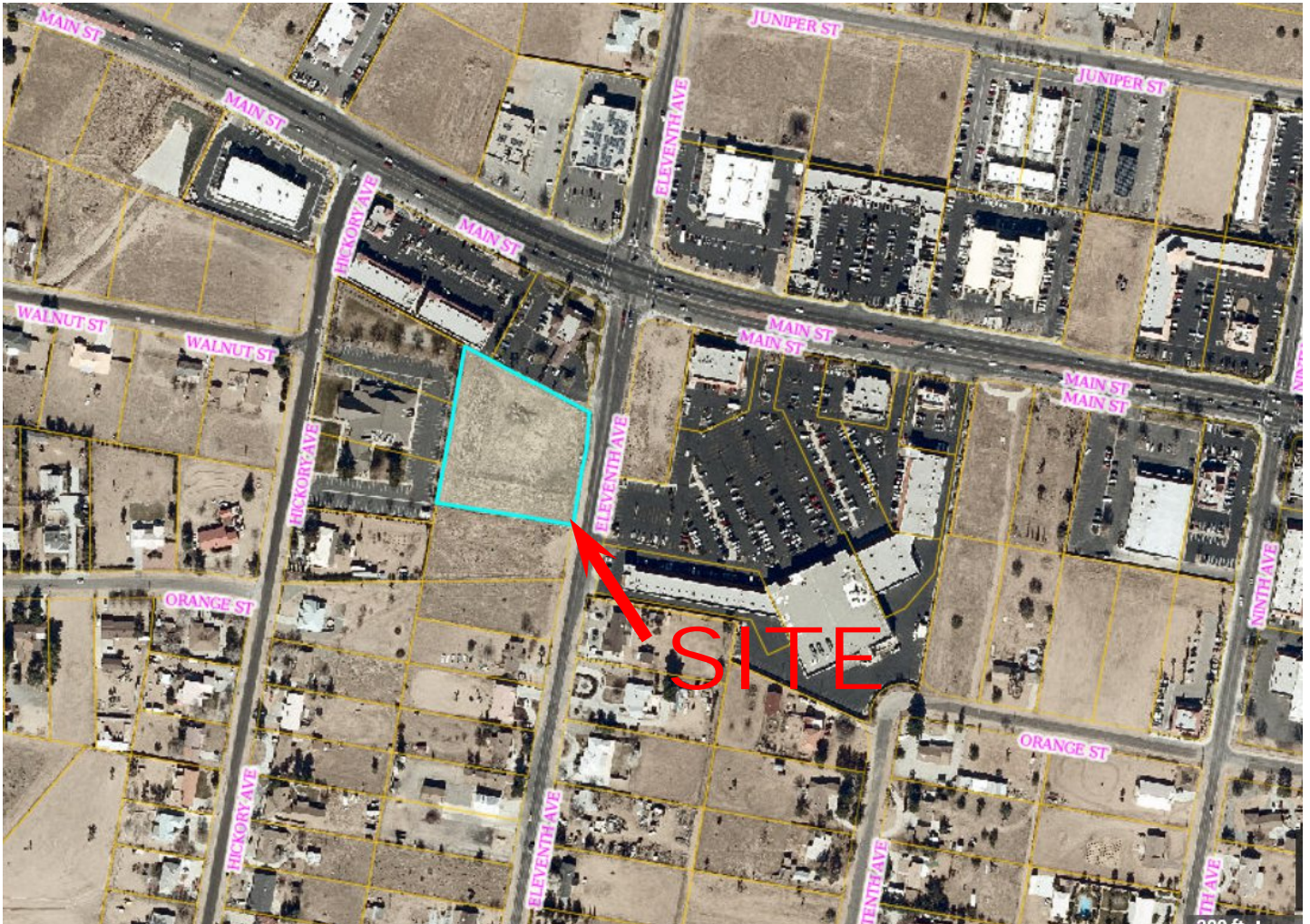
**PROPOSAL:**  
CONSIDERATION OF A SITE PLAN REVIEW TO CONSTRUCT A 50-UNIT MULTI-FAMILY  
DEVELOPMENT FOR SENIORS IN CONJUNCTION WITH A DENSITY BONUS  
AGREEMENT AND A SPECIFIC PLAN AMENDMENT FROM LDR TO HDR LOCATED ON  
2.3 GROSS ACRES



## GENERAL PLAN LAND USE MAP



# ATTACHMENT 3



**APPLICANT(S):**  
HICKORY TREE II, L.P

**FILE NO(S):** SPLA18-00001, DA18-00001  
& SPR18-00010

**LOCATION:**  
250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH  
AVENUE

**APN(S):**  
0408-183-12

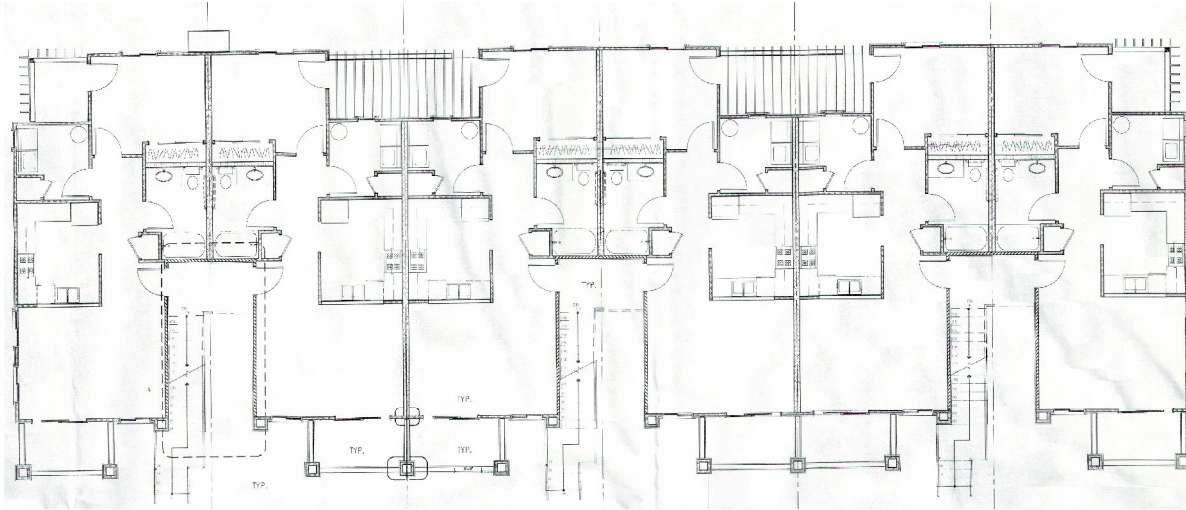
**PROPOSAL:**  
CONSIDERATION OF A SITE PLAN REVIEW TO CONSTRUCT A 50-UNIT MULTI-FAMILY  
DEVELOPMENT FOR SENIORS IN CONJUNCTION WITH A DENSITY BONUS  
AGREEMENT AND A SPECIFIC PLAN AMENDMENT FROM LDR TO HDR LOCATED ON  
2.3 GROSS ACRES



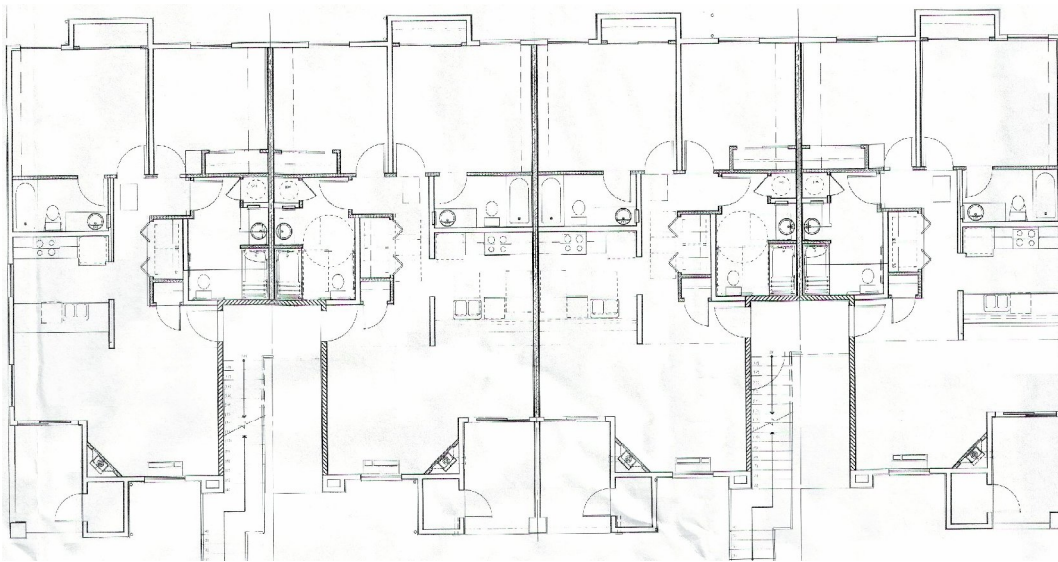
**AERIAL PHOTO**



# ATTACHMENT 4



**BUILDING 1 – 707 SQUARE FOOT PLANS**



**BUILDING 2 – 1,171 SQUARE FOOT PLANS**

**APPLICANT(S):**  
HICKORY TREE II, L.P

**FILE NO(S):** SPLA18-00001, DA18-00001  
& SPR18-00010

**LOCATION:**  
250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH  
AVENUE

**APN(S):**  
0408-183-12

**PROPOSAL:**  
CONSIDERATION OF A SITE PLAN REVIEW TO CONSTRUCT A 50-UNIT MULTI-FAMILY  
DEVELOPMENT FOR SENIORS IN CONJUNCTION WITH A DENSITY BONUS  
AGREEMENT AND A SPECIFIC PLAN AMENDMENT FROM LDR TO HDR LOCATED ON  
2.3 GROSS ACRES



## FLOOR PLAN FOR BLDGS 1 & 2



# ATTACHMENT 5



**APPLICANT(S):**  
HICKORY TREE II, L.P

**FILE NO(S):** SPLA18-00001, DA18-00001  
& SPR18-00010

**LOCATION:**  
250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH  
AVENUE

**APN(S):**  
0408-183-12

**PROPOSAL:**  
CONSIDERATION OF A SITE PLAN REVIEW TO CONSTRUCT A 50-UNIT MULTI-FAMILY  
DEVELOPMENT FOR SENIORS IN CONJUNCTION WITH A DENSITY BONUS  
AGREEMENT AND A SPECIFIC PLAN AMENDMENT FROM LDR TO HDR LOCATED ON  
2.3 GROSS ACRES



## BUILDING ELEVATIONS



# ATTACHMENT 5

RECORDING REQUESTED BY  
and WHEN RECORDED MAIL  
TO:

City of Hesperia  
9700 Seventh Avenue  
Hesperia, CA 92345  
Attn: City Clerk

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SPACE ABOVE FOR RECORDER'S USE ONLY

## **DENSITY BONUS AND INCENTIVE AGREEMENT AND COVENANT RESTRICTING USE (Hickory II Apartments – DA18-00001)**

THIS DENSITY BONUS AND INCENTIVE AGREEMENT AND COVENANT RESTRICTING USE (this "Agreement") entered into as of \_\_\_\_\_ by and among HickoryTree II, LP, a California limited partnership ("Owner"/"Builder"), Investment Concepts, Inc. General Partner, and the CITY OF HESPERIA, a municipal corporation ("City"), is made with reference to the following ("Recitals"):

### Recitals

- A. Owner is the owner in fee of that certain real property (the "Site") described on Exhibit A attached hereto and incorporated herein by reference, which is located within the City, on the west side of Eleventh Avenue, Hesperia, CA 92345, 250 feet south of Main Street, and assigned County of San Bernardino Assessor Parcel No. 0408-183-12.
- B. Owner has submitted Site Plan Review SPR18-00010 and Density Bonus Agreement DA18-00001 together, the ('Application') for approval of, and intends to construct, an apartment rental residential development (the "Project") on the Site containing 50 senior rental units (the "Units"). The units will consist of (36) 1 Bedroom, 1 Bath units, and (14) 2 Bedroom, 2 Bath units. Eighty percent of the units will be market rental units, (1) of which shall be designated for an on-site manager. Twenty percent of the development or (10) units shall be restricted to Low-income Qualified Households.
- C. Under the High density land use designation for the Property, the maximum allowable number of residential units on the property is 46 units.
- D. City desires to, and under City of Hesperia Municipal Code ("Municipal Code") Section 16.20.190, et seq. ("City's Density Bonus Program"), and California Government Code Section 65915, et seq., is required to grant Owner a density bonus and additional incentives in consideration



for Owner's commitment to restrict occupancy of 10 of the Dwelling Units to lower income senior citizen households, as set forth in this Agreement.

