

**HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HOUSING AUTHORITY
COMMUNITY DEVELOPMENT COMMISSION
WATER DISTRICT
HESPERIA PUBLIC FINANCING AUTHORITY-ANNUAL MEETING
HESPERIA PUBLIC FACILITIES CORPORATION-ANNUAL MEETING**



Meeting Agenda

Tuesday, August 16, 2022

Closed Session - 5:30 PM

**City Council Chambers
9700 Seventh Ave., Hesperia CA, 92345
City Clerk's Office: (760) 947-1007**

City Council Members

**Brigit Bennington, Mayor
William J. Holland, Mayor Pro Tem
Larry Bird, Council Member
Cameron Gregg, Council Member
Rebekah Swanson, Council Member**

**Nils Bentsen, City Manager
Eric Dunn, City Attorney**

**See page (3) for details on public meeting guidelines during the
COVID-19 (Coronavirus) Pandemic**



NOTE: In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (760) 947-1007 or (760) 947-1026. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.



Public Access to City Council Meetings:

City Council meetings are now open to the public within the guidelines provided by the State which may include wearing masks and socially distancing from other attendees.

Public Comments can be made in-person at City Council Meetings and/or can be submitted via telephone recording that will be played during the meeting.

City Council meetings may be viewed live or after the event on the City's website at www.cityofhesperia.us.

Remote Public Comment:

Public Comments Made By-Telephone Process

Public comments will be accepted in advance until 5:30 pm on the day of the scheduled meeting by calling and leaving a recorded message at (760) 947-1056. Comments received past 5:30 pm will not be included in the record. If you would like to comment remotely, please follow the protocols below:

- Call (760)947-1056 to leave a detailed message of your public comment.

- Identify your name and the item you wish to comment on in your message.
- Contact information in your voicemail is optional, but will allow staff to easily follow up with you if necessary.
- Each public comment received by voicemail will be played by a staff member for up to three (3) minutes for Consent Calendar/New Business items and up to five (5) minutes for Public Hearing items.

Remote public comments received outside of the comment period outlined above will not be included in the record.

**REGULAR MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA WATER DISTRICT
HESPERIA PUBLIC FINANCING AUTHORITY - ANNUAL MEETING
HESPERIA PUBLIC FACILITIES CORPORATION - ANNUAL MEETING**

9700 7th Avenue, Council Chambers, Hesperia, CA 92345

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

Prior to action of the Council, 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.

Individuals wishing to speak during General Public Comments or on a particular numbered item must submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.

In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.

CLOSED SESSION - 5:30 PM

Roll Call

*Mayor Brigit Bennington
Mayor Pro Tem William J. Holland
Council Member Larry Bird
Council Member Cameron Gregg
Council Member Rebekah Swanson*

Conference with Legal Counsel – Existing Litigation
Government Code Section 54956.9(d)1

1. Assistant Secretary for FHEO v. City of Hesperia, California, et al.; Case Number 09-16-4717-8

CALL TO ORDER - 6:30 PM

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

Mayor Brigit Bennington
Mayor Pro Tem William J. Holland
Council Member Larry Bird
Council Member Cameron Gregg
Council Member Rebekah Swanson

D. Agenda Revisions and Announcements by City Clerk

E. Closed Session Reports by City Attorney

ANNOUNCEMENTS/PRESENTATIONS

1. Presentation to resident David Ellis, Pride Enhancement Program Honoree.
2. Presentation of Certificate of Recognition to Robert Stine by the City Council.

GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)

Individuals wishing to speak during General Public Comments or on a particular numbered item are requested to submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the joint agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.

In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.

JOINT CONSENT CALENDAR

1. Page 7 Consideration of the Draft Minutes from the Special Meeting held Tuesday, August 2, 2022.

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Special Meeting held Tuesday, August 2, 2022.

Staff Person: Assistant City Clerk Erin Baum

Attachments: [Draft CC Min 2022-08-02](#)

2. Page 11 **HESPERIA PUBLIC FACILITIES CORPORATION AND HESPERIA PUBLIC FINANCING AUTHORITY ANNUAL MEETING ITEM**
Consideration of the Draft Minutes from the Corporation and Authority Annual Meetings held August 17, 2021.

Recommended Action:

It is recommended that the Board of Directors approve the Draft Minutes of the Corporation and Authority Annual Meetings held August 17, 2021.

