

# PLANNING COMMISSION

## ***REGULAR MEETING***

**Date: September 12 , 2019**

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

### **COMMISSION MEMBERS**

Cody Leis, Chair

Rusty Caldwell, Vice Chair

Kerrie Justice, Commissioner

James Blocker, Commissioner

Vacant, Commissioner

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

Chris Borchert, Principal Planner

Braden Holly, 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 Chris Borchert, Principal Planner (760) 947-1231. 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

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

## Meeting Agenda Planning Commission

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Thursday, September 12, 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**

*Cody Leis Chair  
Rusty Caldwell Vice Chair  
James Blocker Commissioner  
Kerrie Justice Commissioner  
Vacant 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**

Page 5

Consideration of the July 11, 2019 Planning Commission Draft Meeting

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

It is recommended that the Planning Commission approve the Draft Minutes from the Regular Meeting held on July 11, 2019.

**Staff Person:** Office Assistant, Amanda Malone

**Attachments:** 07112019 PC MINUTES

## **PUBLIC HEARINGS**

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Consideration of a Conditional Use Permit, CUP19-00007, to construct a 4,450 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, and a 4,104 square foot fueling station with 7 fuel islands in conjunction with a Variance, VAR19-00002, to reduce the 20' required rear yard setback to approximately 12'-8" (APN: 0408-134-03 & 25; Applicant: Circle K Stores, Inc).

### **Recommended Action:**

It is recommended that the Planning Commission adopt Resolution Nos. PC-2019-20 and PC-2019-22, recommending that the City Council approve CUP19-00007 and VAR19-00002.

**Staff Person:** Senior Planner Ryan Leonard

**Attachments:** [PC Staff Report](#)

[Attachment 1 - Site Plan](#)

[Attachment 2 - General Plan Map](#)

[Attachment 3 - Aerial photo](#)

[Attachment 4 - Floor plans](#)

[Attachment 5 - Color elevations](#)

[Attachment 6 - Census tract](#)

[Attachment 7 - Resolution No. PC-2019-20](#)

[Attachment 8 - Exhibit "A" Conditions of Approval](#)

[Attachment 9 - Resolution No. PC-2019-22](#)

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Consideration of a Variance, VAR19-00003, to allow an accessory building (attached guest house and garage) to exceed the maximum height of 16 feet when located within 30 feet of a side or rear property line. The building is approximately 17.6 feet in height, 5 feet from the side property line and 10 feet from the rear property line at 8968 Grapefruit Avenue (Applicant: Heraclio Herrera; APN: 0411-271-18).

### **Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-21, approving VAR19-00003.

**Staff Person:** Senior Planner Daniel Alcayaga

**Attachments:**   [Staff Report](#)  
[Attachment 1 - Site Plan](#)  
[Attachment 2 - General Plan Map](#)  
[Attachment 3 - Aerial Photo](#)  
[Attachment 4 - Building Elevations](#)  
[Attachment 5 - Resolution PC-2019-21](#)

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Consideration of a General Plan Amendment, GPA19-00001, from Rural Residential with a minimum lot size of 2½ acres (RR-2½) to Rural Residential with a minimum lot size of one-acre (RR-1) in conjunction with Tentative Parcel Map TPM19-00004 (PM-20019), to create two parcels from 4.8 gross acres located 300 feet south of Mesquite Street, on the east side of Opal Avenue (Applicant: Mas Tierra, Inc.; APN: 0405-371-37).

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution Nos. PC-2019-23 and PC-2019-24, recommending that the City Council approve GPA19-00001 and TPM19-00004.

**Staff Person:**   Senior Planner Daniel Alcayaga  
**Attachments:**   [Staff report](#)  
[Attachment 1 - Tentative Parcel Map](#)  
[Attachment 2 - General Plan Map](#)  
[Attachment 3 - Aerial Photo](#)  
[Attachment 4 - Resolution PC-2019-23](#)  
[Attachment 5 - Exhibit A](#)  
[Attachment 6 - Resolution PC-2019-24](#)  
[Attachment 7 - 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, Amanda Malone, Planning Commission Secretary of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Wednesday, September 4, 2019 at 5:30 p.m. pursuant to California Government Code §54954.2.*

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*Amanda Malone,  
Planning Commission Secretary*



# City of Hesperia Meeting Minutes Planning Commission

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

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Thursday, July 11, 2019

6:30 PM

Council Chambers

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

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

Pledge was led by Commissioner Caldwell

### **B. Invocation**

Invocation was led by Commissioner Blocker

### **C. Roll Call**

**Present**      Chair Tom Murphy  
                 Commissioner Rusty Caldwell  
                 Commissioner James Blocker  
                 Commissioner Kerrie Justice

**Absent**        Vice Chair Cody Leis

### **D. Reorganization of the Planning Commission**

1.      **Election of Chair**
2.      **Election of Vice Chair**

**A motion was made by Murphy, seconded by Justice, that Cody Leis be elected Chair and Rusty Caldwell be elected Vice Chair. The motion carried by the following vote:**

**Aye:**            Chair Tom Murphy  
                 Commissioner Rusty Caldwell  
                 Commissioner James Blocker  
                 Commissioner Kerrie Justice

**Absent:**        Vice Chair Cody Leis

## **JOINT PUBLIC COMMENTS**

Chair Murphy Opened the Public Comments at 6:33 pm.  
There were no Public Comments.  
Chair Murphy closed the Public Comments at 6:33 pm.

## **CONSENT CALENDAR**

1. Consideration of the May 9, 2019 Planning Commission Draft Meeting Minutes

### **Recommended Action:**

It is recommended that the Planning Commission approve the Draft Minutes from the regular meeting held on May 9, 2019

**Sponsor:** Administrative Secretary Erin Baum

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

**Aye:** Commissioner Kerrie Justice  
Commissioner Rusty Caldwell  
Commissioner James Blocker

**Abstain:** Chair Tom Murphy

**Absent:** Vice Chair Cody Leis

## **PUBLIC HEARINGS**

1. Consideration of a Conditional Use Permit, CUP19-00005, to allow the sale of beer, wine and liquor for on-site consumption within a restaurant (Culichich Town Restaurant) (Applicant: Culichich Town Hesperia, Inc; APN: 3064-481-13).

### **Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-13, approving CUP19-00005.

**Sponsor:** Senior Planner Ryan Leonard

Senior Planner Ryan Leonard gave a presentation on the project.

Chair Tom Murphy opened the Public Comments at 6:37pm.

There were no Public Comments.

Chair Tom Murphy closed the Public Comments at 6:38pm.

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

**Aye:** Chair Tom Murphy  
Commissioner Rusty Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

2. Tentative Tract TT18-00002 (TT-20259), Site Plan SPR18-00011 & Minor Exception ME19-00001

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution PC No. 2019-14, approving TT18-00002 (TT-20259), Site Plan SPR18-00011 and Minor Exception ME19-00001.

**Sponsor:** Senior Planner Ryan Leonard

Senior Planner Ryan Leonard gave a presentation on the project.

Chair Tom Murphy opened the Public Comments at 6:45 pm.

There were no Public Comments.

Chair Tom Murphy closed the Public Comments at 6:45 pm.

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

**Aye:** Chair Tom Murphy  
Commissioner Rusty Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

3. Planned Development PPD18-00001, Conditional Use Permit CUP18-00007(Americana-Hesperia Retirement Project, LLC; APN: 0405-062-56 & 70)

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-11, recommending that the City Council introduce and place on first reading an ordinance approving PPD18-00001 and adopt Resolution No. PC-2019-12, recommending approval of CUP18-00007 for the entire development including assisted living facility and alcohol sales.

**Sponsor:** Senior Planner Ryan Leonard

Senior Planner Ryan Leonard gave a presentation on the project.

Chair Tom Murphy opened the Public Comments at 7:04 pm.

Applicant's representative Dino DeFazio spoke in regards to the liquor licenses requested on the project.

Chair Tom Murphy closed the Public Comments at 7:06 pm.

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

**Aye:** Chair Tom Murphy  
Commissioner Rusty Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

4. Consideration of a Conditional Use Permit, CUP19-0004 to establish a microbrewery and a beer-tasting lounge at 11430 "I" Avenue (Applicant: 3 Dogs Barking Brewing Company' APN: 0415-272-11).

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-15, approving CUP19-00004 to establish a microbrewery and a beer-tasting lounge.

**Sponsor:** Senior Planner Daniel Alcayaga

Senior Planner Daniel Alcayaga gave a presentation on the project.

Chair Tom Murphy opened the Public Comments at 7:17pm.

Jennifer Sweet spoke in favor of the project and applicant.

Bob Tarango spoke in favor of the project and applicant.

Randolph Fincter spoke in favor of the project and applicant.

The applicant, Jessie Cancellle spoke in favor of the project and offered to answer Commission questions.

Chair Tom Murphy closed the Public Comments at 7:28 pm.

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

**Aye:** Chair Tom Murphy  
Commissioner Rusty Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

5. Consideration of a Revised Site Plan Review, SPRR19-00003 to construct 20 units on a site that is partially improved with a 12-unit apartment complex, in conjunction with Variance VAR19-00001 to allow setback reductions, on 3.1 gross acres within the Medium Density Residential (MDR) Zone of the Main Street and Freeway Corridor Specific Plan located at 9578 Maple Avenue. This project is categorically exempt from CEQA (Applicant: Maple West, LLC; APNs: 3057-131-35).

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution Nos. PC-2019-17 and PC-2019-18, approving SPRR19-00003 to construct 20 units on a site that is partially improved with a 12-unit apartment complex, in conjunction with VAR19-00001 to allow setback reductions.

**Sponsor:** Senior Planner Daniel Alcayaga

Chair Tom Murphy recused himself for item #6.

Senior Planner Daniel Alcayaga gave a presentation on the project.

Commissioner Rusty Caldwell opened the Public Comments at 7:35pm

Architect Tom Steeno spoke in favor of the project.

Commissioner Rusty Caldwell closed the Public Comments at 7:37 pm.

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

**Aye:** Commissioner Rust Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

**Recused:** Chair Tom Murphy

6. Reconsideration of CUP19-00002 to allow for the sale of beer, wine, and liquor for on-site consumption (Type 47) in conjunction with a restaurant at 17376 Main Street, Unit C (Applicant: M.O.R.R. - Round Table Pizza; APN: 0410-135-56).

**Recommended Action:**

It is recommended that the Planning Commission adopt Resolution No. PC-2019-19, approving CUP19-00002 to allow for the sale of beer, wine and liquor for on-site consumption (Type 47) in conjunction with a restaurant at 17376 Main Street, Unit C.

**Sponsor:** Senior Planner Daniel Alcayaga

Senior Planner Daniel Alcayaga gave a presentation on the project.

Chair Tom Murphy opened the Public Comments at 7:42pm.

Applicant Rudolpho Rocha spoke about the project and offered to answer Commission questions.

Chair Tom Murphy closed the Public Comments at 7:44pm.

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

**Aye:** Chair Tom Murphy  
Commissioner Rusty Caldwell  
Commissioner James Blocker  
Commissioner Kerrie Justice

**Absent:** Vice Chair Cody Leis

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

Senior Planner Daniel Alcayaga filled in for Principal Planner Chris Borchert, who is on vacation. Daniel gave the Commission an update on pending and future projects.

At this time the Commission circled back to the Commission Reorganization item previously passed over.

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

#### **E. DRC Comments**

There were no comments

#### **F. Major Project Update**

There were no updates.

### **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**

Meeting was adjourned at 7:50pm until Thursday September 12, 2019.

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Cody Leis  
Vice Chair

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Erin Baum,  
Planning Commission Secretary

# City of Hesperia STAFF REPORT



**DATE:** September 12, 2019  
**TO:** Planning Commission  
**FROM:** Chris Borchert, Principal Planner  
**BY:** Ryan Leonard, Senior Planner  
**SUBJECT:** Conditional Use Permit CUP19-00007 and Variance VAR19-00002; Applicant: Circle K Stores, Inc.; APNs: 0408-134-03 & 25

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## RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2019-20 and PC-2019-22, recommending that the City Council approve CUP19-00007 and VAR19-00002.