E. Owner agrees to enter into this Agreement and hereby consent to be regulated and restricted by the City as provided herein.

NOW, THEREFORE, Owner and City mutually agree as follows:

1. Term. The Term ("Term") of this Agreement shall commence on the date of its execution by all parties and shall continue in full force and effect until the date that is the 55<sup>th</sup> anniversary of the date on which the final certificate of occupancy for the Project is received from the City.
2. Owner's Covenants. Owner hereby covenant by and for themselves, and for their representatives, successors and assigns and every successor in interest to the Site or any part thereof to comply with the covenants, reservations and restrictions set forth in this Agreement. Owner further covenant that during the Term, Owner shall devote the Site to be used for the Project only, and in conformance with this Agreement. Each and every contract, deed or other instrument hereafter executed covering the conveying of the Site or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.
  - a. Owner agrees that the Project shall be constructed in accordance with the plans, drawings and specifications approved by the City.
  - b. The units will consist of (36) 1 Bedroom, 1 Bath units, and (14) 2 Bedroom, 2 Bath units. Eighty percent of the units will be market rental units, (1) of which shall be designated for an on-site manager. Twenty percent of the development or (10) units shall be restricted to Low-income Qualified Households.
  - c. Owner shall ensure that ten (10) Rental Units be restricted to occupancy by Qualified Households at Qualified Rent Levels, defined as follows:
    1. For Lower Income Households as defined in Health & Safety Code 50079.5, the monthly Qualified Rent Level shall not exceed 30% Of 60% of the Area Median Income Adjusted for Household Size as Appropriate for One Unit, and as adjusted annually by HUD, divided by twelve (12);
    2. The manager's unit may be occupied by maintenance or management personnel employed by the property management company.
    3. "Adjusted for Household Size as Appropriate for the Unit" for purposes of this section, shall mean for a household of two persons in the case of a one-bedroom unit and three persons in the case of a two-bedroom unit.
    4. Owner shall obtain and maintain or cause to be obtained and maintained reasonable verification in written form as to the income of each household for



Certification of Continuing Program Compliance in substantially the form attached hereto as Exhibit B and incorporated herein by this reference and executed by the Owner.

- d. In addition, Owner shall provide daily front door trash pick-up, weekly transportation services to and from the Target Shopping Center, Wall-Mart, and a local Grocery Store, and shall provide to residents, (at their cost), daily lunches, contracted household cleaning service and dry-cleaning services.

3. City's Covenant's

- a. Density Bonus. Pursuant to Municipal Code Section 16.20.205 and California Government Code Section 65915, et seq., the City hereby grants to Owner a density bonus for the Project as follows:
  - (1) The City grants the Owner a density bonus of 4 Dwelling Units above the 46 Dwelling Units allowed by the High Density land use designation of the Property.
  - (2) The Owner agrees that the Owner is not entitled to any further density bonus or the financial equivalent thereof beyond those set forth in this Section 3.a.
- b. Incentives. Pursuant to Municipal Code Section 16.20.230 and California Government Code Section 65915, et seq., the City hereby grants to Owner the following incentives to encourage the supply of affordable housing through development of the Project:
  - (1) The City accepts 69 parking spaces, instead of 79 parking spaces.
  - (2) The City accepts a front yard setback of 15-feet, instead of a front yard setback of 25-feet.
- c. Definitions. As used in this Agreement, the following underlined and close quoted terms shall have the following meanings:
  - (1) "Area Median Income" means median income levels for San Bernardino County as calculated annually by the U.S. Department of Housing and Urban Development ("HUD") based on the Primary Metropolitan Statistical Area median income levels by family size. Such levels are calculated on the basis of gross annual household income, considering household size, income of all wage earners and all other sources of household income.
  - (2) "Qualified Household" is defined as households whose income does not exceed eighty percent (80%) of the Area Median Income.



- (3) "Qualified Rent Level" is defined as the maximum allowable rent for Qualified Households as defined in Section 2 above.
- (4) "Senior" is defined as set forth within Section 16.20.195 of the Municipal Code as any person 55 years of age or older or as otherwise permitted under California State Law.

4. Occupancy of Project by Qualified Households.

- a. **Occupancy By Qualified Household.** A Unit occupied by a Qualified Household shall be treated as occupied by a Qualified Household until a recertification of such Household's income in accordance with this Section demonstrates that such Household no longer qualifies as a Qualified Household.
- b. **Income Computation Certificate.** Immediately prior to a Qualified Household's occupancy of a Unit, Owner shall obtain and maintain on file an Income Computation and Certification form (which form shall be approved in advance by the City) from each such Qualified Household dated immediately prior to the date of initial occupancy in the Project by such Qualified Household. In addition, the Owner will provide such further information as may be required in the future by the City. Owner shall use its best efforts to verify that the income provided by an applicant is accurate by taking the following steps as a part of the verification process: (i) obtain three (3) pay stubs for the most recent pay periods; (ii) obtain a written verification of income and employment from applicant's current employer; (iii) obtain an income verification form from the Social Security Administration and/or California Department of Social Services if the applicant receives assistance from either agency; (iv) if an applicant is unemployed or did not file a tax return for the previous calendar year, obtain other verification of such applicant's income as is satisfactory to the City; or (v) such other information as may be reasonably requested by the City. A copy of each such Income Computation and Certification shall be filed with the City, upon request, prior to the occupancy of a Unit by a Qualified Household whenever possible, but in no event more than thirty (30) days after initial occupancy by said tenant.
- c. **Rental Priority.** During the term of this Agreement, and to the extent allowed under applicable laws, Owner shall use its best efforts to lease vacant Units reserved for Qualified Households to residents of the City of Hesperia. Owner shall and City may maintain a list (the "Housing List") of persons who have filed a complete application with Owner to rent a Unit in the Project and who have incomes which would qualify them as a Qualified Household, and Owner shall offer to rent Units on the above referenced priority basis. Should multiple tenants be equally eligible and qualified to rent a Unit, Owner shall rent available Units to Qualified Households on a first-come, firstserved basis.
- d. **Income Recertification.** Immediately prior to the first anniversary date of the occupancy of a Unit by a Qualified Household and on each anniversary date thereafter, Owner shall recertify the income of such Qualified Household by obtaining a completed Income Computation and Certification based upon the current income of each occupant of the Unit. Upon request, Owner shall provide



City with a copy of each such recertification with the next submission of the Certificate of Continuing Program Compliance.

- e. Certificate of Continuing Program Compliance. Upon the issuance of the Certificate of Occupancy and annually by January 31 of each year, or at any time upon the written request of City, Owner shall advise City of the occupancy of the Project by delivering a Certificate of Continuing Program Compliance in the form attached hereto as Exhibit "B," certifying: (i) the number of Units of the Project which were occupied or deemed occupied by a Qualified Household during such period, and (ii) to the knowledge of Owner either (a) no unremedied default has occurred under this Agreement, (b) a default has occurred, in which event the Certificate shall describe the nature of the default and set forth the measures being taken by the Owner to remedy such default.

5. Management.

- a. Designation of Project Manager. Subject to the terms and conditions contained hereinbelow, Owner shall at all times during the operation of the Project pursuant to this Agreement retain an entity to perform the management and/or supervisory functions ("Project Manager") with respect to the operation of the Project including day-to-day administration, maintenance and repair. Owner shall, before execution or any subsequent amendment or replacement thereof, submit and obtain City's written approval of a management contract ("Management Contract") entered into between Owner and a Project Manager acceptable to City. The Management Contract shall also provide that the Project Manager shall be subject to termination for failure to meet project maintenance and operational standards set forth in the management contract. Owner shall promptly terminate any Project Manager which commits or allows such failure, unless the failure is cured within a reasonable period in no event exceeding 60 days from Project Manager's receipt of notice of the failure from Owner or City. Owner's obligation to retain a Project Manager shall remain in force and effect for the same duration as the use covenants set forth in this Agreement. Notwithstanding anything to the contrary in this Section, the Project may be self-managed by Owner with the prior approval of the City Manager.

In addition to the Project Manager, one Resident Manager shall be designated as necessary by Owner or Project Manager, with written notice to Agency of the Resident Manager's name, address and telephone number.

- b. Serious Mismanagement. In the event of "Serious Mismanagement" (as that term is defined below) of the Project, Agency shall have the authority to require that such Serious Mismanagement cease immediately, and further to require the immediate replacement of the Project Manager or Resident Managers. For purposes of this Agreement the term "Serious Mismanagement" shall mean management of the Project in a manner which violates the terms and/or intent of this Agreement and/or the Management Contract to operate an affordable housing complex of the highest standard, and shall include, but is not limited to, the following:



- (1) Knowingly leasing to ineligible tenants or tenants whose income exceeds the prescribed levels;
- (2) Knowingly allowing the tenants to exceed the prescribed occupancy levels without taking immediate steps to stop such overcrowding;
- (3) Failing to timely submit the reports as required by this Agreement or failing to submit materially complete reports (including applicable cure periods);
- (4) Fraud in connection with any document or representation relating to this Agreement or embezzlement of Project monies; and
- (5) Failing to fully cooperate with the City's Police Department in maintaining a crime-free environment at the Project.

#### 6. Accounting to the City

- a. The books and accounts of the Project shall be kept in conformity with generally accepted accounting practices.
- b. The Owner shall maintain a complete and accurate rent roll listing all Units, the names of all Tenants, the dates of their tenancies and the amount of rents charged and collected.
- c. The City, its agents and employees, shall have the right, after giving reasonable notice, to review and inspect the books, records and accounts of the Owner specifically regarding the Project.
- d. These reviews and inspections shall occur at reasonable times during normal business hours and shall commence from the date of recordation of this Agreement and expire at the termination of this Agreement.

7. Inspections. Subject to the rights of the tenants, the City shall have the right, upon request, to perform an on-site inspection of the Units, common areas and grounds.

#### 8. Default.

- a. Failure or delay by the Owner to perform any term, provision or comply with any covenant of this Agreement constitutes a default under this Agreement, except that the Owner shall not be in default of its obligation to ensure that the Units are occupied by Qualified Households if the Owner shows that it reasonably relied on a tenant's representations regarding income level and household size. Should Owner default and fail to cure such default to the City's satisfaction within thirty (30) days after the date the City delivers written notice of the default to the Owner, then the City may, at its option, take one or any combination of the following actions:



Owner, than the City may, at its option, take one or any combination of the following actions:

- (1) Demand the Owner to cause the Site to be brought into compliance with the development requirements that would apply to the Site absent this Agreement. However, the Owner may propose alternative measures that the City may approve at its sole discretion to achieve the objectives of Government Code Section 50105, or Code Section 50079.5, the City's Incentive program and this Agreement;
- (2) Declare the Site and/or the Project a public nuisance under Chapter 8.32 of the City of Hesperia Municipal Code and take all actions authorized therein with respect to the public nuisance and the abatement thereof, including, but not limited to, summary abatement and recordation of a nuisance abatement lien to collect abatement and related administrative costs;
- (3) Bring actions to a court of competent jurisdiction to enforce the provisions of this Agreement and record a lis pendens against the Site providing notice of same.