Staff Person: Assistant City Clerk Erin Baum

Attachments: [Draft CC Min 2021-08-17](#)

3. Page 17 Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

Recommended Action:

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

Staff Person: Director of Administrative Services Casey Brooksher

Attachments: [SR Warrant Run 8-16-2022](#)
[Attachment 1 - Warrant Run](#)

4. Page 19 Equipment Procurement for Water Distribution Program

Recommended Action:

It is recommended that the Board of Directors of the Hesperia Water District authorize the City Manager to approve the procurement of one vacuum excavator and enter into an agreement with Ditch Witch West in the not-to-exceed amount of \$84,808.

Staff Person: Director of Public Works Jeremy McDonald

Attachments: [SR Equipment Procurement for Water Distribution Program 8-16-2022](#)
[Attachment 1- Bid Comparison](#)

5. Page 21 Granicus Acquisition of GovQA

Recommended Action:

It is recommended that the City Council authorize the City Manager to enter into a one (1) year agreement with Granicus, LLC in an amount not-to-exceed \$10,866.50 to provide services for the City's electronic public records request and claims software program.

Staff Person: Assistant City Clerk Erin Baum

Attachments: [SR Granicus Acquisition of GovQA 8-16-2022](#)
[Attachment 1 - Granicus Proposal](#)

CONSENT ORDINANCES

WAIVE READING OF ORDINANCES

Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

6. Page 27 Emergency Service Roles

Recommended Action:

Place on second reading and adopt by title waiving the text of Ordinance No.

2022-11 amending Hesperia Municipal Code Chapter 2.20 regarding the line of succession in the direction of emergency services.

Staff Person: Community Relations Specialist Jennifer Colby

Attachments: [SR Emergency Service Roles 7-19-2022](#)

[Ordinance 2022-11](#)

[Attachment 2 - Exhibit A Municipal Code Title 2 Chapter 2.20 Track Changes](#)

[Attachment 3 - Exhibit B Municipal Code Title 2 Chapter 2.20 Clean Copy](#)

PUBLIC HEARING

Individuals wishing to comment on public hearing items must submit a speaker slip to the City Clerk with the numbered agenda item noted. Speaker slips should be turned in prior to an agenda item being taken up. Comments will be limited to five minutes for Public Hearing items.

WAIVE READING OF ORDINANCES

Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

7. Page 41 Consideration of the Amendment to Title 1 related to Police Multiple Response/Firework Fees and Amendment to the City-wide Fee Schedule and Bail Schedule Related to Police Multiple Response/Firework Fees

Recommended Action:

It is recommended that the City Council, Board of Directors for the Hesperia Water District, Board of Directors for the Hesperia Housing Authority, and the Commissioners of the Community Development Commission introduce and place on first reading Ordinance No. 2022-12 amending Title 1 of the Hesperia Municipal Code related to Police Multiple Response/Firework fees; adopt Joint Resolution No. 2022-62, Resolution No. HWD 2022-14, Resolution No. HHA 2022-07, and Resolution No. HCDC 2022-04 amending the City-wide fee schedule related to the fees for the Multiple Response Program; and adopt Resolution No. 2022-63 amending the City-wide bail schedule related to prohibited firework fees.

Staff Person: Administrative Analyst Jacquelyn Castillo

Attachments: [SR Amend City-Wide Fee Schedule and Bail Schedule Fees 8-16-2022](#)

[Ordinance 2022-12](#)

[Attachment 2 - Exhibit A Title 1 Chapter 1.12.130\(16\)\(d\)](#)

[Joint Resolution 2022-62](#)

[Attachment 4 - Exhibit A City Fee Schedule](#)

[Resolution 2022-63](#)

[Attachment 6 - Exhibit A Bail Schedule](#)

8. Page 51 Development Code Amendment DCA22-00003; Applicant: City of Hesperia; Area affected: City-wide

Recommended Action:

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2022-13 approving Development Code Amendment DCA22-00003 modifying development standards associated with Accessory Dwelling Units (ADUs).

Staff Person: Senior Planner Ryan Leonard

Attachments: [SR Development Code Amendment DCA22-00003 8-16-2022](#)

[Ordinance 2022-13](#)

[Attachment 2 - Exhibit A](#)

[Attachment 3 - Planning Commission Staff Report with Attachments](#)

9. Page 73

Appeal to the City Council (APP22-00001); Applicant Pacific Communities Builder; APNs: 0405-042-23

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2022-64, denying appeal APP22-00001 and upholding the Planning Commission and Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17243 (TTE22-00001).

Staff Person: Senior Planner Ryan Leonard

Attachments: [SR Appeal to the City Council \(APP22-00001\) 8-16-2022](#)

[Resolution 2022-64](#)

[Attachment 2- Planning Commission Staff Report with Attachments](#)

COUNCIL COMMITTEE REPORTS AND COMMENTS

The Council may report on their activities as appointed representatives of the City on various Boards and Committees and/or may make comments of general interest or report on their activities as a representative of the City.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

The City Manager, City Attorney or staff may make announcements or reports concerning items of interest to the Council and the public.