## BACKGROUND

**Proposal:** A Conditional Use Permit (CUP) has been filed to construct a 4,450 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, and a 4,104 square foot fueling station with 7 fuel islands on 1.8 gross acres. A Variance (VAR19-00002) has also been filed to reduce the required 20-foot rear yard setback to approximately 12-feet 8-inches' (Attachment 1).

**Location:** On the northwest corner of Main Street and Cottonwood Avenue. Main Street is designated as a 120-foot wide Special Street on the City's adopted Circulation Plan and Cottonwood Avenue is designated as a 100-foot wide Arterial Street.

**Current General Plan, Zoning and Land Uses:** The site is within the Office Commercial (OC) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 2. The properties to the north consist of single family residences. An ARCO AM/PM gas station exists to the east on the opposite side of Cottonwood Avenue. The property to the south is built with a commercial shopping center. The property to the west is vacant (Attachment 3).

## ISSUES/ANALYSIS

**Conditional Use Permit:** The Specific Plan requires approval of a CUP for the proposed fueling station and the sale of alcoholic beverages. In addition, the City Council adopted Ordinance No. 2017-08 on October 3, 2017 which requires that all applications for off-sale alcohol (type 20 and 21 ABC licenses) below 12,000 square feet in floor area be forwarded to the City Council for final action. Such establishments must be located within 500 feet of an intersection of two arterial or major arterial streets identified on the City's adopted Circulation Plan.

The proposed CUP consists of the development of a 4,450 square foot Circle K convenience store and a 4,104 square foot fueling station with 7 fuel dispensers (Attachment 4). The CUP also includes the sale of beer, wine and liquor from the convenience store for off-site consumption (Type 21 License).

With the exception of the rear building setback, the proposed development complies with all other development regulations, including the minimum building requirements, landscaping, and number of parking spaces. The parking ordinance requires a minimum of 18 parking spaces, based upon 4 spaces per 1,000 square feet of gross floor area. As proposed the project provides 22 parking spaces.

The site design complies with the architectural guidelines of the Specific Plan. The exterior of the building utilizes a stucco finish with varying accent colors and stacked stone columns on all sides of the building. The building also incorporates changes in wall and roof planes, and includes other architectural features such as steel awnings, cornices, and decorative lighting on the walls of the buildings. The east side of the building, which is adjacent to Cottonwood Avenue, includes metal lattices with hanging vines to add additional interest from the right-of-way (Attachment 5). The project also provides a surplus of landscaping. The minimum required landscape coverage is 5% of the developed site; the project provides 10,455 square feet (22%) of total landscape coverage.

The applicant will file an application for a Type 21 (Off-Sale Beer, Wine and Liquor) license with the California Department of Alcoholic Beverage Control (ABC). The Specific Plan requires approval of a CUP for the sale of alcoholic beverages. Table 1 identifies four active off-sale alcoholic beverage licenses within Census Tract 100.16 (Attachment 6). ABC authorizes this census tract to have three off-sale licenses. Therefore, approval of CUP19-00007 will exceed the limitation of 3 licenses and ABC will require that the City make a finding of public convenience and necessity (Attachment 7).

**Table 1: Existing On-Sale Licenses in Census Tract 100.16**

Status	Business Name	Business Address	Type of License
Active	Stater Bros Markets	14466 Main Street	21-Beer, Wine, and Liquor
Active	Shop N Go	14518 Main Street	20-Beer and Wine
Active	Chevron	13188 Main Street	21-Beer, Wine, and Liquor
Active	Western Refining Retail, LLC	13100 Main Street	20-Beer and Wine

**Variance:** The applicant is requesting approval of a Variance for the rear building setback. The need for a variance is related to the size of the lot, location and tanker truck access requirements.

The Specific Plan requires a 20-foot rear building setback when a commercial use abuts a residentially zoned property. The proposed gas island canopy complies with the required setback; however, the food mart building does not. The convenience store is proposed to be setback from the rear property line by 12 feet 8 inches at the east end of the building, and 15 feet at the west end of the building. The varying rear yard setback is a result of Main Street not being parallel with the rear property line, creating a parcel that narrows as you move towards the east side of the parcel.

Enough of a unique circumstance related to the property exists to support approval of the setback variance. As previously mentioned, Main Street does not run parallel to the rear property line, creating a parcel that narrows as you move towards the east side of the parcel. At its longest point, the site is approximately 193 feet in depth before street dedications; at its narrowest point, the site is approximately 187 feet in depth. The minimum lot depth requirement

for new lots in the Office Commercial zone is 200 feet and other properties that are in close proximity to the site generally have a deeper site to work with. For example, at its longest point the parcel to the west has a lot depth of 195 feet. In addition, all of the parcels to the west until Maple Avenue gradually increase in size due to the alignment of Main Street. The parcel to the east, on the opposite side of Cottonwood Avenue, is built with an AM/PM gas station and has a lot depth of 313 feet.

Furthermore, fueling stations are unique in that they require specific site design features. The site has been designed to accommodate gas tanker trucks, and to have improved on-site vehicular circulation by providing additional maneuvering space within the drive aisles. The site is designed with 30-foot-wide drive aisles whereas the Development Code requires 26-foot-wide drive aisles. The applicant desires wider drive aisles for safer traffic flow during peak customer demand and to accommodate larger vehicles. Approval of the Variance will not adversely affect the property owners in the vicinity. The proposed convenience store is not anticipated to generate a substantial amount of noise and the space between the rear of the building and rear property line will not be used for parking or access. Furthermore, the site is designed with a new 6-foot high masonry block wall along the northern property line. The proposed building features four sided architecture with various architectural design elements to enhance the aesthetic quality of the development. Site lighting will be designed to be directed away from the neighboring residential uses.

**Traffic/Street Improvements:** Access to the site will be provided by a right-in and right-out driveway approach off of Main Street, and a full access driveway approach off of Cottonwood Avenue. As part of developing the site, the developer is required to dedicate right-of-way and construct street improvements, including curb, gutter and sidewalk along the project frontages of Main Street and Cottonwood Avenue. Street improvements will include the construction of a westbound right turn lane for the proposed driveway approach off of Main Street, and a southbound right turn lane along Cottonwood Avenue at the signalized intersection. In addition, the project will be required to modify the existing traffic signal and restripe north, east and west crosswalks at the intersection.

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

**Water and Sewer:** The development will connect to an existing 10-inch sewer line and an existing 12-inch water line located along Main Street.

**Environmental:** The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15332, In-fill Development Projects. This exemption applies to developments on sites no larger than five acres, which are consistent with the General Plan and are substantially surrounded by urban uses. Prior to issuance of a grading permit, a pre-construction survey conducted by an approved biologist shall be performed to determine whether the site contains burrowing owls.

**Conclusion:** The project conforms to the policies of the Specific Plan and is consistent with the General Plan with adoption of a Variance. For the reasons described above, approval of a Variance will not result in an adverse impact to neighboring properties. Further, approval of the sale of beer and wine is appropriate, particularly to allow the convenience store to be competitive with similar businesses and to meet customer demand.

**FISCAL IMPACT**

None.

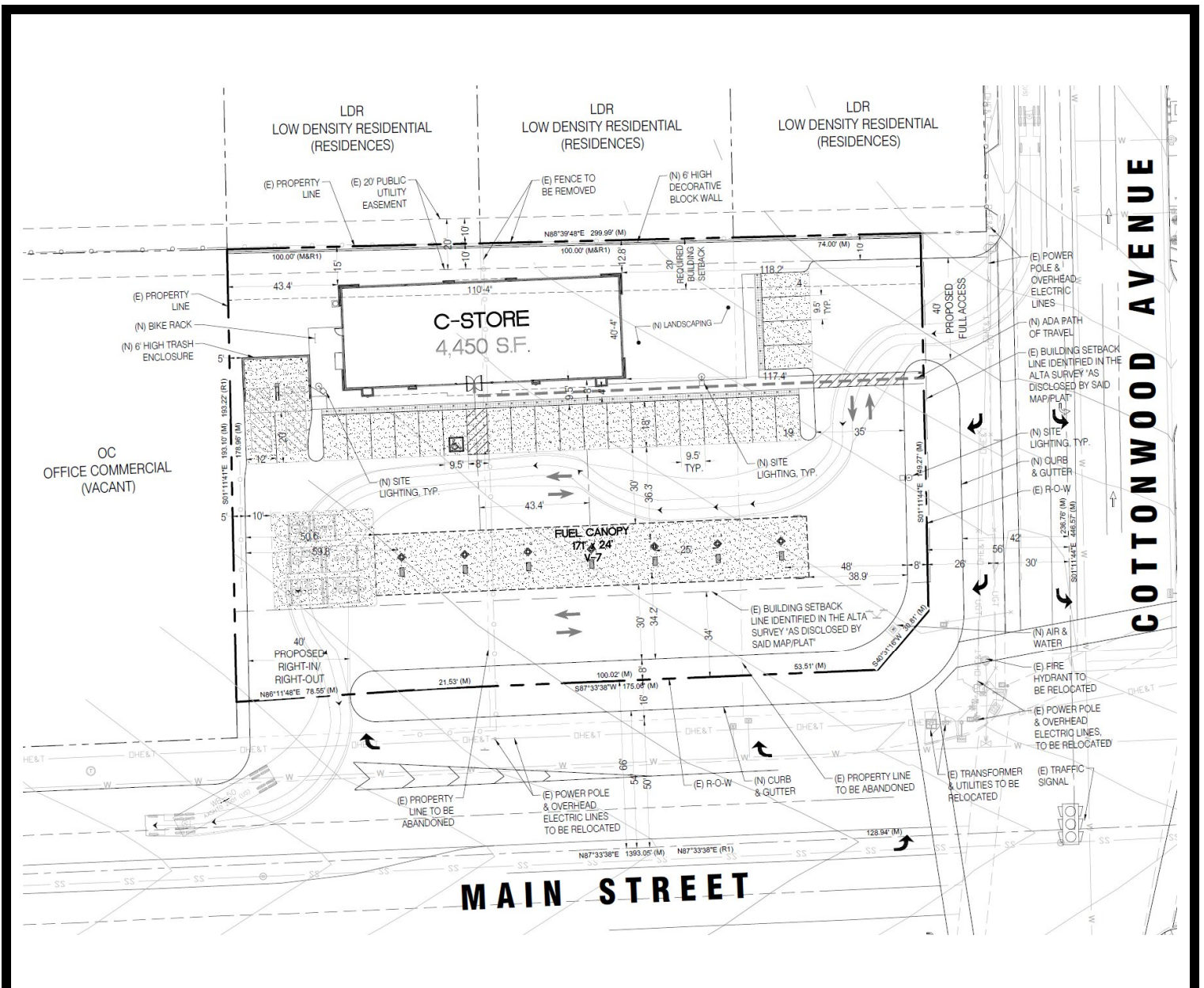
**ALTERNATIVE(S)**

1. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Site Plan
2. General Plan
3. Aerial photo
4. Floor plans
5. Color elevations
6. Census Tract Map
7. Resolution No. PC-2019-20, with list of conditions (CUP)
8. Resolution No. PC-2019-22 (VAR)