The remedies of the City herein are cumulative and the exercise of one or more of such remedies shall not be deemed an election of all remedies. It shall not preclude the exercise by the City of any one or more of its other remedies.

- b. Notwithstanding subparagraph (a) above, violations of the Hesperia Building Code shall be handled by the appropriate building officials and resolved under the same terms as available to any other development.
- c. It shall constitute a default for Owner to charge or accept for a Unit rent amounts in excess of the amount provided for in Section 2 of this Agreement. In the event that Owner charges or receives such higher rental amounts, in addition to any other remedy City shall have for such default, Owner shall be required to refund to the overcharged tenant(s) the entire amount of rent received in excess of the amount permitted pursuant to this Agreement. In the event such tenants cannot be located, the Owner shall deposit such funds in a separate account for use in providing programming, activities, or amenities to the residents of the Units. No less than annually Owner shall provide to City an accounting of funds deposited into this account, if any, and what programs, activities, amenities were provided if such default exists.

9. Subordination. This Agreement shall be subject and subordinate to the liens of the Owner's construction and permanent financing. The City agrees to execute additional subordination agreements in a form and content reasonably acceptable to the Owner's lenders and letter of credit providers confirming such subordination.

10. Successors Bound. This Agreement and the covenants, reservations, restriction and agreements contained herein shall be a burden upon the Site and shall bind the Owner and their successors, assigns, transferees and every successor in interest to the Site. The Owner may not assign any of the benefits of this Agreement, nor delegate any of its obligations hereunder, voluntarily or by operation of law without the prior written approval of the City.

11. Benefit of Covenants Reservations and Restrictions. The City and Owner hereby declare their understanding and intent that the covenant, reservations and restrictions set forth herein directly benefit the land by enhancing and increasing the enjoyment of use of the Site by certain low-income residents of the City of Hesperia and benefit the City as owner of the public right of way in the adjacent streets. The City and its successors and assigns are deemed the beneficiary of the covenants, reservations and restrictions contained herein, regardless of the technical classification and designation. The covenants, reservations and restrictions shall benefit and run with the land in favor of the City, its successors and assigns until the date set forth in Paragraph 1, "term". They shall be enforceable by same without regard to whether same has been remains or is an owner of any land or interest therein.



12. Notice. Any notice required to be given hereon shall be given by certified or registered mail, postage prepaid and return receipt requested at the addresses listed below. Other alternative addresses may be specified in writing by the parties hereto as follows:

If to the City:           City of Hesperia  
                                  9700 Seventh Avenue  
                                  Hesperia, CA 92345  
                                  Attn: City Manager  
                                  (760) 947-1018  
                                  (760) 947-2881 FAX

If to the Owner:       HickoryTree II, LP  
                                  1667 E. Lincoln Ave.  
                                  Orange, CA 92877  
                                  (714) 283-5800  
                                  (714) 637-3098 FAX

If to the Owner:

13. Modifications. This Agreement may be amended or modified only by a written instrument signed by all parties hereto. The City agrees that its City Manager or his designee, with the concurrence of the City Attorney, shall have the authority to execute any such instrument on behalf of the City, without formal action by the Hesperia City Council. If such instrument materially alters the Agreement by altering the quantity or value of the incentives granted to the Owner, then the City Council must take formal action to approve the amendment or modification.

14. Attorney's Fees. In the event that a party to this Agreement brings an action against the other party hereto by reason of the breach of any condition, covenant, representation or warranty in this Agreement, or otherwise arising out of this Agreement, the prevailing party in such action shall be entitled to recover from the other reasonable expert witness fees, and its attorneys' fees and costs. Attorneys' fees shall include attorneys' fees on any appeal, and in addition a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, including the conducting of discovery.

15. Severability: Waiver: Integration.

- a. Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.
- b. Waiver. A waiver by either party of the performance of any covenant or condition herein shall not invalidate this Agreement nor shall it be considered a waiver of any other covenants or conditions, nor shall the delay or forbearance by either party in exercising any remedy or right be considered a waiver of, or an estoppel against, the later exercise of such remedy or right.



- c. Integration. This Agreement contains the entire agreement between the parties and neither party relies on any warranty or representation not contained in this Agreement.

16. Governing Law. This Agreement shall be governed by the laws of the State of California.

17. Recording and Filing. This Agreement shall be acknowledged by each of the parties and recorded by the City in the Official Records of San Bernardino County. This Agreement shall be indexed in the grantor index in the name of the Owner and in the grantee index in the name of the City.

In Witness Whereof, the parties hereto have entered into this Agreement as of the day and year first above written.

"Owner"

HickoryTree II, LP  
1667 E. Lincoln Ave.  
Orange, CA 92865  
(714) 283-5800  
(714) 267-4413 FAX

By: \_\_\_\_\_

Its: \_\_\_\_\_

"City"

City of Hesperia  
9700 Seventh Avenue  
Hesperia, CA 92345  
Attn: City Manager  
(760) 947-1018  
(760) 947-2881 FAX

By: \_\_\_\_\_

Its: \_\_\_\_\_



Exhibit A

Legal Description of Subject Property

[NOTE: Subject to Verification]

Real property in the City of Hesperia, County of San Bernardino, State of California,  
described as follows:



CERTIFICATION OF CONTINUING PROGRAM COMPLIANCE

\_\_\_\_\_ a California Limited Partnership, ("Owner"), hereby represents and warrants that:

1. Owner has read and is thoroughly familiar with the provisions of the Incentive Agreement and Covenant Restricting Use (the "Agreement") by and among the City of Hesperia, a municipal corporation, and Owner, dated of which a form \_\_\_\_\_ of this Certification is an attachment. As of the date of this Certification, at least ten (10) of the Units are occupied by Qualified Households as that term is defined in the Agreement.

2. As of the date of this Certification, the Units are all rented at no more than Qualified Rent Levels as described in the Agreement.

"Owner"

\_\_\_\_\_ a California Limited Partnership

ENTITIES TO BE DETERMINED

ENTITIES TO BE DETERMINED

ENTITIES TO BE DETERMINED

Date:

\_\_\_\_\_



# ATTACHMENT 7

## PLANNING DIVISION

9700 Seventh Avenue, Hesperia, California 92345  
(760) 947-1224 FAX (760) 947-1304

### MITIGATED NEGATIVE DECLARATION ND-2018-06

Preparation Date: December 18, 2018

Name or Title of Project: Specific Plan Amendment SPLA18-00001, Density Bonus Agreement DA18-00001 & Site Plan Review SPR18-00010

Location: 250 feet south of Main Street, on the west side of Eleventh Avenue (APN: 0408-183-12)

Entity or Person Undertaking Project: Hickory Tree II, L.P

Description of Project: Consideration of a Site Plan Review to construct a 50-unit multi-family development for Seniors in conjunction with a Density Bonus and Incentive Agreement and a Specific Plan Amendment from LDR to HDR located on 2.3 gross acres. The units will consist of 36, 1 Bedroom, 1 Bath units, and 14, 2 Bedroom, 2 Bath units. Eighty percent of the units will be market rental units, 1 of which shall be designated for an on-site manager. Twenty percent of the development or 10 units shall be restricted to Low-income Qualified Households. The Density Bonus and Incentive Agreement proposes to grant the Owner a density bonus of 4 Dwelling Units above the 46 Dwelling Units allowed by the High Density land use designation of the Property. As part of concessions, the City will accept 69 parking spaces, instead of 79 parking spaces. The City will accept a front yard setback of 15-feet, instead of a front yard setback of 25-feet. A total of 12% of landscaping is provided. Street improvements, including curb, gutter, and sidewalk will be constructed along the project frontage on Eleventh Avenue. An underground infiltration system will be designed to detain and infiltrate storm water run-off. The developer will construct a sewer line along Eleventh Avenue from Main Street to the southerly property line of the project.

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

#### Mitigation Measure:

1. The applicant shall water all unpaved areas as necessary to control dust.
2. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.

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

Public Review Period: December 20, 2018 through January 18, 2019

Public Hearing Date: January 10, 2019 & February 5, 2019

Adopted by the City Council: N/A

Attest:

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DANIEL ALCAYAGA, SENIOR PLANNER



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

**PROJECT DESCRIPTION**

1. **Project Title:** Specific Plan Amendment SPLA18-00001, Density Bonus Agreement DA18-00001 & Site Plan Review SPR18-00010
2. **Lead Agency Name:** City of Hesperia Planning Division  
**Address:** 9700 Seventh Avenue, Hesperia, CA 92345.
3. **Contact Person:** Daniel S. Alcayaga, AICP, Senior Planner  
**Phone number:** (760) 947-1330.
4. **Project Location:** 250 feet south of Main Street, on the west side of Eleventh Avenue (APN: 0408-183-12)
5. **Project Sponsor:** Hickory Tree II, L.P.  
**Address:** 1667 E. Lincoln Avenue  
Orange, CA 92865
6. **General Plan & zoning:** The site is within the Low Density Residential (LDR) zone of the Main Street and Freeway Corridor Specific Plan
7. **Description of project:**

Consideration of a Site Plan Review to construct a 50-unit multi-family development for seniors in conjunction with a Density Bonus and Incentive Agreement and a Specific Plan Amendment from LDR to HDR located on 2.3 gross acres. The units will consist of 36, 1 Bedroom, 1 Bath units, and 14, 2 Bedroom, 2 Bath units. Eighty percent of the units will be market rental units, 1 of which shall be designated for an on-site manager. Twenty percent of the development or 10 units shall be restricted to Low-income Qualified Households. The Density Bonus and Incentive Agreement proposes to grant the Owner a density bonus of 4 Dwelling Units above the 46 Dwelling Units allowed by the HDR Zone of the Property. As part of concessions, the City will accept 69 parking spaces, instead of 79 parking spaces. The City will accept a front yard setback of 15-feet, instead of a front yard setback of 25-feet. A total of 12% of landscaping is provided. Street improvements, including curb, gutter, and sidewalk will be constructed along the project frontage on Eleventh Avenue. An underground infiltration system will be designed to detain and infiltrate storm water run-off. The developer will construct a sewer line along Eleventh Avenue from Main Street to the southerly property line of the project. **A site plan for the project is illustrated on page 2.**

8. **Surrounding land uses and setting:** (Briefly describe the project's surroundings.)

The properties to the north are within the Office Commercial (OC) Zone of the Main Street and Freeway Corridor Specific Plan. The properties to the east are within the Pedestrian Commercial (PC) Zone. The properties to the south and west are within the Low Density Residential (LDR) Zone of the Specific Plan. Two commercial buildings and a bank are located to the north of the project site. The land to south is vacant. There is a shopping center on the opposite side of Eleventh Avenue to the east. A church exists to the west.

9. **Other public agency whose approval is required** (e.g., permits, financing approval, or participation agreement.) This project is subject to review and approval by the Mojave Desert Air Quality Management District, the Hesperia Water District, Southern California Edison, and Southwest Gas.







# ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

## DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

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

Signature

Daniel S. Alcayaga, AICP, Senior Planner, Hesperia Planning Division

Date



## EVALUATION OF ENVIRONMENTAL IMPACTS:

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



<b>I. AESTHETICS.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista <b>(1)</b> ?				X
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway <b>(1 &amp; 2)</b> ?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings <b>(1 &amp; 4)</b> ?				X
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area <b>(7)</b> ?			X	

#### **Comments.**

The property is currently vacant with scattered vegetation **(1)**. The site is not in close proximity to any scenic vistas, scenic resources or historic buildings **(2, 3 & 58)**. Eleventh Avenue is not considered a scenic highway. The site's proximity to existing development and the current site condition is evidence that the project would have a limited impact upon the visual character of the area. Consequently, the site is not considered a scenic resource.