ADJOURNMENT

I, Erin Baum, Assistant City Clerk of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, August 11, 2022 at 5:30 p.m. pursuant to California Government Code §54954.2.

*Erin Baum,
Assistant City Clerk*

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding items on the agenda will be made available in the City Clerk's Office during normal business hours.



City of Hesperia Meeting Minutes - Draft City Council

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345

Tuesday, August 2, 2022

3:00 PM

**SPECIAL MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA WATER DISTRICT
HESPERIA FIRE PROTECTION DISTRICT – SPECIAL MEETING**

NO CLOSED SESSION

CALL TO ORDER – 3:00 PM

A. Invocation

B. Pledge of Allegiance to the Flag

C. Roll Call

Present: 5 - Mayor Bennington, Council Member Bird, Council Member Swanson,
Mayor Pro Tem Holland, and Council Member Gregg

D. Agenda Revisions and Announcements by City Clerk

None.

E. Closed Session Reports by City Attorney

No reportable action was taken.

GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)

Alberto commented via voicemail on the safety of intersection at Mariposa/Ranchero.

JOINT CONSENT CALENDAR

**A motion was made by Holland, seconded by Bird, that the Joint Consent Calendar be approved.
The motion carried by the following vote:**

Aye: 5 - Bird, Swanson, Holland, Gregg, and Bennington

Nay: 0

1. Consideration of the Draft Minutes from the Regular Meeting held Tuesday, July 19, 2022.

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, July 19, 2022.

Sponsors: Assistant City Clerk Erin Baum

2. Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

Recommended Action:

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

Sponsors: Director of Administrative Services Casey Brooksher

3. Amendment to Agreement for Audit Lease Reporting Services for FY 2021-22

Recommended Action:

It is recommended that the City of Hesperia, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, Hesperia Fire Protection District, and Hesperia Water District Council/Boards/Commissions approve an amendment to the existing Professional Services Agreement with the independent certified public accounting firm CliftonLarsonAllen (CLA) LLP, in the amount of \$30,275, for a total not-to-exceed amount of \$157,175, to include services to assist with implementing the new lease standard, Governmental Accounting Standards Board (GASB) 87.

Sponsors: Director of Administrative Services Casey Brooksher

4. Equipment Procurement for Streets Maintenance Program

Recommended Action:

It is recommended that the City Council authorize the City Manager to approve the procurement of one (1) new skid steer and enter into a purchase agreement with Apex Rentals, in an amount not-to-exceed \$71,541.

Sponsors: Director of Public Works Jeremy McDonald

5. Award Professional Services Agreements - "On-Call" Engineering Services for Roadway Projects Funded by the CDBG Program

Recommended Action:

It is recommended that the City Council approve the award of a Professional Services Agreement (PSA) to three professional engineering design firms to provide On Call Engineering Services for roadway improvement projects funded by the City's annual Community Development Block Grant (CDBG) allocation for an initial term of three (3) years as follows:

Psomas	\$350,000
Angenious Engineering Services	\$350,000
Onward Engineering	\$350,000

Sponsors: Assistant City Manager Rachel Molina

6. Approve the FY 2022-23 SB-1 Funding Project List

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2022-58 approving the Fiscal Year (FY) 2022-23 Project List to be funded by SB-1: The Road Repair and Accountability Act.

Sponsors: Administrative Analyst Bethany Hudson

7. Parcel Map No. 20259

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2022-60 approving Parcel Map No. 20259 to create five parcels from 4.6 gross acres within the Regional Commercial zone of the Main Street and Freeway Corridor Specific Plan, located on the southwest corner of Fashion Way and Mariposa Road and the southeast corner of Fashion Way and Mariposa Road (Applicant: Inland Land Group, LLC; APN: 0357-561-81 and 85).

Sponsors: Administrative Analyst Bethany Hudson

8. Parcel Map No. 20252

Recommended Action:

It is recommended that the City Council adopt Resolution No. 2022-59 approving Parcel Map No. 20252 to create two parcels from 4.6 gross acres located within the General Commercial (C2) and Service Commercial (C3) zones located on the southwest corners of Bear Valley Road and I Avenue. (Applicant: Poche Partners, LLC; APN: 0399-132-01, 04, 05, 06, 27, 28, 29 and 30).