# ATTACHMENT 1



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

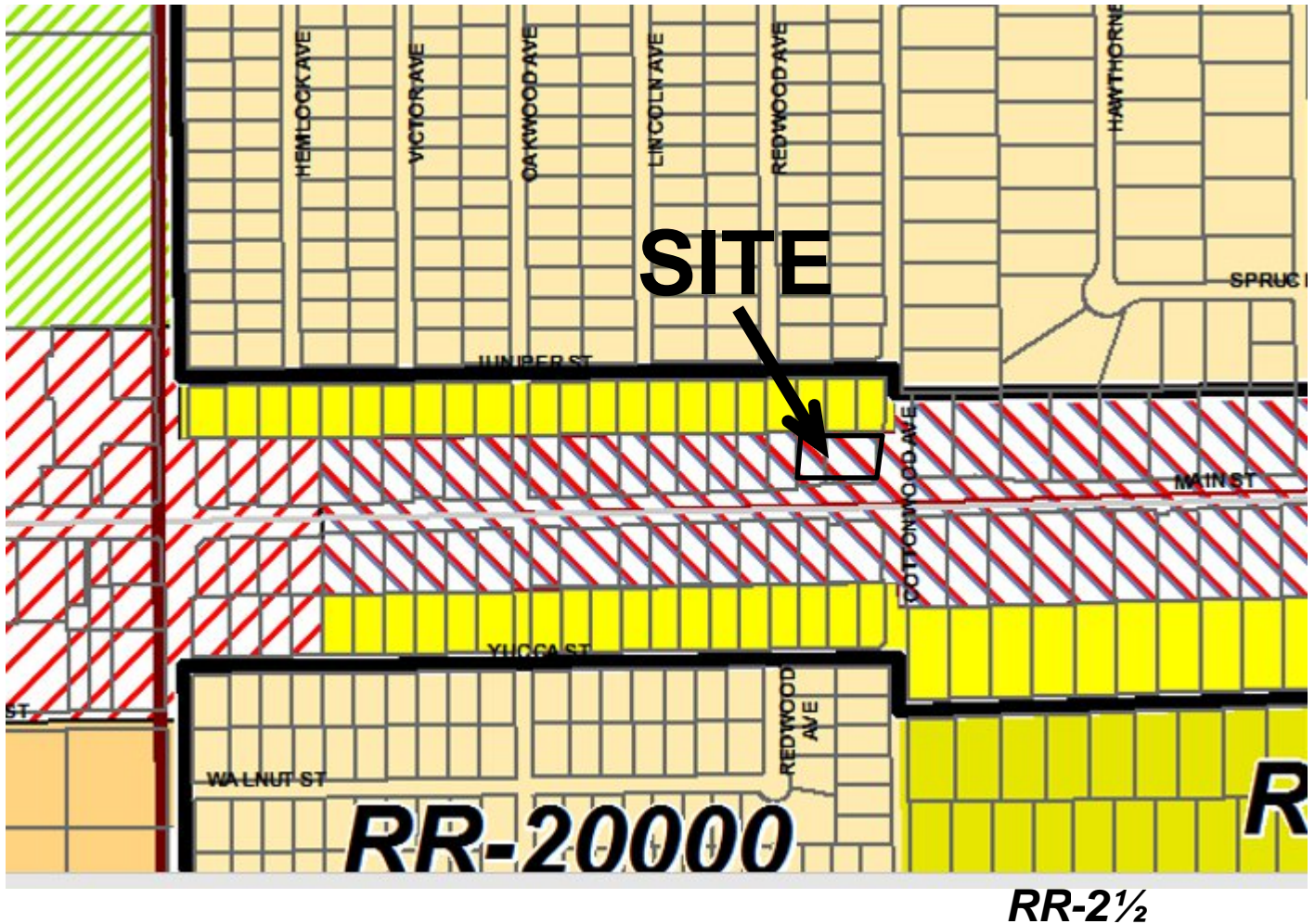
**APN(S):**  
0408-134-03 & 25

**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN



## SITE PLAN

# ATTACHMENT 2



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

**APN(S):**  
0408-134-03 & 25

**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN



## GENERAL PLAN MAP

# ATTACHMENT 3



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

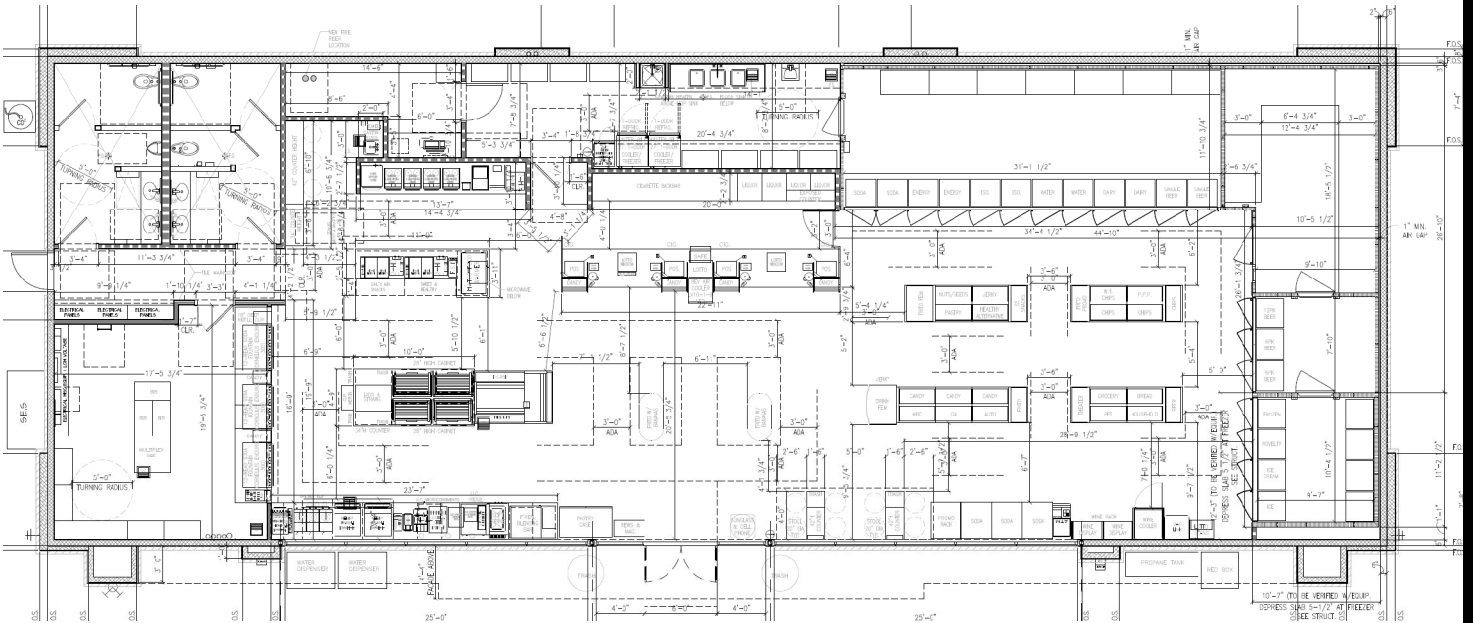
**APN(S):**  
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**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN



## AERIAL PHOTO

# ATTACHMENT 4



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

**APN(S):**  
0408-134-03 & 25

**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN



## FLOOR PLAN

# ATTACHMENT 5



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

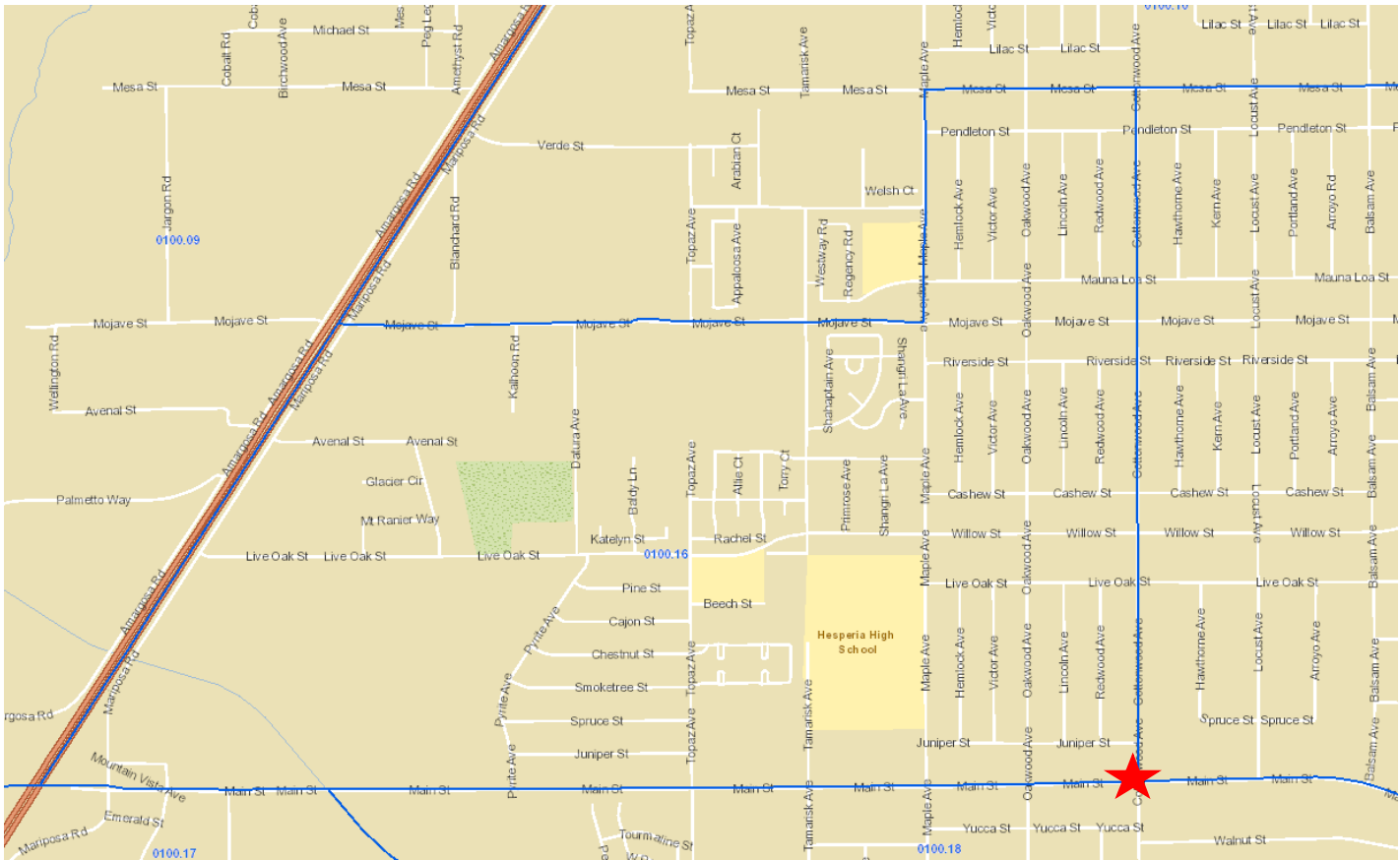
**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

**APN(S):**  
0408-134-03 & 25

**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN

**COLOR ELEVATION**

# ATTACHMENT 6



**APPLICANT(S):** CIRCLE K STORES, INC

**FILE NO(S):** CUP19-00007 & VAR19-00002

**LOCATION:** NORTHWEST CORNER OF MAIN ST AND COTTONWOOD AVE

**APN(S):**  
0408-134-03 & 25

**PROPOSAL:** CONSIDERATION OF CONDITIONAL USE PERMIT CUP19-00007 TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS IN CONJUNCTION WITH VARIANCE VAR19-00002 TO REDUCE THE 20' REQUIRED REAR YARD SETBACK TO APPROXIMATELY 12'-8" LOCATED ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN



## CENSUS TRACT MAP

# ATTACHMENT 7

## RESOLUTION NO. PC-2019-20

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 4,450 SQUARE FOOT CONVENIENCE STORE THAT INCLUDES THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, AND A 4,104 SQUARE FOOT FUELING STATION WITH 7 FUEL ISLANDS ON APPROXIMATELY 1.8 GROSS ACRES WITHIN THE OFFICE COMMERCIAL (OC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE NORTHWEST CORNER OF MAIN STREET AND COTTONWOOD AVENUE (CUP19-00007)**