The proposed multi-family development will not have any adverse impact to the aesthetics of the area as the development is subject to the Development Code and Main Street and Freeway Corridor Specific Plan **(5 & 6)**, which limit the building height and provide for minimum yard and lot coverage standards as implemented through the building permit review process. The proposed architectural designs and earth tone colors of the buildings will complement the surrounding developments. Consequently, development of the proposed project will not have a significant negative impact upon the visual character or quality of the area **(4)**.

The project will produce light similar to that already being produced by nearby developments and will be subject to the Development Code, which limits the amount of light produced at the boundary of the site, which will not have an adverse impact upon the surrounding properties. The lighting standard will ensure that the development will not have an adverse impact upon the surrounding properties. Further, lighting fixtures must be hooded and directed downward.

The Environmental Impact Report (EIR) for the 2010 General Plan Update addressed development to the maximum build-out of the General Plan **(7)**. This project site is not adjacent to sensitive land uses. Based upon regulations applicable to the project, the use will not adversely affect day or nighttime views in the area. Therefore, approval of the proposed use will not have a negative impact upon aesthetics.



<b>II. AGRICULTURE AND FOREST RESOURCES.</b> In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and State Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use <b>(8)</b> ?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract <b>(9)</b> ?				X
c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)) <b>(9 &amp; 10)</b> ?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use <b>(1 &amp; 10)</b> ?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use <b>(8 &amp; 10)</b> ?				X

#### Comments.

The project site has been partially disturbed, and is not presently, nor does it have the appearance of previous agricultural uses. Additionally, the site does not contain any known unique agricultural soils. Based on the lack of neither past agricultural uses nor designated agricultural soils on the project site, it is concluded that the project will not result in significant adverse impacts to agriculture or significant agricultural soils. The soil at this location is classified by the U.S. Soil Conservation Service as Helendale loamy sand, 0 to 2 percent slopes. This soil is limited by high soil blowing hazard, high water intake rate, low to moderate available water capacity and low fertility **(8)**. The proximity of developed uses is further evidence that the site is not viable for agriculture. The U.S. Department of Agriculture, Soil Conservation Service (SCS) Soil Survey of San Bernardino County California Mojave River Area states that "Urban and built-up land and water areas cannot be considered prime farmland..." **(20)**. The project is located within an urbanized area which, according to the SCS, is not considered prime farmland. The site is also not within the area designated by the State of California as "unique farmland **(8)**." The City of Hesperia General Plan does not designate the site for agricultural use nor is the land within a Williamson Act contract. In fact, the project site is within the LDR Zone of the Main Street and Freeway Corridor Specific Plan **(5)**. Therefore, this project has no potential to be used for agriculture.

The City and its Sphere of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes **(10)**. The southernmost portions of the City and SOI contain a narrow distribution of land within the shrub and conifer woodland bioregions. These bioregions do not contain sufficient forest land for viable timber production and are ranked as low priority landscapes **(11)**. The project site is located in the central portion of the City in the urban area and is substantially surrounded by urban development **(1)**. Since the site is not forested, this project will not have an impact upon forest land or timberland.



<b>III. AIR QUALITY.</b> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan <b>(12, 13 &amp; 14)?</b>				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation <b>(12, 13 &amp; 14)?</b>			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) <b>(12, 13 &amp; 14)?</b>		X		
d) Expose sensitive receptors to substandard pollutant concentrations <b>(4, 12 &amp; 13)?</b>			X	
e) Create objectionable odors affecting a substantial number of people <b>(1, 4, 12 &amp; 13)?</b>			X	

#### Comments.

The General Plan Update and its Environmental Impact Report (EIR) addresses the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors **(12 & 13)**. Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. The proposed shopping center is not expected to provide pollution at levels that would impact sensitive receptors.

The Mojave Desert Air Quality Management District (MDAQMD) has published a number of studies that demonstrate that the Mojave Desert Air Basin (MDAB) can be brought into attainment for particulate matter and ozone, if the South Coast Air Basin (SCAB) achieves attainment under its adopted Air Quality Management Plan. The High Desert and most of the remainder of the desert has been in compliance with the federal particulate standards for the past 15 years **(13)**. The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of SCAQMD to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards **(12 & 13)**. All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD **(14)**. Programs have been established in the Air Quality Attainment Plan which addresses emissions caused by area sources.

The project will have a temporary impact upon air quality during its construction. The Building and Safety Division dust control measures include limited grading and site watering during construction. As a further safeguard against the potential for blowing dust associated, site watering shall be continued as needed to prevent nuisance dust in accordance with the mitigation measure on page 23.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts **(15)**. As part of the General Plan Update Environmental Impact Report (GPUEIR), the impact of development to the maximum allowable density permitted by the Land Use Plan was analyzed. The projected number of vehicles trips associated with this project is analyzed within Section XV. Transportation/Traffic. Further, the impact of a project does not meet any threshold which requires air quality analysis or mitigation under the Air Quality Attainment Plan **(14)**.



Consequently, the proposed development will not have a significant negative impact upon air quality, with imposition of mitigation measures.

IV. BIOLOGICAL RESOURCES. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service <b>(16)</b> ?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service <b>(1 &amp; 16)</b> ?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means <b>(1 &amp; 16)</b> ?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites <b>(1 &amp; 16)</b> ?		X		
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance <b>(1 &amp; 17)</b> ?		X		
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan <b>(18)</b> ?				X

#### Comments.

The site is not expected to support the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the project site is outside the area considered suitable habitat for the species **(19)**. Similarly, the potential for the existence of a desert tortoise upon the site is extremely low. The site is also outside the range of the arroyo toad, which has been documented to inhabit a portion of the Tapestry Specific Plan and adjacent areas **(19)**.

Since the site contains native plant species, a biological survey was conducted by Circle Mountain Biological Consultants, Inc. to determine the presence of the desert tortoise, Mohave ground squirrel, burrowing owl, loggerhead shrike, and sharp-skinned hawk **(16)**. The biological report states that none of these nor any other threatened or endangered species inhabit the site. Since the burrowing owl is not sensitive to development and may occupy the site at any time, a mitigation measure requiring another biological survey to determine their presence shall be submitted no more than 30 days prior commencement of grading activities. There are no protected plants on the property **(16 & 17)**.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities **(18)**. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest communities, exist within the Tapestry Specific Plan and vicinity **(18)**. The project site is located approximately four miles



to the north within the developed portion of the City. Consequently, approval of the project will not have an impact upon biological resources, subject to the enclosed mitigation measures.

<b>V. CULTURAL RESOURCES.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 <b>(21)</b> ?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 <b>(21)</b> ?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature <b>(23)</b> ?				X
d) Disturb any human remains, including those interred outside of formal cemeteries <b>(24)</b> ?			X	

**Comments.**

Based upon a site visit and review of the aerial photos **(1)**, there is no evidence that cultural resources exist within the project site. In addition, the site is not on the list of previously recorded cultural resources **(23)**. This list, which was compiled as part of the 2010 General Plan Update; was compiled from the inventory of the National Register of Historic Properties, the California Historic Landmarks list, the California Points of Historic Interest list, and the California State Resources Inventory for San Bernardino County. Past records of paleontological resources were also evaluated as part of the General Plan. This research was compiled from records at the Archaeological Information Center currently located at the University of California in Fullerton. Based upon this review, paleontological resources are not expected to exist on the project site. Further, the Cultural Resources Sensitivity Map indicates that the site has a low sensitivity potential for containing cultural resources **(23)**.

In the event that human remains are discovered during grading activities, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) **(24)**. Should the Coroner determine that the remains are Native American, the Native American Heritage Commission (NAHC) shall be contacted and the remains shall be handled in accordance with Public Resources Code Section 5097.98. The NAHC has indicated that the City and Sphere of Influence does not contain any sacred lands **(25)**. Consequently, approval of the project will not have an impact upon cultural resources.

<b>VI. GEOLOGY AND SOILS.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 <b>(26 &amp; 27)</b> .				X
ii) Strong seismic ground shaking <b>(26 &amp; 28)</b> ?			X	



iii) Seismic-related ground failure, including liquefaction <b>(8 &amp; 26)</b> ?				X
iv) Landslides <b>(26)</b> ?				X
b) Result in substantial soil erosion or the loss of topsoil <b>(8)</b> ?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse <b>(8 &amp; 26)</b> ?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property <b>(8 &amp; 27)</b> ?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater <b>(8 &amp; 27)</b> ?				X

#### Comments.

The City and Sphere of Influence (SOI) is near several major faults, including the San Andreas, North Frontal, Cleghorn, Cucamonga, Helendale, and San Jacinto faults **(28)**. The nearest fault to the site is the North Frontal fault, located approximately five miles to the east of the City. The Alquist-Priolo Earthquake Fault Zoning Act prohibits structures designed for human occupancy within 500 feet of a major active fault and 200 to 300 feet from minor active faults **(29)**. The project site is not located within an Alquist-Priolo Earthquake Fault Zone **(26, 27 & 28)**. Further, the site is not in an area which has the potential for landslides, lateral spreading, subsidence, liquefaction, or collapse **(27)**.

As a function of obtaining a building final, the proposed development will be built in compliance with the Hesperia Municipal Code and the Building Code **(68)**, which ensures that the buildings will adequately resist the forces of an earthquake. In addition, prior to issuance of a grading permit, a soil study is required, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be performed in accordance with all development codes to assure that all structures will not be negatively affected by the soil.

The soil at this location is classified by the U.S. Soil Conservation Service as Helendale loamy sand, 0 to 2 percent slopes. This soil is limited by high soil blowing hazard, high water intake rate, and low to moderate available water capacity **(8)**. During construction, soil erosion will be limited through compliance with an approved erosion control plan in accordance with National Pollution Discharge Elimination System (NPDES) and Storm Water Prevention Plan (SWPP) regulations. Although disturbance of the soil will result in significant soil loss due to wind erosion, the site will be fully developed with buildings, paved parking, drive aisles, and landscaping **(4)**. These improvements will ensure that soil disturbance will not result in significant soil erosion.

The site is in proximity to City sewer and will require connection to sewer which meets Victor Valley Wastewater Reclamation Authority and Lahontan Regional Water Quality Control Board regulations and City standards **(30)**. Consequently, approval of the project will not have an impact upon geology or soils.



<b>VII. GREENHOUSE GAS EMISSIONS.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment <b>(31)</b> ?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases <b>(31, 32 &amp; 33)</b> ?			X	

#### **Comments.**

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

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 **(73)**. This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)**(31)**. The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 29 percent below business as usual by 2020, consistent with AB 32 **(32)**.

Development of the proposal is consistent with the greenhouse gas (GHG) emissions analyzed by the General Plan Update Environmental Impact Report (GPUEIR). The senior housing project is adjacent to commercial uses, which reduces the number of vehicular trips, by providing daily services within walking distances. The development will meet energy conservation measures that meet or exceed Title 24 standards. Landscape areas within the development are required to ensure water efficient plants and a low-flow irrigation system are maintained. In addition, a water budget is required to ensure a water efficient landscaping and irrigation system. Consequently, the impact upon GHG emissions associated with the proposed project is less than significant.

<b>VIII. HAZARDS AND HAZARDOUS MATERIALS.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials <b>(4 &amp; 34)</b> ?			X	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment <b>(4 &amp; 34)</b> ?			X	



c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school <b>(4)</b> ?			X	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment <b>(1)</b> ?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area <b>(18)</b> ?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area <b>(36)</b> ?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan <b>(37)</b> ?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands <b>(4)</b> ?				X

### Comments.

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

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



Formerly Used Defense Sites

<http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

The proposed multi-family residential development will not conflict with air traffic nor emergency evacuation plans. The site is just over three miles north from the Hesperia Airport and is therefore not within a restricted use zone associated with air operations **(36)**. Consequently, implementation of the project will not cause safety hazards to air operations. The site is also not along an emergency evacuation route or near a potential emergency shelter **(37)**. Consequently, the project will not interfere with emergency evacuation plans.