**WHEREAS**, Circle K Stores, Inc. has filed an application requesting approval of CUP19-00007 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to approximately 1.8 gross acres located on the northwest corner of Main Street and Cottonwood Avenue and consists of Assessor's Parcel Numbers 0408-134-03 & 25; and

**WHEREAS**, the Application, as contemplated, proposes to construct a 4,450 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, and a 4,104 square foot fueling station with 7 fuel islands; and

**WHEREAS**, Circle K Stores, Inc. has also filed an application requesting approval of a Variance (VAR19-00002), to reduce the required 20-foot rear yard setback to approximately 12-feet 8-inches; and

**WHEREAS**, the 1.8 gross acre site is currently vacant; the properties to the north consist of single family residences, an ARCO AM/PM gas station exists to the east on the opposite side of Cottonwood Avenue, the property to the south is built with a commercial shopping center and the property to the west is vacant; and

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

**WHEREAS**, this project is exempt from the California Environmental Quality Act (CEQA), per Public Resources Code Section 15332, Infill Development Projects; and

**WHEREAS**, on September 12, 2019, the Planning Commission of the City of Hesperia conducted a 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 September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use. The site is approximately 1.8 gross acres and can accommodate a 4,450 square foot convenience store and a 4,104 square foot fueling station with 7 fuel islands and 22 parking spaces. The development complies with the standards for landscaping, driveway aisles, parking stall dimensions, building heights, trash enclosure, loading areas, and all other applicable development standards. The project also complies with the Americans with Disabilities Act (ADA), as the required accessible parking spaces and paths of travel meet the standards within the ADA as well as state and federal handicapped accessible regulations. The development will be constructed pursuant to the California Building and Fire Codes and subsequent adopted amendments.
- (b) The proposed use will not have a substantial adverse effect on abutting properties or the permitted use thereof because the proposed project is consistent with the OC zone of the Main Street and Freeway Corridor Specific Plan, with approval of this Conditional Use Permit. The proposed project is consistent with the maximum gross floor area ratio of 0.35 in the OC Zone. The proposed FAR for the project is 0.05. The project is also designed with an on-site underground retention/detention to accommodate the required capacity of a 100-year storm. The project also meets all of the development standards of the OC Zone except the minimum 20-foot rear yard setback. The project proposes a rear yard setback of 12 feet 8 inches at the east end of the building, and 15 feet at the west end of the building. The reviewing authority believes that approval of the Variance will not have an adverse effect on abutting properties because the proposed convenience store is not anticipated to generate substantial amounts of noise, and the site is designed with a 6-foot high block wall along the northern property line separating the proposed commercial use from the adjacent residential properties. Furthermore, the sale of alcoholic beverages (beer, wine and liquor) as part of the convenience store will not have a detrimental impact on adjacent properties.
- (c) The proposed sale of beer, wine and liquor for off-site consumption is consistent with the objectives, policies, general land uses and programs of the General Plan, Specific Plan and Development Code. The sale of alcoholic beverages at this location supports the public convenience and necessity and is consistent with the allowable uses within the OC zone with approval of a Conditional Use Permit.
- (d) The proposed project is consistent with the adopted General Plan of the City of Hesperia. The project site is within the OC zone of the Specific Plan. A gas station, convenience store, and the sale

of alcoholic beverages are allowable uses with approval of a Conditional Use permit.

- (e) The site for the proposed use will have adequate access based upon its frontage along Main Street and Cottonwood Avenue. There are also general services for sanitation, water and public utilities to ensure the public convenience, health, safety and general welfare. Additionally, the building will have adequate infrastructure to operate without a major extension of infrastructure.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends that the City Council approve Conditional Use Permit CUP19-00007, subject to the conditions of approval as shown in Attachment "A".

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

**ADOPTED AND APPROVED** on this 12<sup>th</sup> day of September 2019.

---

Cody Leis, Chair, Planning Commission

ATTEST:

---

Erin Baum, Secretary, Planning Commission

**ATTACHMENT "A"**  
**List of Conditions for CUP19-00007**

Approval Date:  
Effective Date:  
Expiration Date:

This list of conditions applies to: Consideration of Conditional Use Permit CUP19-00007 to construct a 4,450 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, and a 4,104 square foot fueling station with 7 fuel islands in conjunction with Variance VAR19-00002 to reduce the 20' required rear yard setback to approximately 12'-8" on approximately 1.4 gross acres within the Office Commercial (OC) zone of the Main Street and Freeway Corridor Specific Plan located on the northwest corner of Main Street and Cottonwood Avenue (APN: 0408-134-03 & 25; Applicant: Circle K Stores, Inc).

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**

DRYWELLS. The Project may be permitted to install drywells to ensure the required drawdown time will be achieved.

A. Drywells shall have a City-approved pretreatment component equivalent to a 2-phase system with debris shield and filter element.

B. Drywells shall be constructed by a contractor qualified in the construction of drywells.

C. Drywells in retention basins shall include a secured grate to prevent unauthorized removal.

D. The excavation for the drywell shall penetrate a minimum of 10 continuous feet into a suitable permeable layer or when a depth of 60 feet has been reached, unless otherwise approved by the City Engineer.

E. Drywells that cease to drain a basin or underground system within 48 hours of the end of a storm event shall be replaced or refurbished by the owner. This requirement shall be written in the CC&Rs for all subdivisions where drywells are installed.

F. Drywell usage shall comply with all prevailing City, State, and Federal requirements, including the Underground Injection Control Regulations for Class V Injection Wells.

G. A Drywell Maintenance Plan shall be submitted to the City for review and approval prior to the approval of a drywell installation at a project site.

H. The Drywell Maintenance Plan shall include the following:

1. Drywell(s) location, depth, type, installing contractor, date of installation, owner, maintenance contractor, and emergency contact.

2. Settling chambers and interceptors to be inspected annually;

3. Removal of sediment and debris when:

a. Sediment/debris level fills = 25% of the capacity;

b. Drywell ownership or maintenance responsibility changes;

c. Material not resulting from stormwater/urban runoff enters the settling chamber or interceptor

I. Submit inspection/maintenance reports to the City (Building and Safety within 10 days of inspection/maintenance)

**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 1-hour design storm for the 100-year return frequency rainfall events.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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 the 100-year return frequency rainfall events.

A. Drawdown Time. All drainage facilities which are designed to percolate/infiltrate surface runoff (including basins, drywells, or infiltration-based low impact development features) shall not accumulate standing water for more than 48 hours. All drainage facilities designed to provide detention storage shall recover 100 percent of their design detention volume within 48 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**

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

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

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	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)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	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)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	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)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	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)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	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)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	TRAFFIC SIGNAL(S). The Developer shall design to construct, relocate, and modify traffic signal at the intersection of Main Street and Cottonwood Avenue. Traffic signal

preemption device for emergency vehicle operation shall be included. (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**

MAIN STREET. Saw-cut (2-foot min.) and match-up asphalt pavement on Main Street across the project frontage, based on City's 120-foot Major Arterial Roadway Standard and approved Traffic Study. The curb face is to be located per recommendation of approved Traffic Study. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Intersection improvements including handicapped ramps per City standards.
- F. Commercial driveway approaches per City standards.
- G. Pavement transitions per City Standards.
- H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 12 and per the soils report.
- I. Cross sections every 50-feet per City standards.
- J. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- K. Provide a signage and striping plan per City standards.
- L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.
- M. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

COTTONWOOD AVENUE. Saw-cut (2-foot min.) and match-up asphalt pavement on Cottonwood Avenue across the project frontage, based on City's 100-foot Arterial Roadway Standard and approved Traffic Study. The curb face is to be located per recommendation of approved Traffic Study. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Intersection improvements including handicapped ramps per City standards.
- F. Commercial driveway approaches per City standards.
- G. Pavement transitions per City Standards.
- H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 10 and

per the soils report.

I. Cross sections every 50-feet per City standards.

J. Traffic control signs and devices as required by the traffic study and/or the City Engineer.

K. Provide a signage and striping plan per City standards.

L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.

M. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

**COMPLETED**

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 Main Street 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 connect to the existing 10" PVC sewer main in Main Street 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**

CULTURAL RESOURCES. If cultural resources are found during grading then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)

**COMPLETED**

NOT IN COMPLIANCE

**COMPLIED BY**

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 with the following revisions made to the improvement plans: (E, P)

A. A minimum four-foot wide landscaped area and a one-foot sidewalk in addition to the six-inch concrete curb shall be installed at the end of all parking space rows as approved by Planning staff

**COMPLETED**

NOT IN COMPLIANCE

**COMPLIED BY**

PROTECTED PLANTS. Three copies of a protected plant plan shall be submitted to the Building Division showing the present location and proposed treatment of all smoke tree, species in

the Agavacea family, mesquite, large creosote bushes, Joshua Trees, and other plants protected by the State Desert Native Plant Act. The grading plan shall be consistent with the approved protected plant plan. No clearing or grading shall commence until the protected plant plan is approved and the site is inspected and approved for clearing. (P)

**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**

LOT MERGER. A lot merger shall be submitted, approved, and recorded. The lot merger and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

CERTIFICATE OF CORRECTION. A Certificate of Correction shall be submitted for review and approval by the City in order to reduce the existing 50 foot front yard Building Setback Line (BSL) along Main Street to 30 feet. 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**

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 WASTE. The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

A. School Fees (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SOLID MASONRY WALLS AND FENCES. The Developer shall submit four sets of masonry wall/wrought iron fencing plans to the Building Division with the required application fees for all proposed walls. A six foot high block wall with decorative cap shall be installed along the north property line separating the property from the adjacent residential uses. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FINAL WQMP SUBMITTAL. Submit a final WQMP, prepared using the applicable Mojave River Watershed Group Regulated 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.

**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>

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.

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

**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**

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)

#### CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

- A. Development Impact Fees (B)
- B. Park Fees (Not applicable to commercial and industrial developments (B)
- C. Utility Fees (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

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

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

AS BUILT PLANS. The Developer shall provide as built plans, 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**

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**

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)

#### **Others**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ALCOHOL SALES. The project is subject to Section 16.16.370 of the Municipal Code which provides standards for the continued operation of alcohol establishments, and sets forth grounds for the modification, revocation and termination of this conditional use permit if it is found to be in violation of this section.

**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>

# ATTACHMENT 8

## RESOLUTION NO. PC-2019-22

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, ALLOWING A MAXIMUM REAR BUILDING SETBACK OF 12 FEET 8 INCHES INSTEAD OF THE 20-FOOT REAR YARD SETBACK IN CONJUNCTION WITH CONDITIONAL USE PERMIT CUP19-00007 (VAR19-00002)**

**WHEREAS**, Circle K Stores, Inc. has filed an application requesting approval of Variance VAR19-00002 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to approximately 1.8 gross acres located on the northwest corner of Main Street and Cottonwood Avenue and consists of Assessor's Parcel Numbers 0408-134-03 & 25; and

**WHEREAS**, the Application, as contemplated, proposes to allow a maximum rear building setback of 12-feet 8 inches instead of the 20-foot rear yard setback; and

**WHEREAS**, Circle K Stores, Inc. has also filed an application requesting approval of Conditional Use Permit CUP19-00007, to construct a 4,450 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, and a 4,104 square foot fueling station with 7 fuel islands; and

**WHEREAS**, the 1.8 gross acre site is currently vacant; the properties to the north consist of single family residences, an ARCO AM/PM gas station exists to the east on the opposite side of Cottonwood Avenue, the property to the south is built with a commercial shopping center and the property to the west is vacant; and

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

**WHEREAS**, this project is exempt from the California Environmental Quality Act (CEQA), per Public Resources Code Section 15332, Infill Development Projects; and

**WHEREAS**, on September 12, 2019, the Planning Commission of the City of Hesperia conducted a 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 September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulties or unnecessary physical hardships because the 20-foot rear yard setback would restrict the developable area of the site which creates an extraordinary circumstance that does not generally apply to other properties in the vicinity. Furthermore, the proposed use necessitates specific site design features to accommodate gas tanker trucks, and to have safe traffic flow on-site by providing additional maneuvering space within the drive aisles;
- (b) There are exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone because Main Street does not run parallel to the rear property line, creating a parcel that narrows as you move towards the east side of the parcel. At its longest point, the site is approximately 193 feet in depth before street dedications; at its narrowest point, the site is approximately 187 feet in depth. The minimum lot depth requirement for new lots in the Office Commercial zone is 200 feet and other properties that are in close proximity to the site generally have a deeper site to work with;
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same designation because the developable area of the site is restricted to a greater degree than other properties in the vicinity due to the lot depth and alignment of Main Street;
- (d) The granting of the Variance would not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zone because there have been other commercial developments that were subject to the same 20-foot rear yard setback that were granted a similar reduction.
- (e) The granting of the Variance will not be detrimental to the public health, safety, or welfare, and will not be materially injurious to properties or improvements in the vicinity, because the proposed convenience store is not anticipated to generate substantial amounts of noise, and the site is designed with a 6-foot high block wall along the northern property line separating the proposed commercial use from the adjacent residential properties. Furthermore, the facility is required to comply with the remainder of the Main Street and Freeway Corridor Specific Plan and all of the California Building Code regulations.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby this Commission hereby recommends that the City Council approve Variance VAR19-00002.

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

**ADOPTED AND APPROVED** this 12<sup>th</sup> day of September 2019.

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Cody Leis, Chair, Planning Commission

ATTEST:

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Erin Baum, Secretary, Planning Commission



**DATE:** September 12, 2019  
**TO:** Planning Commission  
**FROM:** Chris Borchert, Principal Planner  
**BY:** Daniel Alcayaga, Senior Planner  
**SUBJECT:** Variance VAR19-00003; Applicant: Heraclio Herrera; APN: 0411-271-18

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## RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2019-21, approving VAR19-00003.

## BACKGROUND

**Proposal:** A Variance to allow an accessory building (attached guest house and garage) to exceed the maximum height of 16 feet when located within 30 feet of a side or rear property line. The building is approximately 17.6 feet in height, 5 feet from the side property line and 10 feet from the rear property line (Attachment 1).

**Location:** 8968 Grapefruit Avenue

**Current General Plan, Zoning and Land Uses:** The site is within the Single-Family Residence with a minimum lot size of 18,000 square feet (R1-18000). The surrounding land is designated as noted on Attachment 2. The surrounding properties on all sides contain single-family residences (Attachment 3). The primary house on the subject property was completed in 2018.

## ISSUES/ANALYSIS

The applicant proposes a 1,328 square foot accessory building, which includes a 360 square foot guest house and 968 square foot garage, both of which are attached. Guest houses are allowed provided they do not exceed 499 square feet in size and do not have a kitchen. The accessory building does not propose a kitchen and meets the size requirement. The proposed building has an appearance of a two-story building; however, the floor plan is one-story from inside with recessed ceilings over the garage.

Pursuant to Section 16.20.410, accessory buildings that exceed a height of 16 feet must be placed a minimum of 30 feet away from side and rear property lines. Accessory building that do not exceed a height of 16 feet must satisfy the minimum standard setbacks of the respective zone. In the R1-18000, the standard setback is 5 feet on the side yard and 15 feet on the rear yard. Additionally, accessory buildings that do not exceed a height of 16 feet can encroach into the standard 15-foot rear setback, but not more than 5 feet, as long the encroachment does not exceed 25% of the total rear yard. The standard height limitation in the R1-18000 zone is 35 feet or a maximum of 2 ½ stories, but this only applies to the primary house and/or accessory buildings placed 30 feet away from side and rear property lines.

The applicant is requesting a Variance to place the proposed accessory building within the required 30-foot side and rear setbacks and exceed the 16-foot height limitation. The accessory building in question proposes a height of 17.6 feet, a five-foot side yard setback, and 10-foot rear yard setback. The highest point of the accessory building is actually 19 feet, but the height is based on an average. When determining height, the code defines the height as the distance between the ground adjacent to the building and the point (average) between the top plate and the highest point of the gable/hip roof.

**Findings for a Variance:** Staff believes the findings for a Variance can be made as there is an unusual and unique circumstance limited to the property. There is a 20-foot natural drainage course running through the property (Attachment 1). This drainage course bisects the property between the primary house and the proposed accessory building. Strict enforcement of the 30-foot side and rear setback, and requiring the building to stay out of the natural drainage course prevents the property owner from having an accessory building on the property, which is a privilege enjoyed by surrounding properties. The natural drainage course pushes the accessory building to be located towards the north west corner of the property necessitating encroachment of the required 30-foot setback.

**Chronology of Events:** On January 11, 2019, the applicant submitted building plans for an accessory building (attached guest house and garage). Plans were approved by the Building and Safety Department, and building permits were issued on March 28, 2019. During construction, the City received a complaint from a member of the public citing that there are no two-story buildings in the neighborhood. During a field investigation, staff learned that building permit was issued with an incorrect building height and incorrect setbacks. On August 2, 2019, a stop work order notice was issued by the Building and Safety Department. Presently, the applicant has the option of modifying the construction to meet the standard (i.e. reduce the average height of the building to 16 feet) or obtain approval of a Variance. On August 5, 2019, the applicant filed a Variance.

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

**Conclusion:** The natural drainage course and strict enforcement of the 30-foot rear and side setbacks limits placement of the accessory building on the property. The strict enforcement of the setbacks regulations deprives the property owner of having an accessory building, which is a privilege enjoyed by surrounding properties. The project meets the standards of the Development Code with approval of the Variance.

## **FISCAL IMPACT**

None.

## **ALTERNATIVE(S)**

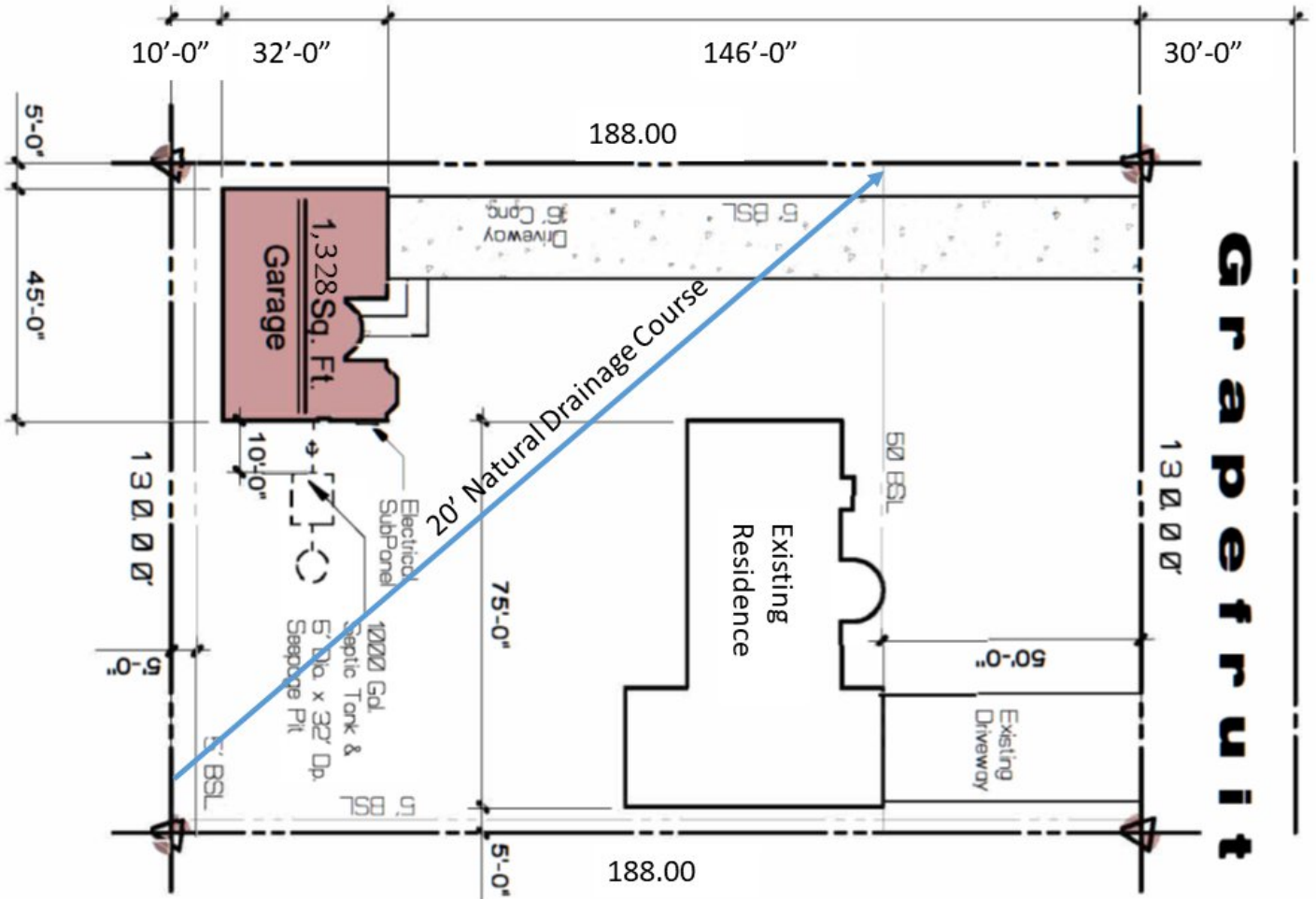
1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