The project's potential for exposing people and property to fire and other hazards was also examined. The site is located within an urbanized area and is not in an area susceptible to wildland fires. The southernmost and westernmost portions of the City are at risk, due primarily to proximity to the San Bernardino National Forest **(38 & 43)**. All new structures associated with this project will be constructed to the latest building standards including applicable fire codes. Consequently, approval of the project will not have any impact upon or be affected by hazards and hazardous materials with compliance with an approved HMBP and required mitigation measures.

<b>IX. HYDROLOGY AND WATER QUALITY. Would the project:</b>				
	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements <b>(39)</b> ?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted) <b>(41 &amp; 42)</b> ?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site <b>(44)</b> ?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site <b>(44)</b> ?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff <b>(44)</b> ?			X	
f) Otherwise substantially degrade water quality <b>(44)</b> ?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map <b>(4 &amp; 45)</b> ?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows <b>(4, 45 &amp; 54)</b> ?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam <b>(44 &amp; 53)</b> ?				X



j) Inundation by seiche, tsunami, or mudflow (46)?				X
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#### Comments.

Development of the site will disturb more than one-acre of land area. Consequently, the project will be required to file a Notice of Intent (NOI) and obtain a general construction National Pollution Discharge Elimination System (NPDES) permit prior to land disturbance (39). Issuance of a Storm Water Pollution Prevention Plan (SWPPP) will also be required, which specifies the Best Management Practices (BMP) that will be implemented to prevent construction pollutants from contacting storm water (40). Obtaining the NPDES and implementing the SWPPP is required by the State Water Resources Control Board (WRCB) and the California Regional Water Quality Control Board (RWQCB). These are mandatory and NPDES and SWPPP have been deemed adequate by these agencies to mitigate potential impacts to water quality during project construction.

The development may change absorption rates and potential drainage patterns, as well as affect the amount of surface water runoff (4). Therefore, the project shall retain the drainage created on-site beyond that which has occurred historically within an approved drainage system in accordance with City of Hesperia Resolution 89-16 (44). The on-site drainage will be conveyed through a private storm drain system. An underground infiltration system will be designed to detain and infiltrate the required peak mitigation. In addition, the site is not within a Flood Zone, based upon the latest Flood Insurance Rate Map (54).

The City is downstream of three dams. These are the Mojave Forks, Cedar Springs, and Lake Arrowhead Dams. In the event of a catastrophic failure of one or more of the dams, a portion of the project site has the potential to be inundated by floodwater (44 & 53). The areas most affected by a dam failure are located in the low lying areas within the Tapestry Specific Plan, most of the Antelope Valley Wash, and properties near the Mojave River.

The City of Hesperia is located just north of the Cajon Pass at an elevation of over 2,500 feet above sea level, which is over 60 miles from the Pacific Ocean. As such, the City is not under threat of a tsunami, otherwise known as a seismic sea wave (46). Similarly, the potential for a seiche to occur is remote, given the limited number of large water bodies within the City and its sphere. A seiche would potentially occur only in proximity to Silverwood Lake, Hesperia Lake and at recharge basins (46). In addition, the water table is significantly more than 25 feet from the surface. Therefore, the mechanisms necessary to create a mudflow; a steep hillside with groundwater near the surface, does not exist at this location (8).

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin (41).

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere of Influence (SOI). The UWMP indicates that the City is currently using available water supply, which is projected to match demand beyond the year 2030 (42). The HWD has maintained a water surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts. Therefore, the



impact upon hydrology and water quality associated with this project is considered less than significant.

<b>X. LAND USE AND PLANNING.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Physically divide an established community <b>(1)</b> ?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect <b>(47)</b> ?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan <b>(18)</b> ?				X

**Comments.**

The site is currently vacant and a 50-unit multi-family residential development for seniors is proposed on the site **(1)**. The use will not physically divide an established community. The project involves a Specific Plan Amendment from LDR to HDR. The LDR zone, which is the site's current designation, allows a density of 2-8 dwelling units per acre (du/ac). The maximum number of units allowed in the LDR zone is 18 units based on 2.3 gross acres. The HDR zone allows a density of 15-20 du/ac. The maximum number of units allowed in the HDR zone is 46 units. In addition to a Specific Plan Amendment, the project proposes a density bonus agreement of 4 dwelling units above the 46 dwelling units allowed by the HDR Zone. In return for a density bonus, twenty percent of the development or 10 units will be restricted to Low-income Qualified Households. All units will be for seniors. State policies, as well as the City's General Plan Housing Element supports a project like this in that it adds to the local inventory of affordable housing. The development is also adjacent to commercial uses, which helps reduce the number of vehicular trips, as residents can walk to obtain services.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities **(18)**. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community, exist within the Tapestry Specific Plan and vicinity **(18)**. The project site is located approximately four miles north of this specific plan within the developed portion of the City. Therefore, development of the project would have a less than significant impact upon land use and planning.

<b>XI. MINERAL RESOURCES.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state <b>(48)</b> ?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan <b>(48)</b> ?				X

**Comments.**



According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the project site **(48)**. Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. The mineral resources within the property are not unique locally or regionally and need not be preserved. Consequently, the proposed project would not have an impact upon mineral resources.

<b>XII. NOISE.</b> Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies <b>(1, 4 &amp; 49)</b> ?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels <b>(50 &amp; 51)</b> ?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project <b>(52)</b> ?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project <b>(52)</b> ?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels <b>(36)</b> ?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels <b>(36)</b> ?				X

#### **Comments.**

Approval of the proposed project will result in both construction noise and operational noise, mostly associated with trucks and vehicular traffic to and from the site. According to the General Plan, the majority of noise sources within the City are mobile sources, which include motor vehicles and aircraft **(49)**. Freeways, major arterials, railroads, airports, industrial, commercial, and other human activities contribute to noise levels. Noises associated with this type of project will be mostly from traffic caused by arriving and departing vehicles (residents, vehicle service, and deliveries).

Construction noise levels associated with any future construction activities will be slightly higher than the existing ambient noise levels in the vicinity of the project site. Noise generated by construction equipment, including trucks, graders, backhoes, well drilling equipment, bull-dozer, concrete mixers and portable generators can reach high levels and is typically one of the sources for the highest potential noise impact of a project. However, the construction noise would subside once construction is completed. The proposed project must adhere to the requirements of the City of Hesperia Noise Ordinance **(49)**. The Noise Ordinance contains an exemption from the noise level regulations during grading and construction activities occurring between 7:00 A.M. and 7:00 P.M., Monday through Saturday, except federal holidays.

The nearest major roadway in the vicinity to the development is Eleventh Avenue along the eastern project boundary. This rural collector roadway generates noise levels up to 65 CNEL **(55)**. The boundary of the site is more than seven miles from the Hesperia Airport, and three miles from Interstate 15. At this distance, the project is not impacted by any safety zones associated with this private airport **(36)**. The project site is even farther from the Southern California Logistics Airport (SCLA) and the



Apple Valley Airport and will not be affected by any safety zones for these airports. In addition, the site is over one mile from the Burlington Northern Santa Fe Railroad **(51 & 56)**. Therefore, area impacts by noise and vibration generated by the project are less than significant.

Certain activities particularly sensitive to noise include sleeping, studying, reading, leisure, and other activities requiring relaxation or concentration, which will not be impacted. Hospitals and convalescent homes, churches, libraries, and childcare facilities are also considered noise-sensitive uses as are residential and school uses. The nearest sensitive uses are the residences to the south and a church to the west. However, construction noise will subside once the construction phase is completed.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the noise impact upon build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with noise impacts **(15)**. No additional noise impact beyond that previously analyzed would occur.

<b>XIII. POPULATION AND HOUSING.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure) <b>(4)</b> ?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere <b>(1)</b> ?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere <b>(1 &amp; 9)</b> ?				X

#### **Comments.**

The site is in close proximity to water, sewer, and other utility systems **(30)**. As a result, development of the project would not require significant extension of major improvements to existing public facilities. The site is vacant and is identified for a Senior multi-family development **(1 & 9)**. Therefore, the project will not displace any existing housing, necessitating the construction of replacement housing elsewhere.

The population in Hesperia has increased mainly because of the availability of affordable housing in the high desert and its proximity to the job-rich areas of the Inland Empire. The proposed development will not induce substantial population growth as the development will provide 50 addition housing units for future and existing residents. Based upon the limited size, development of the project would have a less than significant impact upon population and housing.

<b>XIV. PUBLIC SERVICES.</b>	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact



a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services <b>(1 &amp; 2)</b> :			X	
Fire protection? <b>(1 &amp; 2)</b>			X	
Police protection? <b>(1 &amp; 2)</b>			X	
Schools? <b>(1 &amp; 2)</b>			X	
Parks? <b>(1 &amp; 2)</b>			X	
Other public facilities? <b>(1 &amp; 2)</b>			X	

#### Comments.

The proposed project will create a very slight increase in demand for public services **(2)**. The project will connect to an existing 12-inch water line in Eleventh Avenue. The project will extend an 8" minimum sewer main along Eleventh Avenue from Main Street to the southerly property line of the project **(30)**. Full street improvements comprised of curb, gutter, and sidewalk will be constructed along the project frontage as part of development of the site **(61)**. Additionally, development impact fees will be assessed at the time that building permits are issued for construction of the site **(59)**. These fees are designed to ensure that appropriate levels of capital resources will be available to serve any future development. Consequently, satisfactory levels of public services will be maintained. Therefore, the proposed project will not have a significant impact upon public services.

<b>XV. RECREATION.</b>	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated <b>(9)</b> ?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment <b>(4)</b> ?			X	

#### Comments.

Construction of this project will result in a slight increase in population growth beyond that which is planned for in the City's Land Use Element and the Specific Plan. The specific plan amendment and the Density Bonus and Incentive Agreement will allow for 32 additional dwelling units beyond that analyzed by the GPUEIR. The project includes a host of recreational amenities; including a pool and spa, a clubhouse, and a picnic area with barbeque **(4)**. Consequently, the development will provide recreational venues for seniors. Further, the developer will be responsible for paying park fees **(59)**, which ensure that any additional impact to existing recreational facilities will be lessened. Therefore, the proposed project will have minimal impact upon existing recreational facilities.



<b>XVI. TRANSPORTATION / TRAFFIC.</b> Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit <b>(63)</b> ?			X	
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways <b>(64)</b> ?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks <b>(36)</b> ?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) <b>(1 &amp; 61)</b> ?			X	
e) Result in inadequate emergency access <b>(4)</b> ?			X	
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities <b>(64 &amp; 65)</b> ?				X

#### Comments.

The project is located within the LDR Zone, which allows a density range of 2 to 8 dwelling units per acre. Based upon construction of a single-family detached housing development to the maximum allowable density on 2.3 gross acres zoned LDR, a maximum of 18 units is allowed. The Institute of Transportation Engineers' (ITE) Trip Generation Manual estimates that 18 residential units would generate approximately 172 daily vehicle trips. This is based upon 9.57 vehicular trips per dwelling unit.

The project proposes to be within the HDR Zone, which allows a density range of 15 to 20 dwelling units per acre. Based upon construction of a multi-family housing development to the maximum allowable density on 2.3 gross acres zoned HDR, a maximum of 46 units is allowed. The developer is requesting for a density bonus of four units increasing the total number of units proposed to 50 units. The Institute of Transportation Engineers' (ITE) Trip Generation Manual estimates that 50 residential units would generate approximately 186 daily vehicle trips. This is based upon 3.71 vehicular trips per dwelling unit.