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

4. Building Elevations
5. Resolution No. PC-2019-21, with list of conditions

# ATTACHMENT 1



**APPLICANT(S):** HERACLIO HERRERA

**FILE NO(S):** VAR19-00003

**LOCATION:** 8968 GRAPEFRUIT AVENUE

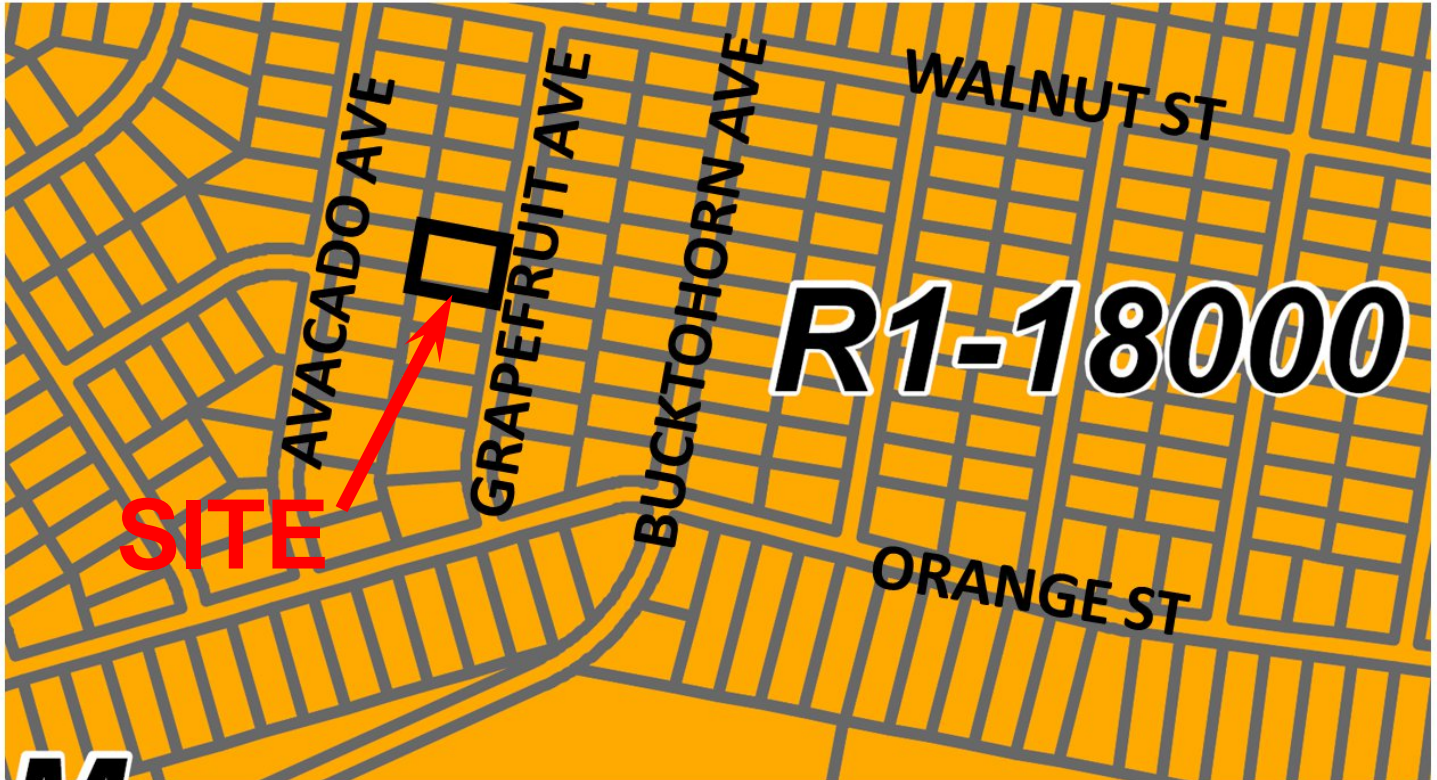
**APN(S):**  
0411-271-18

**PROPOSAL:** CONSIDERATION OF A VARIANCE TO ALLOW AN ACCESSORY BUILDING (GUEST HOUSE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE STRUCTURE IS APPROXIMATELY 17.6 FEET IN HEIGHT AND 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE



**SITE PLAN**

## ATTACHMENT 2



**APPLICANT(S):** HERACLIO HERRERA

**FILE NO(S):** VAR19-00003

**LOCATION:** 8968 GRAPEFRUIT AVENUE

**APN(S):**  
0411-271-18

**PROPOSAL:** CONSIDERATION OF A VARIANCE TO ALLOW AN ACCESSORY BUILDING (GUEST HOUSE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE STRUCTURE IS APPROXIMATELY 17.6 FEET IN HEIGHT AND 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE



## GENERAL PLAN MAP

# ATTACHMENT 3



**APPLICANT(S):** HERACLIO HERRERA

**FILE NO(S):** VAR19-00003

**LOCATION:** 8968 GRAPEFRUIT AVENUE

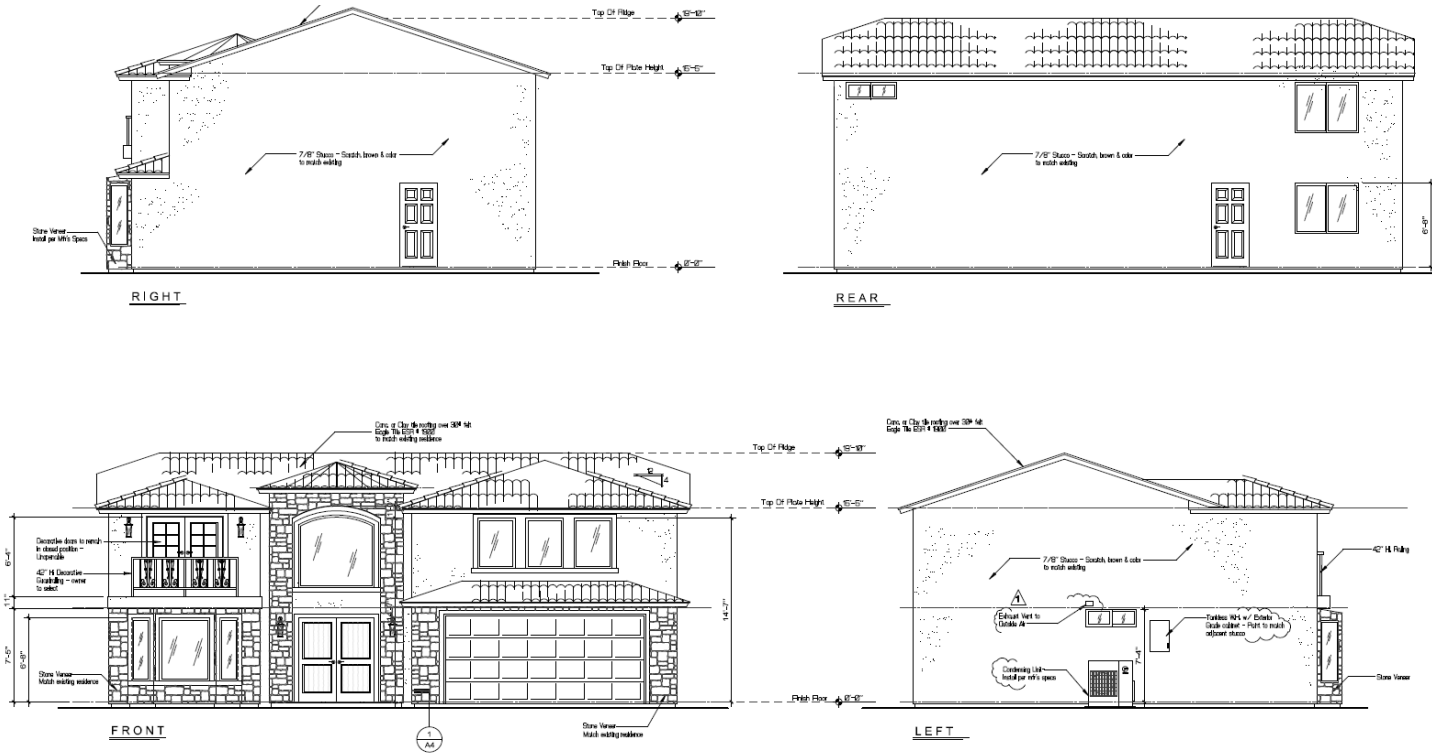
**APN(S):**  
0411-271-18

**PROPOSAL:** CONSIDERATION OF A VARIANCE TO ALLOW AN ACCESSORY BUILDING (GUEST HOUSE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE STRUCTURE IS APPROXIMATELY 17.6 FEET IN HEIGHT AND 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE



**AERIAL PHOTO**

# ATTACHMENT 4



**APPLICANT(S):** HERACLIO HERRERA

**FILE NO(S):** VAR19-00003

**LOCATION:** 8968 GRAPEFRUIT AVENUE

**APN(S):**  
0411-271-18

**PROPOSAL:** CONSIDERATION OF A VARIANCE TO ALLOW AN ACCESSORY BUILDING (GUEST HOUSE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE STRUCTURE IS APPROXIMATELY 17.6 FEET IN HEIGHT AND 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE



## BUILDING ELEVATIONS

# ATTACHMENT 5

## RESOLUTION NO. PC-2019-21

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE, TO ALLOW AN ACCESSORY BUILDING (ATTACHED GUEST HOUSE AND GARAGE) TO EXCEED THE MAXIMUM HEIGHT OF 16 FEET WHEN LOCATED WITHIN 30 FEET OF A SIDE OR REAR PROPERTY LINE. THE BUILDING IS APPROXIMATELY 17.6 FEET IN HEIGHT, 5 FEET FROM THE SIDE PROPERTY LINE AND 10 FEET FROM THE REAR PROPERTY LINE AT 8968 GRAPEFRUIT AVENUE (VAR19-00003)**

**WHEREAS**, Heraclio Herrera has filed an application requesting approval of Variance VAR19-00003 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to a 0.6 gross acre lot within the Single-family Residence with a minimum lot size of 18,000 square feet (R1-18000) designation located at 8968 Grapefruit Avenue and consists of Assessor's Parcel Number 0411-271-18; and

**WHEREAS**, the Application, as contemplated, proposes to exceed the 16-foot height requirement, and encroach into the required 30-foot side and rear setbacks. The applicant proposes an accessory building with an average height of 17.6 feet, a 10-foot rear yard setback, and a five-foot side yard setback; and

**WHEREAS**, the Application applies to a developed single-family residential property. Surrounding properties also contain single-family residences; and

**WHEREAS**, the site as well as all surrounding properties are within the Single-family Residence with a minimum lot size of 18,000 square feet (R1-18000) designation; and

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

**WHEREAS**, on September 12, 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 September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the development code because strict enforcement of the setback requirements, as well as requiring the building to be placed outside of the natural drainage course would limit the property owner in building an accessory building on the property;
- (b) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same land use designation because the property experiences intermittent flooding along a natural drainage course that runs through the property. The accessory building must be placed outside areas that are prone to flooding and necessitate encroachment into the side and rear setbacks;
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same designation because enforcement of the 30-foot setback in addition to not being able to build within the natural drainage course limits the area by which to place an accessory building. This deprives the property owner from building an accessory building that surrounding properties are allowed to have;
- (d) The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same designation because the property has specific limitations limited to the property that necessitate encroachment into the side yard and rear yard setbacks; and dictate the location of the accessory building; and
- (e) The granting of the Variance will not be detrimental to the public health, safety, or welfare or be materially injurious to properties or improvements in the vicinity because the accessory building will maintain a 5-foot setback from the north property line and a 10-foot setback from the west property line, which complies with the required Fire and Building Codes.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR19-00003.

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

**ADOPTED AND APPROVED** on this 12<sup>th</sup> day of September 2019.

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Cody Leis, Chair, Planning Commission

ATTEST:

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Amanda Malone, Secretary, Planning Commission



**DATE:** September 12, 2019  
**TO:** Planning Commission  
**FROM:** Chris Borchert, Principal Planner  
**BY:** Daniel Alcayaga, Senior Planner  
**SUBJECT:** General Plan Amendment GPA19-00001 & Tentative Parcel Map TPM19-00004;  
Applicant: Mas Tierra, Inc.; APN: 0405-371-37)

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## RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2019-23 and PC-2019-24, recommending that the City Council approve GPA19-00001 and TPM19-00004.

## BACKGROUND

**Proposal:** A General Plan Amendment from Rural Residential with a minimum lot size of 2½ acres (RR-2½) to Rural Residential with a minimum lot size of one-acre (RR-1) in conjunction with a Tentative Parcel Map (PM-20019), to create two parcels from 4.8 gross acres (Attachment 1).

**Location:** 300 feet south of Mesquite Street, on the east side of Opal Avenue

**Current General Plan, Zoning and Land Uses:** The property is currently within the Rural Residential with a minimum lot size of 2½ acres (RR-2½) designation. A small portion of the property to the east is designated Utility Corridor (UC), as a portion of the property is part of the Southern California Edison Transmission Tower Corridor. This corridor also extends north and south to east of the property. The surrounding land is designated as noted on Attachment 2. The subject property is vacant. The properties to the north, south and west contain single-family residences (Attachment 3).

## ISSUES/ANALYSIS

**Land Use:** The proposed General Plan Amendment would change the Land Use designation of the subject property from the Rural Residential with a minimum lot size of 2½ acres (RR-2½) to the Rural Residential with a minimum lot size of one-acre (RR-1) designation. The RR-1 designation allows residential uses at a density between 0.41 and 1.0 dwelling units per gross acre. The tentative parcel map creates two parcels, which would yield a density of just 0.41 dwelling units per gross acre. Parcel sizes are 2.3 and 2.5 gross acres. The width of the property is 330 feet with an average depth of 626 feet. The tentative parcel map proposes to subdivide the property in the middle resulting in both parcels having lot widths of 165 feet. The proposed subdivision is in compliance with the minimum lot width, depth, and area requirements of the RR-1 designation.

Staff supports the General Plan Amendment because there are mix of properties designated RR-2½ and RR-1 in this area. There are properties designated RR-1 located 330 feet to the north, and 530 feet to the south. The proposed parcels sizes, which are 2.3 and 2.5 gross acres, are consistent with surrounding properties. The lot sizes in this area range between 1 to 2.5 acres.

A concern was raised by an adjacent property owner that they do not want the subject property to be subdivided into one acre lots. The builder does not intend to create one acre lots; instead, the builder proposes parcels that are 2.3 and 2.5 gross acres. Staff does not believe the builder can propose additional parcels beyond the two parcels because lot widths would start to fall below the standard in the neighborhood and not meet the criteria in Section 16.12.405(6)(a) and (b) of the Development Code (see below).

Section 16.12.405(6):

- a. The project will not have significant or long-range impacts on surrounding properties, city services, or the environment;
- b. The project will not establish a new or different pattern of land uses or intensities in the area;

In reviewing lot widths of surrounding properties, it was found that lot widths were not less than 140 feet. If the applicant proposed a subdivision of three or four parcels, it would result in lot widths of 110 feet and 82.5 feet, which would not be in line with the character of the neighborhood or pattern of land use. Practically speaking a subdivision of one acre lots is not possible due to lot width limitations. Even though the RR-1 designation allows one acre lots, this is not what is proposed. The General Plan amendment is only needed because one of the proposed parcels falls slightly below the 2.5 gross acre requirement. The proposed parcels width and depth are consistent with surrounding properties

**Drainage:** A preliminary drainage study indicates that no significant flows cross this site.

**Street Improvements:** Opal Avenue is currently a dirt road, and not anticipated to be paved.

**Water and Sewer:** Each parcel will be served by an approved septic system. The applicant will need to obtain a will serve letter for water from County Service Area 70, Zone J (CSA 70-J). The parcels shall connect to the special district's water system in accordance with the standards of CSA 70-J.

**Environmental:** The project is exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Prior to issuance of a grading permit, a pre-construction survey conducted by an approved biologist shall be performed to determine whether the site contains burrowing owls.

**Conclusion:** The proposed RR-1 designation and proposed parcels are compatible with the General Plan designations, as well as the lot sizes of the surrounding area. The project conforms to the policies of the City's General Plan and meets the standards of the Development Code with adoption of the General Plan Amendment.

## **FISCAL IMPACT**

Development will be subject to payment of development impact fees.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENTS**

1. Tentative Parcel Map
2. General Plan Land Use Map
3. Aerial Photo
4. Resolution No. PC-2019-23 (GPA19-00001)
5. Resolution No. PC-2019-24, including conditions of approval (TPM19-00004)

[illegible]

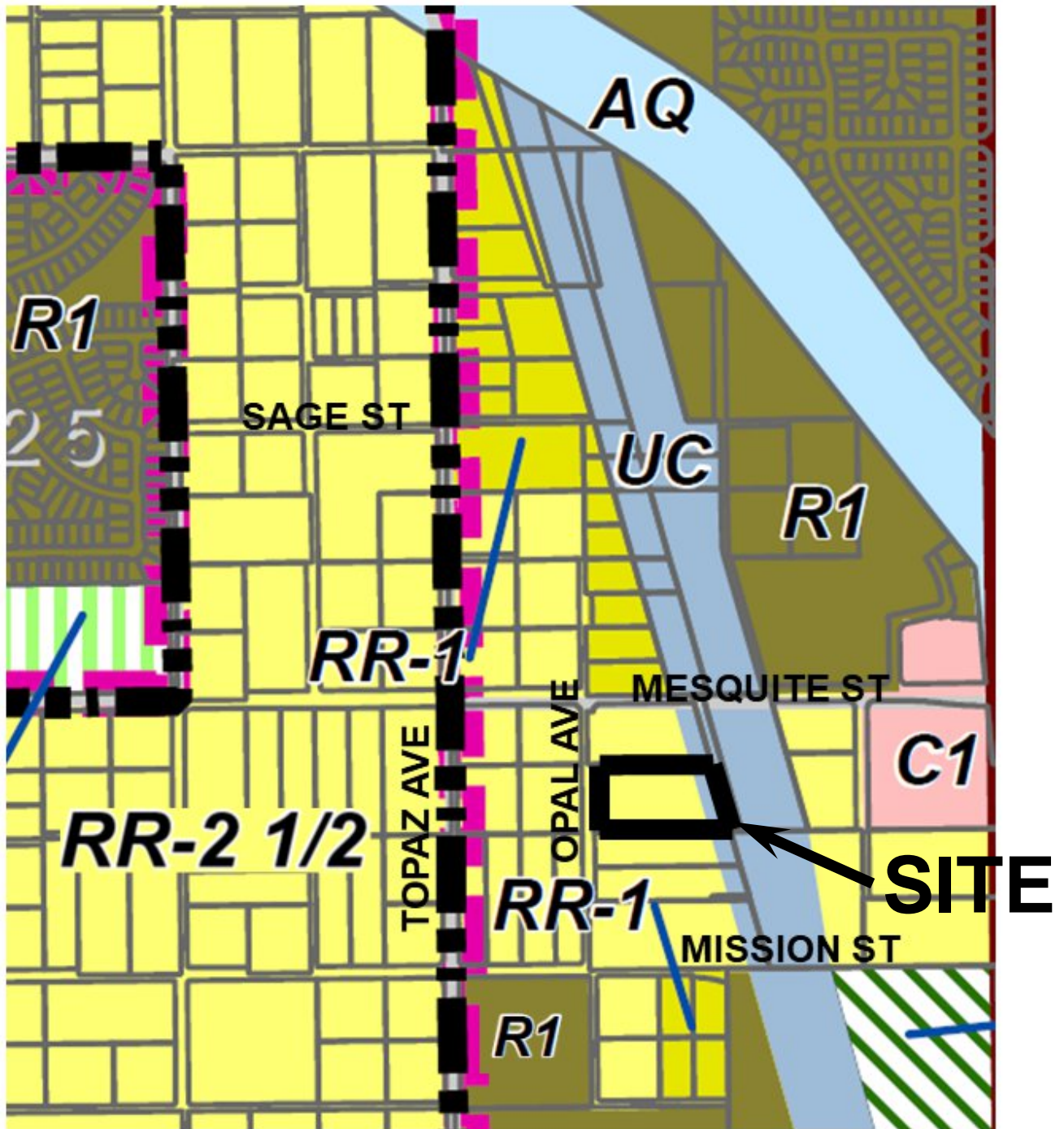
**LOCATION:**  
300 FEET SOUTH OF MESQUITE STREET, ON THE EAST SIDE OF  
OPAL AVENUE

**APN(S):**  
0405-371-37

N  
↑

## 50

## ATTACHMENT 2



**APPLICANT(S):**  
MAS TIERRA, INC.

**FILE NO(S):**  
GPA19-00001 & TPM19-00004

**LOCATION:**  
300 FEET SOUTH OF MESQUITE STREET, ON THE EAST SIDE OF  
OPAL AVENUE

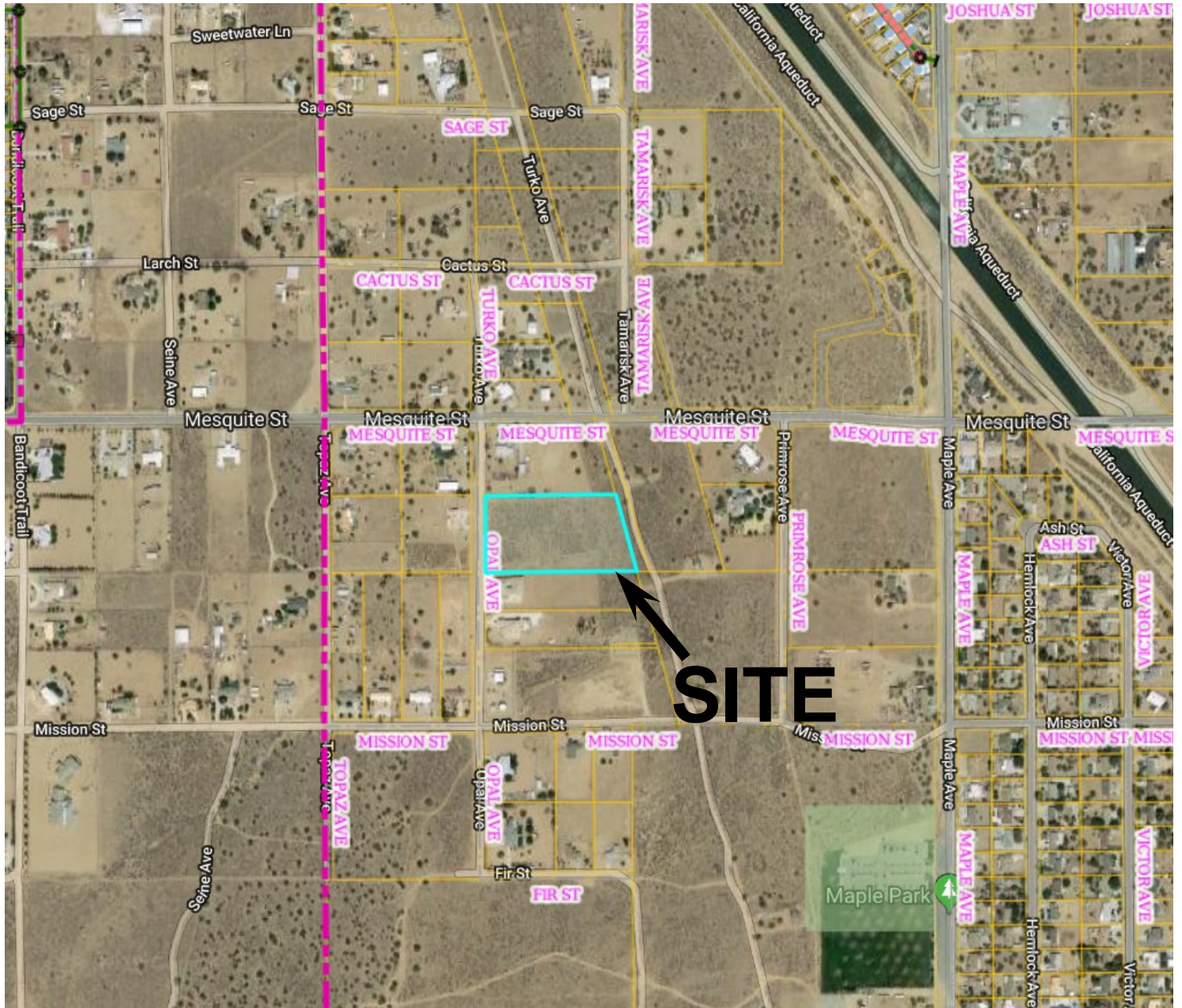
**APN(S):**  
0405-371-37

**PROPOSAL:**  
CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM RURAL RESIDENTIAL WITH A  
MINIMUM LOT SIZE OF 2½ ACRES (RR-2½) TO RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE  
OF ONE-ACRE (RR-1) IN CONJUNCTION WITH A TENTATIVE PARCEL MAP (PM-20019), TO  
CREATE TWO PARCELS FROM 4.8 GROSS ACRES

**N**  
↑

## GENERAL PLAN LAND USE MAP

# ATTACHMENT 3



**APPLICANT(S):**  
MAS TIERRA, INC.

**FILE NO(S):**  
GPA19-00001 & TPM19-00004

**LOCATION:**  
300 FEET SOUTH OF MESQUITE STREET, ON THE EAST SIDE OF  
OPAL AVENUE

**APN(S):**  
0405-371-37

**PROPOSAL:**  
CONSIDERATION OF A GENERAL PLAN AMENDMENT FROM RURAL RESIDENTIAL WITH A  
MINIMUM LOT SIZE OF 2½ ACRES (RR-2½) TO RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE  
OF ONE-ACRE (RR-1) IN CONJUNCTION WITH A TENTATIVE PARCEL MAP (PM-20019), TO  
CREATE TWO PARCELS FROM 4.8 GROSS ACRES