Based upon the average daily vehicle trip ends from the ITE Trip Generation Manual, the Specific Plan Amendment will result in an increase in 13 more trip ends than the number of trip ends currently allowed by the LDR Zone. The proposed development fronts upon Eleventh Avenue, which will be constructed as a rural collector street. As part of development of this project, this street will be constructed to City standards, including curb, gutter, and sidewalk across the project frontages and pavement tapers beyond the frontage **(63)**. Due to its size, the project alone will not result in changes to traffic patterns in the area. In the long term, the City will have to construct capital improvements consistent with the Circulation Element, including widening arterials and collectors to ultimate capacity, redesigning intersections to operate more efficient, and synchronize signals along major roadways. New developments in the City will continue to construct street improvements necessary to make their projects work, as well as pay traffic



impact fees. Traffic impact fees will be collected as development occurs, which will help fund the Capital Improvement Program. As a result, the impact of the proposed project upon transportation facilities is considered to be less than significant.

The project site is located three miles from the Hesperia Airport and is not within an airport safety zone (36). Consequently, the project will not cause a change in air traffic patterns nor an increase in traffic levels or location. The project site will also not impact the air traffic patterns for the Southern California Logistics Airport nor the Apple Valley Airport.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with transportation impacts (15).

<b>XVII. TRIBAL CULTURAL RESOURCES.</b>		Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or					X
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.					X

The questions related to impacts to tribal cultural resources required as part of Assembly Bill 52 approved by the Office of Administrative Law on September 27, 2016 were included in this checklist. All California Native American tribes that requested to be informed pursuant to Public Resources Code 21080.3.1(a) were notified prior to release of this environmental document. No tribe requested in depth consultation within 30 days of receipt of the formal notification. Staff works closely with San Manuel Band of Mission Indians, and standard language will be included in the conditions of approval ensuring protocol is followed should tribal resources be discovered during grading activities.

The Cultural Resources Sensitivity Map within the Cultural Resource background technical report of the General Plan Update indicates that the site has a low sensitivity potential for containing cultural resources (23). The site was investigated by Tetra Tech, Inc. on December 2004. After a thorough literature review and records search Tetra Tech, Inc. did not find evidence of tribal cultural resources (58). Consequently, approval of the project will not have an impact upon cultural resources.



<b>XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board <b>(66)</b> ?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects <b>(67 &amp; 68)</b> ?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects <b>(69)</b> ?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed <b>(41 &amp; 42)</b> ?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments <b>(67 &amp; 68)</b> ?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs <b>(70 &amp; 72)</b> ?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste <b>(71)</b> ?			X	

#### **Comments.**

The project will connect to an existing 12-inch water line in Eleventh Avenue. The project will extend an 8" minimum sewer main along Eleventh Avenue from Main Street to the southerly property line of the project **(30)**. As part of construction of the project, the City requires installation of an on-site drainage system which will retain any additional storm water created by the impervious surfaces developed as part of the project **(69)**. Consequently, based upon a 100-year storm event, development of this project will not increase the amount of drainage impacting downstream properties beyond that which would occur prior to its development. Additionally, the drainage system will contain a filtration system preventing contamination of the environment.

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, in a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(41)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere of Influence (SOI). The UWMP indicates that the City is currently using available water supply, which is projected to match demand beyond the year 2030 **(42)**. The HWD has maintained a water surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts.



The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled **(72)**. Currently, approximately 63 percent of the solid waste within the City is being recycled **(70 & 71)**. The waste disposal hauler for the City has increased the capacity of its Materials Recovery Facility (MRF) to 1,500 tons per day in order to accommodate future development. Therefore, the project will not cause a significant negative impact upon utilities and service systems.

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

#### **Comments.**

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

<b>XIV. EARLIER ANALYSES.</b>
Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case a discussion identifies the following:
The Certified General Plan Environmental Impact Report.
a) <b>Earlier analyses used.</b> Earlier analyses are identified and stated where they are available for review.
b) <b>Impacts adequately addressed.</b> Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.
a) <b>Mitigation measures.</b> For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.



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

1. The applicant shall water all unpaved areas as necessary to control dust.
2. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.

**Authority:** Public Resources Code Sections 21103 and 21107.

## REFERENCES

- (1) Aerial photos of the City of Hesperia flown taken in Spring 2018 and on-site field investigations conducted in October 2018.
- (2) Section 3.1.2 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.1-3.
- (3) Section 3.0 of the 2010 City of Hesperia General Plan Open Space Element, pages OS-13 thru OS-27.
- (4) Application and related materials for Site Plan Review SPR18-00010, Specific Plan Amendment SPLA18-00001, and Density Bonus Agreement DA18-00001.
- (5) Main Street and Freeway Corridor Specific Plan
- (6) Chapter 16.16, Article I of the Development Code, including the general plan land use map
- (7) Section 3.1.4 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.1-6.
- (8) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area, Pages 23 thru 24 and Map Sheet No. 31.
- (9) 2010 Official Map showing the General Plan Land Use and zoning of the City of Hesperia and its sphere of influence.
- (10) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
- (11) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
- (12) Air Quality Section of the 2010 City of Hesperia General Plan Conservation Element, pages CN-47 thru CN-51.
- (13) Section 3.3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.3-1 thru 3.3-30.
- (14) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
- (15) Statement of overriding considerations for the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR).
- (16) Focused Survey for Agassiz's Desert Tortoise, Habitat Assessments for Burrowing Owl and Mohave Ground Squirrel, and General Biological Resource Assessment prepared Circle Mountain Biological Consultants, Inc. dated December 2017
- (17) Chapter 16.24 of the City of Hesperia Municipal Code, Article II. Desert Native Plant Protection.
- (18) Section 3.2 of the 2010 City of Hesperia General Plan Update Conservation Element background technical report, pages 8 and 9.
- (19) Section 3.3.2 of the 2010 City of Hesperia General Plan Update Conservation Element background technical report, pages 14 thru 25.



- (20) 1988 United States Bureau of Land Management California Desert Conservation Area map.
- (21) Appendix C of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages C-1 thru C-34.
- (22) Section 6 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 22 thru 38.
- (23) Cultural Resource Sensitivity Map Exhibit 5c of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report.
- (24) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
- (25) Letter dated September 25, 2006 from Dave Singleton of the Native American Heritage Commission within Appendix B of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report.
- (26) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-8.
- (27) Exhibit SF-1 of Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, page SF-9.
- (28) Figure 1-2 of Section 1.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-5.
- (29) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
- (30) Current Hesperia water and sewer line atlas
- (31) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
- (32) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
- (33) Table 5 of Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 20 and 21.
- (34) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, page SF-32.
- (35) Section 5 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, pages 5-4 and 5-5.
- (36) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-71 and LU-72.
- (37) Disaster Preparedness, Response, and Recovery Section of the 2010 Hesperia General Plan Safety Element, pages SF-37 thru SF-48.
- (38) Fire Hazard Section of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.7-9.
- (39) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-13.
- (40) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-15.
- (41) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
- (42) Mojave Water Agency letter dated March 27, 1996.
- (43) Exhibit SF-3 of the 2010 City of Hesperia General Plan Update Safety Element, page SF-21.
- (44) Flooding Hazards Section of the 2010 City of Hesperia General Plan Update Safety Element, pages SF-16 thru SF-18.



- (45) 1996 Hesperia Master Plan of Drainage
- (46) Section 3.0 of the 2010 City of Hesperia General Plan Update Safety Element, page SF-8.
- (47) Chapter 7(F) of the Main Street and Freeway Corridor Specific Plan
- (48) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
- (49) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4.
- (50) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467 and Table NS-5 of Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, pages NS-11 and NS-12.
- (51) Table 7 of Section 2.2.1 of the 2010 City of Hesperia General Plan Update Noise Element background technical report, page 22.
- (52) Table 3.11-10 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.11-45.
- (53) Dam Inundation Map within Section 3.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
- (54) FEMA Flood Map within Section 3.1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-9.
- (55) Table 9 within Section 2.2 of the 2010 City of Hesperia General Plan Update Noise Element background technical report, page 29.
- (56) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-13.
- (57) 2012 Trip Generation Manual, Volume II, 9<sup>th</sup> Edition, Institute of Transportation Engineers
- (58) An Archaeological and Paleontological Resources Survey prepared by Tetra Tech, Inc dated December 2004.
- (59) 1991 City of Hesperia Ordinance 180 entitled "An Ordinance of the City Council of the City of Hesperia, California, Establishing a Development Impact Fee for all New Residential, Commercial, and Industrial Structures" and Resolution No. 2007-110 on November 20, 2007. Park impact fees are established by the Hesperia Recreation and Park District. School fees are established by the Hesperia Unified School District.
- (60) 2016 California Plumbing Code
- (61) Section 16.12.080-16.12.100 Site Plan Review of the Hesperia Development Code
- (62) California Health and Safety Code Section 25232 (b) (1) (A-E).
- (63) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element, page CI-17.
- (64) Section 2.2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, page 4.
- (65) Sections 6.3 and 6.4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 74 and 75.
- (66) Section 3.8 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-8 thru 3.8-14.
- (67) Environmental policies of the Lahontan Regional Water Quality Control Board regarding use of private wastewater treatment systems.
- (68) 2016 California Building Code



- (69) Hydrology & Hydraulic Calculations prepared by Anacal Engineering Co
- (70) 2014 California Department of Resources, Recycling and Recovery Annual AB939 Report.
- (71) California Integrated Waste Management Act (AB 939).
- (72) Quarterly data of the San Bernardino County Disposal Reporting System for the 3<sup>rd</sup> quarter 2014.
- (73) Section 15183.5 – Tiering and Streamlining the Analysis of Greenhouse Gas Emissions, March 18, 2010 Amendments to the Guidelines for Implementation of the California Environmental Quality Act.







# ATTACHMENT 8

## RESOLUTION NO. PC-2019-01

**AN RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE OFFICIAL GENERAL PLAN AND ZONING MAP BY RECLASSIFYING CERTAIN REAL PROPERTY HEREIN DESCRIBED WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM LOW DENSITY RESIDENTIAL (LDR) TO HIGH DENSITY RESIDENTIAL (HDR) ON APPROXIMATELY 2.3 GROSS ACRES LOCATED 250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH AVENUE (SPLA18-00001)**

**WHEREAS**, On January 5, 1998, the City Council of the City of Hesperia adopted Resolution No. 250, thereby adopting the Hesperia Municipal Code; and

**WHEREAS**, On September 2, 2008, the City Council of the City of Hesperia adopted Resolution No. 2008-12, thereby adopting the Main Street and Freeway Corridor Specific Plan; and

**WHEREAS**, Hickory Tree II, L.P has filed an application requesting approval of SPLA18-00001 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to approximately 2.3 gross acres within the Low Density Residential (LDR) Zone of the Main Street and Freeway Corridor Specific Plan located 250 feet south of Main Street, on the west side of Eleventh Avenue and consists of Assessor's Parcel Numbers 0408-183-12; and

**WHEREAS**, the Application, as contemplated, proposes to change the zoning of the subject property within the Main Street and Freeway Corridor Specific Plan (Specific Plan) from the Low Density Residential (LDR) Zone to High Density Residential (HDR) Zone; and

**WHEREAS**, Hickory Tree II, L.P has also filed an application requesting approval of Site Plan Review SPR18-00010 to construct a 50-unit multi-family development for Seniors in conjunction with a density bonus agreement; and

**WHEREAS**, the subject site is vacant. Two commercial buildings and a bank are located to the north of the project site. The land to south is vacant. There is a shopping center on the opposite side of Eleventh Avenue to the east. A church exists to the west; and

**WHEREAS**, the subject property is currently within the Low Density Residential (LDR) Zone of the Specific Plan. The properties to the north are within the Office Commercial (OC) Zone of the Main Street and Freeway Corridor Specific Plan. The property to the east is within the Pedestrian Commercial (PC) Zone. The properties to the south and west are within the Low Density Residential (LDR) Zone of the Specific Plan; and

**WHEREAS**, an environmental Initial Study for the proposed project was completed on December 18, 2018, which determined that no significant adverse environmental impacts to either the man-made or physical environmental setting would occur with the inclusion of mitigation measures. Mitigated Negative Declaration ND-2018-06 was subsequently prepared; and

**WHEREAS**, on January 10, 2019, 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 10, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon Negative Declaration ND-2018-06 and the initial study which supports the Mitigated Negative Declaration, the Planning Commission finds that there is no substantial evidence that the proposed Specific Plan Amendment will have a significant effect on the environment;
- (b) The Planning Commission had independently reviewed and analyzed the Mitigated Negative Declaration, and finds that it reflects the independent judgement of the Planning Commission, and that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment.
- (c) The site of the proposed amendment to the Specific Plan is suitable for any of the land uses permitted within the proposed Zone District, because the land uses can meet the standards for setbacks, parking, circulation, and access within the proposed Zone District.
- (d) Although the current LDR Zone within the Specific Plan supports residential densities between 2 and 8 dwelling units per acre (du/ac), the HDR Zone, which allows a density between 15 and 20 du/ac is more appropriate for the proposed standalone multi-family residential development. The two-story units will be approximately 27 feet tall and the HDR Zone allows buildings up to 35 feet in height. Therefore, the proposed Specific Plan Amendment is reasonable and beneficial at this time, because it will facilitate the planning and development of this area that is needed to support the well-planned growth of Hesperia.
- (e) The proposed Specific Plan Amendment will not have a significant adverse impact on surrounding properties or the community in general, because the project will be subject to the City's policies governing design and the mitigation measures for ND-2018-06.
- (f) The proposed project is consistent with the adopted General Plan of the City of Hesperia, with approval of this Specific Plan Amendment.



Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Specific Plan Amendment SPLA18-00001, amending the Official General Plan and Zoning Map of the City of Hesperia as shown on Exhibit "A," and Negative Declaration ND-2018-06 which is attached to the staff report for this item.

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

**ADOPTED AND APPROVED** on this 10<sup>th</sup> day of January 2019.

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Tom Murphy, Chair, Planning Commission

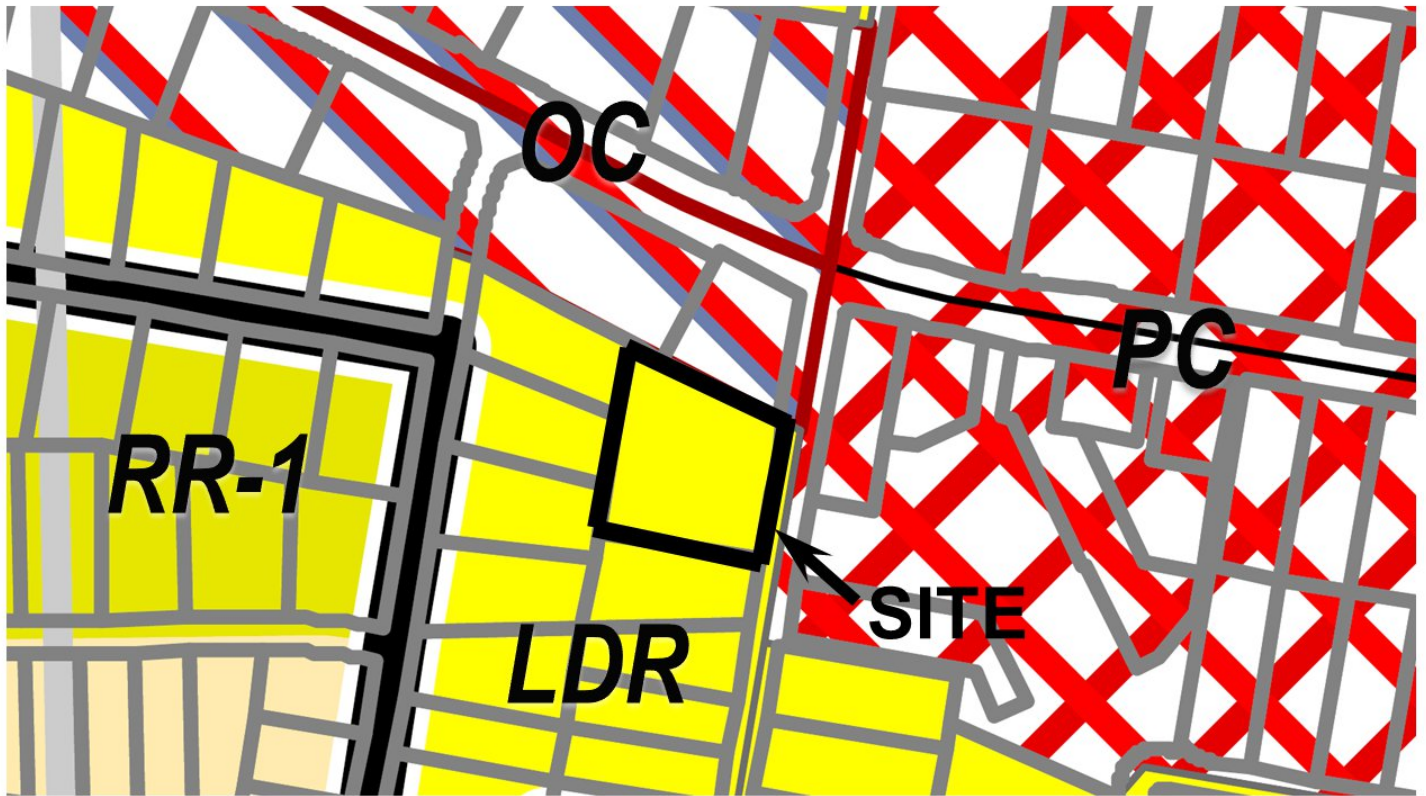
ATTEST:

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Cecilia Alonzo, Planning Commission Secretary



# Exhibit "A"



**SPLA18-00001**

**A SPECIFIC PLAN AMENDMENT FROM LOW DENSITY RESIDENTIAL (LDR)  
TO HIGH DENSITY RESIDENTIAL (HDR) ON APPROXIMATELY 2.3 GROSS  
ACRES**



# ATTACHMENT 9

## RESOLUTION NO. 2019-02

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE A DENSITY BONUS & INCENTIVE AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A TWO-STORY, 50-UNIT MULTI-FAMILY DEVELOPMENT FOR SENIORS ON 2.3 GROSS ACRES LOCATED 250 FEET SOUTH OF MAIN STREET, ON THE WEST SIDE OF ELEVENTH AVENUE (DA18-00001 & SPR18-00010)**

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

**WHEREAS**, Hickory Tree II, L.P has filed an application requesting consideration of Density Bonus Agreement DA18-00001 and Site Plan Review SPR18-00010, described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to a 2.3 gross acre site within the Low Density Residential (LDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan), located 250 feet south of Main Street, on the west side of Eleventh Avenue and consists of Assessor's Parcel Numbers 0410-192-56 and 61; and

**WHEREAS**, Hickory Tree II, L.P has also filed an application proposing to change the zoning of the subject property within the Main Street and Freeway Corridor Specific Plan (Specific Plan) from the Low Density Residential (LDR) Zone to High Density Residential (HDR) Zone; and

**WHEREAS**, the Application, as contemplated, proposes to construct a 50-unit senior multi-family development, including a 4-unit density bonus and 10 low income units; and

**WHEREAS**, State Housing Law requires the City to consider such design concessions to encourage affordable housing; and

**WHEREAS**, the subject site is vacant. Two commercial buildings and a bank are located to the north of the project site. The land to south is vacant. There is a shopping center on the opposite side of Eleventh Avenue to the east. A church exists to the west; and

**WHEREAS**, the subject property is currently within the Low Density Residential (LDR) Zone of the Specific Plan. The properties to the north are within the Office Commercial (OC) Zone of the Main Street and Freeway Corridor Specific Plan. The property to the east is within the Pedestrian Commercial (PC) Zone. The properties to the south and west are within the Low Density Residential (LDR) Zone of the Specific Plan; and

**WHEREAS**, an environmental Initial Study for the proposed project was completed on December 18, 2018, which determined that no significant adverse environmental impacts to either the man-made or physical environmental setting would occur with the inclusion of mitigation measures. Mitigated Negative Declaration ND-2018-06 was subsequently prepared; and

**WHEREAS**, on January 10, 2019, 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 10, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon Negative Declaration ND-2018-06 and the initial study which supports the Mitigated Negative Declaration, the Planning Commission finds that there is no substantial evidence that the proposed Site Plan Review and Density Bonus Agreement will have a significant effect on the environment;
- (b) The Planning Commission had independently reviewed and analyzed the Mitigated Negative Declaration, and finds that it reflects the independent judgement of the Planning Commission, and that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment.
- (c) The proposed Density Bonus and Incentive Agreement will allow a 4-unit density bonus and deviation from specified development standards in exchange for creation of 10 units that will be reserved for low income households. These affordable housing units will contribute towards meeting the City's affordable housing goals as mandated by the State of California and supported by the City's General Plan Housing Element.
- (d) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (e) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, with the exception to two development code concessions. As part of concessions, the City will accept 69 parking spaces, instead of 79 parking spaces. The City will accept a front yard setback of 15-feet, instead of a front yard setback of 25-feet. The Density Bonus Program allows deviations from standards, consistent with state law.
- (f) The proposed use will not have a substantial adverse effect on abutting property or the permitted use thereof, and will not generate excessive noise, vibration, traffic, or other disturbances, nuisances or hazards.
- (g) 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. Further, the project is



consistent with the regulations authorizing residential densities exceeding that allowed under the General Plan through the density bonus program.

- (h) The site for the proposed use will have adequate access based upon the site's current access to Eleventh Avenue.
- (i) The granting of the density bonus will not be detrimental to the public health, safety, or welfare.
- (j) The proposed Density Bonus and Incentive Agreement is consistent with and promotes the goals and policies of the General Plan, specifically Land Use Policy LU-2.3 and Housing Policy 1.2.

Section 3. Based on the findings and conclusions set forth in this Resolution, the Planning Commission hereby recommends that the City Council approve Density Bonus Agreement DA18-00001 and Site Plan Review SPR18-00010, subject to the Conditions of Approval as shown in ATTACHMENT "A," and Negative Declaration ND-2018-06 which is attached to the staff report for this item.

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

**ADOPTED AND APPROVED** on this 10<sup>th</sup> day of January 2019.

---

Tom Murphy, Chair, Planning Commission

ATTEST:

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Cecilia Alonzo, Planning Commission Secretary



**ATTACHMENT "A"**  
**List of Conditions for SPR18-00010**

Approval Date: February 05, 2019  
Effective Date: February 05, 2019  
Expiration Date: February 05, 2022

This list of conditions applies to: Consideration of a Site Plan Review to construct a 50 unit multi-family development in conjunction with a density bonus agreement and a Specific Plan Amendment from LDR to HDR located on 2.3 gross acres located 250 feet south of Main Street, on the west side of Eleventh Avenue (Applicant: Hickory Tree II, L.P.; APN: 0408-183-12)

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

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

**CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY NON INTERFERE/QUITCLAIM DOCS. The Developer shall provide non interference and or quitclaim letter(s) from any applicable utility agencies for any utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. The improvement plans will not be accepted without the required documents and approval from the affected agencies. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the improvement plan submittal. All required plans, maps, requested studies, CFD annexations, etc. must be submitted as a package. The Developer shall coordinate with the City's Engineering Analyst, Jamie Carone at (760)947-1149 or jcarone@cityofhesperia.us, to obtain the fee calculation form which shall be completed and submitted, along with fee payment, at time of plan submittal. Any outstanding fees must be paid before final inspection and the release of bonds. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DRAINAGE STUDY. The Developer shall submit three (3) copies of a Final Drainage Study which analyzes the pre-project and proposed project hydrology, including flows from offsite, flows generated onsite, hydraulic properties of flows entering or exiting the project to and from natural or



constructed conveyances, and capacity and function of any runoff management structures such as catch basins, inlets, outlets and detention or retention structures. The study must include all information specified in the City's hydrology study outline

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

OFFSITE DRAINAGE IMPACT PREVENTION. The Project shall provide safe conveyance for offsite runoff either routed through the project or around the project site. The Project shall ensure that the proposed conveyance of offsite flows will not increase adverse impacts to downstream properties and/or drainage facilities for the 24-hour design storm for 2-year, 10-year, 25-year, and 100-year return frequency rainfall events.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ONSITE DRAINAGE IMPACT PREVENTION. The Project shall be designed to prevent adverse impacts to downstream properties and/or drainage facilities caused or exacerbated by the project. The project shall demonstrate that runoff from the completed project site will not exceed 90% of the pre-project runoff discharge rates for the 24-hour design storm for 2-year, 10-year, 25-year, and 100-year return frequency rainfall events.