## AERIAL PHOTO

# ATTACHMENT 4

## RESOLUTION NO. PC-2019-23

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE OFFICIAL GENERAL PLAN LAND USE MAP BY RECLASSIFYING CERTAIN REAL PROPERTY FROM RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE OF 2½ ACRES (RR-2½) TO RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE OF ONE-ACRE (RR-1) ON 4.8 GROSS ACRES LOCATED 300 FEET SOUTH OF MESQUITE STREET, ON THE EAST SIDE OF OPAL AVENUE (GPA19-00001)**

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

**WHEREAS**, Mas Tierra, Inc. has filed an application requesting approval of GPA19-00001 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to 4.8 gross acres within the Rural Residential with a minimum lot size of 2½ acres (RR-2½) designation located 300 feet south of Mesquite Street, on the east side of Opal Avenue and consists of Assessor's Parcel Number 0405-371-37; and

**WHEREAS**, the Application, as contemplated, proposes to change the General Plan Land Use designation of the subject property from RR-2½ to Rural Residential with a minimum lot size of one-acre (RR-1); and

**WHEREAS**, Mas Tierra, Inc. has also filed an application requesting approval of Tentative Parcel Map TPM19-00004 (PM-20019), to create two single-family residential lots on 4.8 gross acres located 300 feet south of Mesquite Street, on the east side of Opal Avenue; and

**WHEREAS**, the subject site is vacant. The properties to the north, south and west contain single-family residences. A Southern California Edison Transmission Tower Corridor extends along the east side of the property; and

**WHEREAS**, the subject property is currently within the RR-2½ designation, which is proposed to be changed to RR-1. A small portion of the property to the east is designated Utility Corridor (UC), as a portion of the property is part of the Southern California Edison Transmission Tower Corridor. The properties to the north, south, and west are within the RR-2 ½ designation. The property to the east is within the Utility Corridor (UC) designation; and

**WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act by 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

**WHEREAS**, on September 12, 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 September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The area of the proposed General Plan Amendment is suitable for the land uses permitted within the proposed Land Use designation. This application proposes to allow one dwelling unit on 2.3 and 2.5 gross acres, which will not significantly increase the density of this area and is generally consistent with the current parcel sizes. In addition, each parcel contains sufficient land area to allow a suitable building pad.
- (b) The proposed General Plan Amendment is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (c) The proposed General Plan Amendment is consistent with City policy, which will allow residential uses capable of utilizing existing supporting infrastructure and municipal services, as directed by the City's adopted General Plan.
- (d) The proposed General Plan Amendment is consistent with the goals and policies of the General Plan, specifically to promote policies that will provide for a mix of residential, commercial, and industrial land uses which will generate sufficient tax revenues to pay the costs of maintaining desired levels of services and adequate infrastructure facilities.

Section 3. Based on the findings and conclusions set forth in this Resolution, the Planning Commission hereby recommends that the City Council adopt General Plan Amendment GPA19-00001, amending the General Plan map of the City of Hesperia as shown on Exhibit "A".

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

**ADOPTED AND APPROVED** on this 12<sup>th</sup> day of September 2019.

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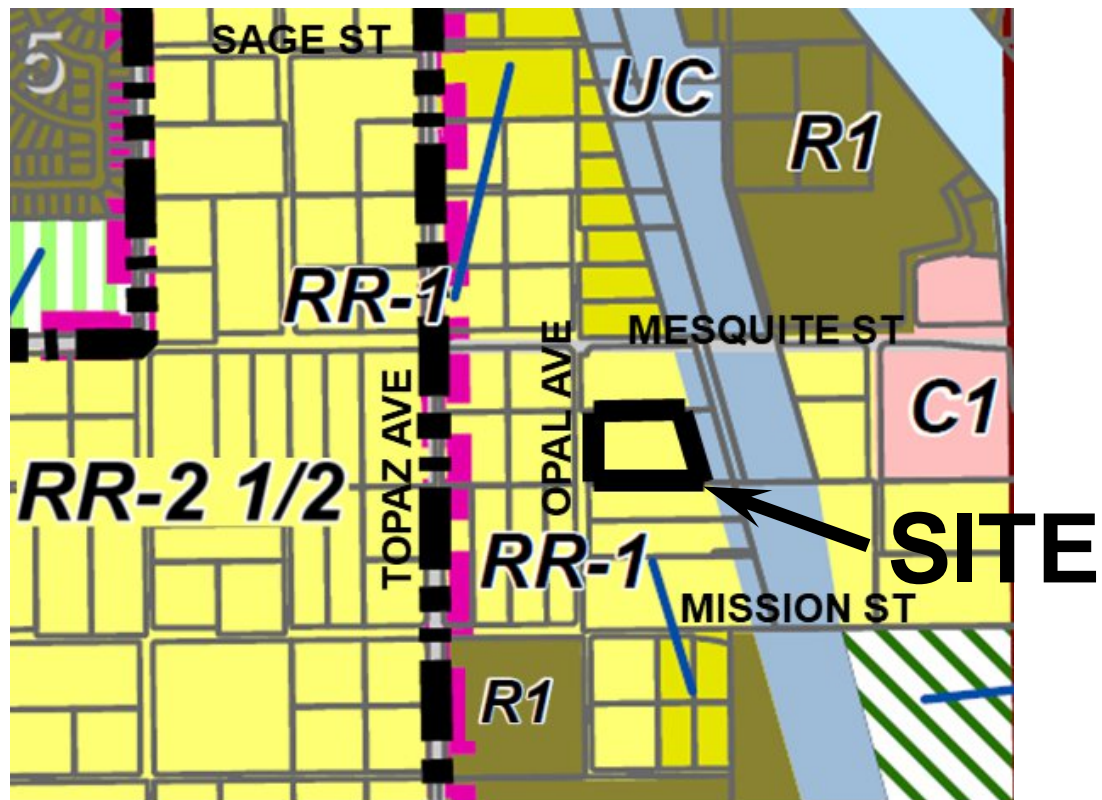
Cody Leis, Chair, Planning Commission

ATTEST:

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Amanda Malone, Secretary, Planning Commission

# Exhibit "A"



GPA19-00001

A GENERAL PLAN AMENDMENT FROM RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE OF 2½ ACRES (RR-2½) TO RURAL RESIDENTIAL WITH A MINIMUM LOT SIZE OF ONE ACRE (RR-1) ON 4.8 GROSS ACRES

# ATTACHMENT 5

## RESOLUTION NO. PC-2019-24

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A TENTATIVE PARCEL MAP TPM19-00004 (PM-20019), TO CREATE TWO SINGLE-FAMILY RESIDENTIAL LOTS ON 4.8 GROSS ACRES LOCATED 300 FEET SOUTH OF MESQUITE STREET, ON THE EAST SIDE OF OPAL AVENUE (TPM19-00004)**

**WHEREAS**, Mas Tierra, Inc. has filed an application requesting approval of TPM19-00004 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the Application applies to approximately 4.8 gross acres located within the Rural Residential with a minimum lot size of 2½ acres (RR-2½) designation located 300 feet south of Mesquite Street, on the east side of Opal Avenue and consists of Assessor's Parcel Number 0405-371-37; and

**WHEREAS**, the Application, as contemplated, proposes to create two parcels on approximately 4.8 gross acres; and

**WHEREAS**, Mas Tierra, Inc. has also filed an application requesting approval of General Plan Amendment GPA19-00001, which will change the General Plan Land Use designation of the subject property from RR-2½ to Rural Residential with a minimum lot size of one-acre (RR-1); and

**WHEREAS**, the subject site is vacant. The properties to the north, south and west contain single-family residences. A Southern California Edison Transmission Tower Corridor extends along the east side of the property; and

**WHEREAS**, the subject property is currently within the RR-2½ designation, which is proposed to be changed to RR-1. A small portion of the property to the east is designated Utility Corridor (UC), as a portion of the property is part of the Southern California Edison Transmission Tower Corridor. The properties to the north, south, and west are within the RR-2 ½ designation. The property to the east is within the Utility Corridor (UC) designation; and

**WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act by 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

**WHEREAS**, on September 12, 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 HESERIA 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 September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed map is consistent with the City's General Plan of the City of Hesperia, with approval of General Plan Amendment GPA19-00001.
- (b) The design or improvement of the proposed subdivision is consistent with the General Plan of Hesperia, as the project supports the existing land use and circulation pattern in the area.
- (c) The site is physically suitable for the type of development because there are no known physical constraints to residential development and the site has adequate area to accommodate the proposed parcels.
- (d) The site is physically suitable for the proposed density of residential development because the parcels are adequate in size and shape and all regulations applicable to the development can be met with approval of GPA19-00001.
- (e) The design of the subdivision or type of improvements are not likely to cause serious public health problems because all construction will require necessary permits and will conform to the City's adopted building and fire codes.
- (f) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Section 3. Based on the findings and conclusions set forth in this Resolution, the Planning Commission hereby recommends that the City Council approve TPM19-00004 (PM-20019) subject to the conditions of approval as shown in Attachment "A".

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

**ADOPTED AND APPROVED** on this 12<sup>th</sup> day of September 2019.

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Cody Leis, Chair, Planning Commission

ATTEST:

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Amanda Malone, Secretary, Planning Commission

**ATTACHMENT "A"**  
**List of Conditions for TPM19-00004**

**Approval Date: October 01, 2019**

**Effective Date: October 01, 2019**

**Expiration Date: October 01, 2023**

This list of conditions applies to Consideration of Tentative Parcel Map to create two parcels from 4.8 gross acres located on the east side of Opal Avenue, 300 feet south of Mesquite Street (Applicant: Mas Tierra; APN: 0405-371-37)

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

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

**CONDITIONS REQUIRED PRIOR TO RECORDATION OF THE PARCEL MAP**

<u><b>COMPLETED</b></u>	<u><b>COMPLIED BY</b></u>
NOT IN COMPLIANCE	

PARCEL MAP (RES). A Parcel Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66444 of the Subdivision Map Act as well as the San Bernardino County Surveyors Office Map Standards. (E)

<u><b>COMPLETED</b></u>	<u><b>COMPLIED BY</b></u>
NOT IN COMPLIANCE	

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

<u><b>COMPLETED</b></u>	<u><b>COMPLIED BY</b></u>
NOT IN COMPLIANCE	

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)

<u><b>COMPLETED</b></u>	<u><b>COMPLIED BY</b></u>
NOT IN COMPLIANCE	

ALL EASEMENTS OF RECORD. It shall be the responsibility of the Developer to provide all Easements of Record per recent title report. (E)

<u><b>COMPLETED</b></u>	<u><b>COMPLIED BY</b></u>
NOT IN COMPLIANCE	

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

in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The 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 DEVELOPMENT OF ANY PARCEL OF THE PARCEL MAP**

**COMPLETED**      **COMPLIED BY**  
NOT IN COMPLIANCE

RECORDATION OF MAP. Map shall be recorded with the San Bernardino County Recorder's Office. (E)

**COMPLETED**      **COMPLIED BY**  
NOT IN COMPLIANCE

UTILITIES. City of Hesperia does not have a water main in Opal Avenue to serve property. The closest water main is in Mesquite Street approximately 400' north of property as is a County of San Bernardino water main. Before development of either parcel, a "Will Serve" letter from the County shall be submitted. Each parcel shall be served by a separate water meter and service line. A Fire Fly automatic meter reader to be included on all meter connections. (E)

**COMPLETED**      **COMPLIED BY**  
NOT IN COMPLIANCE

CONSTRUCTION WASTE. The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

**COMPLETED**      **COMPLIED BY**  
NOT IN COMPLIANCE

DUST CONTROL. Dust control shall be maintained before, during, and after all grading operations. (B)

**COMPLETED**      **COMPLIED BY**  
NOT IN COMPLIANCE

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

## CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY

COMPLETED      COMPLIED BY  
NOT IN COMPLIANCE

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

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

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

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