- A. Drawdown Time. All drainage facilities which are designed to percolate/infiltrate surface runoff (including basins, drywells, infiltration trenches, or infiltration-based low impact development features) shall not accumulate standing water for more than 72 hours. All drainage facilities designed to provide detention storage shall recover 100 percent of their design detention volume within 24 hours.
- B. Groundwater Protection. The Project shall ensure any retention/infiltration or detention facilities will not adversely impact groundwater.
- C. Underground Retention/Detention Systems. The Project shall demonstrate a minimum functional life span of 50 years for materials (e.g., polymer, metal, mineral-based, or other) used in underground retention/detention systems.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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



in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

## CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY NON INTERFERENCE/QUITCLAIM. The Developer shall provide non interference and or quitclaim letter(s) from any applicable utility agencies for any utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. Grading permits will not be issued until the required documents are reviewed and approved by all applicable agencies. Any fees associated with the required documents are the Developers responsibility. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ELEVENTH AVENUE. Saw-cut (2-foot min.) and match-up asphalt pavement on Eleventh Avenue across the project frontage, based on City's 60-foot Roadway Standard. The curb face is to be located at 24' from the approved centerline. The



design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Commercial driveway approaches per City standards.
- F. Pavement transitions per City Standards.
- G. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 8 and per the soils report.
- H. Cross sections every 50-feet per City standards.
- I. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- J. Provide a signage and striping plan per City standards.
- K. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.
- L. Provide signage and striping for a Class 2 bike trail, per City's adopted non-motorized transportation plan.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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)

- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
- B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the existing 12" ACP water line in Eleventh Avenue per City Standards.
- C. It is the Developer's responsibility to connect to sewer and pay the appropriate fees. The Developer will be required to design and construct 8" (min.) PVC main in Eleventh Avenue per City standards.
- D. Complete V.V.W.R.A.'s "Wastewater Questionnaire for Commercial / Industrial Establishments" and submit to the Engineering Department. Complete the "Certification Statement for Photographic and X-ray Processing Facilities" as required.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SEWER IMPROVEMENTS. The Developer shall design sewer improvements in accordance with City standards, and as indicated below. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SEWER IMPR. PLAN. The Developer shall design and construct an 8" minimum PVC SDR 35 sewer main in Eleventh Avenue from Main Street to the southerly property line of project. Design shall consist of plan and profile per City standards. (E)



**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DESIGN FOR REQUIRED IMPROVEMENTS. Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this site plan review application. The development shall have stamped concrete at the drive way entrance. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

TRIBAL RESOURCES.

CUL MMs

1. In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-1, if the find is of the pre-contact period and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.

2. If significant resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan. Should the Plan discuss any pre-contact resources, the draft of the Plan shall be provided to SMBMI for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

3. If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.

TCR MMs

1. The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in CR-1, of any pre-contact cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by



the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

2. Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FISH AND GAME FEE. The applicant shall submit a check to the City in the amount of \$2,404.75 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PRE-CONSTRUCTION SURVEY. A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ACCESS EASEMENT. An access easement shall be recorded which allows for shared access with the property to the north as shown on the approved site plan. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

## CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

EROSION CONTROL. The Project shall implement all requirements of the approved Erosion and Sediment Control Plan (or SWPPP if applicable) prior to the City's issuance of a grading permit, and provide ongoing implementation until the project is complete and all disturbed areas are fully stabilized. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FINAL WQMP SUBMITTAL. Submit a final WQMP, prepared using the applicable City of Hesperia WQMP Template, which includes all required or proposed revisions, addresses any comments provided on the draft WQMP, provides final designs for best management practices (BMP's), and includes calculations for BMP sizing. The WQMP must include a final Maintenance Agreement and must be signed and certified by the owner and preparer.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

NPDES. The Project shall enroll under the prevailing National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the California State Water Resources Control Board and pay applicable fees. The Project shall provide proof of such permit coverage including a copy of the Notice Of Intent Receipt Letter and the project WDID No. to the City. Alternatively, projects from 1 to 5 acres with an approved



Rainfall Erosivity Waiver authorized by U.S. EPA Phase II regulations certifying to the State Water Resources Control Board that construction activity will occur only when the Rainfall Erosivity Factor is less than 5 (R in the Revised Universal Soil Loss Equation), shall provide a copy of the projects Erosivity Waiver Certification and Waiver ID to the City. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PERCOLATION TEST. The applicant shall provide percolation test data which are adequate to substantiate the hydrologic performance of all proposed basins, underground retention systems, drywells, or other features requiring percolation of surface water:

- A. Projects shall provide site-specific percolation test data to substantiate the performance and effective drawdown time of all proposed surface retention basins.
- B. Projects shall provide site-specific, depth-appropriate percolation test data for the proposed subsurface infiltration/retention system; and/or for any proposed drywells.
- C. Percolations tests shall be performed in accordance with the procedures in Appendix A of the Riverside County Design Handbook for Low Impact Development Best Management Practices; available online at:

<http://www.floodcontrol.co.riverside.ca.us/NPDES/LIDBMP.aspx>

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

STORM WATER POLLUTION PREVENTION PLAN. The Project shall submit to the City for approval two (2) copies of a Storm Water Pollution Prevention Plan (SWPPP) as specified in the prevailing National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the California State Water Resources Control Board. Prepare the SWPPP using or following the format of the most recent SWPPP Template in the Construction BMP Handbook prepared by the California Stormwater Quality Association (requires subscription); see: <https://www.casqa.org/resources/bmp-handbooks>

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SWPPP IMPLEMENTATION. All of the requirements of the City-approved Storm Water Pollution Prevention Plan shall be implemented prior to the City's issuance of a grading permit, and shall be maintained until construction is complete and all disturbed areas are fully stabilized. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FIRE ACCESS 150+ FT. Dead End roadways exceeding one hundred fifty (150) feet in length shall be approved by the Fire Department. [F 45]



**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FIRE ACCESS-SINGLE STORY ROAD ACCESS. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FIRE SURFACE. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all weather driving capabilities. Road surface shall meet the approval of the Fire Chief prior to installation. All roads shall be designed to 85 compaction and or paving and hold the weight of Fire Apparatus at a minimum of 80K pounds. [F 42]

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

WATER SYSTEM. Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SCHOOL FEES. The Developer shall pay required school fees. (B)



**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DENSITY BONUS AND INCENTIVE AGREEMENT. The applicant shall execute a density and incentive agreement placing restrictions on the tenants/owners of the development with all incentives approved by the City in accordance with state law. The agreement shall be subject to review and approval by the City prior to its execution. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FENCING PLANS. Two complete sets of engineered construction plans for the required fencing shall be submitted to the Building and Safety counter. New walls along the perimeter shall be decorative (i.e. spit face) and the wrought iron fencing along the street shall incorporate decorative pilasters with a decorative cap. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

LANDSCAPE PLANS. The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and completed landscape packet to the Building Division. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number, size, type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

BUILDING ARCHITECTURE. The buildings shall be subject to the design standards and guidelines in Chapter 8 of the Main Street and Freeway Corridor Specific Plan. To improve the look of the buildings, the design shall include stacked stone veneer along columns and the base of the buildings. The design shall include grids on windows and incorporate tile inserts on the walls. The east building elevations of Buildings 1 & 5 facing Eleventh Avenue shall have additional architectural enhancements to add interest. Mature landscaping shall be used to enhance the overall design.

## CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

AS BUILT PLANS. The Developer shall provide as built plans, Notice of Completion, and One Year Maintenance Bonds to the Engineering / Water Sewer Departments. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PUBLIC IMPROVEMENTS. All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

EXECUTED AND RECORDED WQMP MAINTENANCE AGREEMENT. The WQMP Maintenance Agreement: Covenant and Agreement Regarding Water Quality Management Plan and Stormwater Best Management Practices Transfer, Access, and Maintenance, must be (1)



prepared using the WQMP Maintenance Agreement Template provided as Attachment A to the City of Hesperia WQMP Templates, and (2) the complete WQMP Maintenance Agreement, with the Property Owners notarized signature(s) and suitable for recordation by the City, must be received before the City will authorize the final inspection or issue a Certificate of Occupancy.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

NPDES-PERMIT TERMINATION. Upon completion of construction, the Project shall ensure that all disturbed areas are stabilized and all construction waste, equipment, and unnecessary temporary BMPs are removed from the site. In addition, the Project shall file a Notice of Termination (NOT) with the Lahontan Regional Water Board as required by the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, and provide to the City a copy of the approved NOT. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

VOLUME CERTIFICATION. The property owner will provide the City with certified as-built dimensions of the basins and the actual volume of storage provided. This must be based on As-Built topographic surveys made by either a Civil Engineer or Land Surveyor who is registered to practice in California. These as-built volumes must reflect permanent conditions, with finished landscaping in place. The volumes shall be certified by the Design Engineer that the volumes provided meet or exceed the required design volumes per City requirements and the approved Water Quality Management Plan. The volume of storage provided must equal or exceed the approved design volumes before the City will issue Letters of Acceptance for maintenance of any public facilities.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

WQMP PERMIT. The Property Owner shall apply for a City WQMP Permit with the Building and Safety Department and pay the applicable permit fees. The WQMP Permit shall be renewed annually. To comply with the WQMP Permit, the Property Owner shall certify on an annual basis that all of the post-construction best management practices (BMPs) described in the approved project WQMP have been inspected and maintained as specified and required by the BMP Inspection and Maintenance Form and Operation and Maintenance Plan. The Property Owner shall provide proof of the WQMP Permit before the City will issue a Certificate of Occupancy.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FIRE ALARM-AUTO OR MANUAL. A manual, automatic or manual and automatic fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. [F 62a]

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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



**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FIRE SPRINKLER NFPA#13. An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of (minimum 1/8 scale) shall include hydraulic calculations and manufacturers specification sheets. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F 59]

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

GATE OVERRIDE SWITCH. Where an automatic electric security gate is used, an approved Fire Department override switch (Knox) is required. [F86]

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

HYDRANT MARKING. Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. [F80]

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

- A. Development Impact Fees (B)
- B. Park Fees (B)
- C. Utility Fees (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DIRECTORY ADDRESSING. Apartments condominiums and commercial or industrial complexes with more than three separate buildings on site shall have a building directory. Directories are to be posted at the main entrance(s) to the complex on the entry driveway side. Directories shall not be located in the public right-of-way or clear sight triangle areas. Directories shall be of sufficient size to be clearly visible from the public roadway serving the entrance driveway but in no case less than two feet in either dimension or six square feet. The directory shall be lighted from a power source dedicated to the general premises. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY CLEARANCE AND C OF O. The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ON SITE IMPROVEMENTS. All on site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable



Title 16 requirements. The building shall be designed consistent with the design shown upon the approved materials board and color exterior building elevations identified as Exhibit A. Any exceptions shall be approved by the Director of Development Services. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

LANDSCAPING/IRRIGATION. The Developer shall install the landscaping and irrigation as required by the Planning Division. (P)

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

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