Sponsors: Administrative Analyst Bethany Hudson

COUNCIL COMMITTEE REPORTS AND COMMENTS

Council Member Swanson commented on the hot weather, the start of the new school year, and driver safety.

Council Member Gregg commented on the start of the new school year, driver safety, requested a report on high volume traffic accident intersections throughout the city and National Night Out.

Council Member Bird thanked staff, commented on road construction being finalized near Sultana Highschool, school starting later, wished his sister Kim a belated 60th birthday, and National Night Out.

Mayor Pro Tem Holland would like to recognize City Attorney Eric Dunn, welcomed Pam from the City Attorney's office, thanked City Manager Nils Bentsen for his hard work.

Mayor Bennington praised Jennifer Colby for doing a great job at the Chambers of Commerce, thanked police and fire department, the start of the new school year, floods, thanked staff member Jessica for running the meeting, requested to recognize Park Ranger Sergio in a future meeting, thanked staff.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

None

ADJOURNMENT

The meeting was adjourned in honor of Kim McBride, Larry's sister at 3:20 pm.

Jessica Heredia, Deputy City Clerk



City of Hesperia

Meeting Minutes - Draft

City Council

City Council Chambers
9700 Seventh Ave.
Hesperia CA, 92345

Tuesday, August 17, 2021

6:30 PM

**REGULAR MEETING AGENDA
HESPERIA CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
HESPERIA HOUSING AUTHORITY
HESPERIA COMMUNITY DEVELOPMENT COMMISSION
HESPERIA WATER DISTRICT
HESPERIA PUBLIC FINANCING AUTHORITY- ANNUAL MEETING
HESPERIA PUBLIC FACILITIES CORPORATION- ANNUAL MEETING
August 17, 2021, 6:30 PM
9700 7th Avenue, Council Chambers, Hesperia, CA 92345**

CLOSED SESSION - 5:00 PM

Roll Call

Present: 5 - Mayor Gregg, Mayor Pro Tem Bennington, Council Member Bird, Council Member Holland and Council Member Swanson

Conference with Legal Counsel – Existing Litigation Government Code Section 54956.9(d)1

1. Assistant Secretary for FHEO v. City of Hesperia, California, et al.; Case Number 09-16-4717-8
2. Jeremiah Brosowske v City of Hesperia Case No. CIVDS1926015

Conference with Real Property Negotiators – Property NegotiationsGovernment Code Section – 54956.8

1. Negotiating Parties: SRD Design Studio, Inc. and City of Hesperia Location: Racetrack Property APN 3064-551-01, 02, 03, 04, 06, 07, 08 and 3064-561-06 Under Negotiation: Price and terms.
2. Negotiating Parties: Park 395 RV Center and City of Hesperia Location: APN 3039-441-20 Under Negotiation: Price and Terms

CALL TO ORDER - 6:30 PM

A. Invocation

B. Pledge of Allegiance to the Flag

C. Roll Call

Present: 5 - Mayor Gregg, Mayor Pro Tem Bennington, Council Member Bird, Council Member Holland and Council Member Swanson

D. Agenda Revisions and Announcements by City Clerk

E. Closed Session Reports by City Attorney

JOINT CONSENT CALENDAR

Item 7 was pulled from the Consent Calendar to allow for Public Comment and voted on separately

A motion was made by Holland, seconded by Bird, that items 1 – 6 be approved. The motion carried by the following vote:

Aye: 5 - Gregg, Bennington, Bird, Holland and Swanson

Nay: 0

Bob Nelson commented on Item 7

A motion was made by Holland, seconded by Swanson, that item 7 be approved. The motion carried by the following vote:

Aye: 5 - Gregg, Bennington, Bird, Holland and Swanson

Nay: 0

1. Consideration of the Draft Minutes from the Special Meeting held Tuesday, August 3, 2021.

Recommended Action:

It is recommended that the City Council approve the Draft Minutes from the Special Meeting held Tuesday, August 3, 2021.

Sponsors: Assistant City Clerk Erin Baum

2. **Hesperia Public Facilities Corporation and Hesperia Public Financing Authority annual meeting item:** Consideration of the Draft Minutes from the Corporation and Authority Annual Meetings held August 18, 2020.

Recommended Action:

It is recommended that the Board of Directors approve the Draft Minutes of the Corporation and Authority Annual Meetings held August 18, 2020.

Sponsors: Director of Government Services/City Clerk Melinda Sayre

3. Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

Recommended Action:

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

Sponsors: Director of Administrative Services Casey Brooksher

4. Approve and Accept Construction of FY 2020-21 CDBG Street Improvements

Recommended Action:

It is recommended that the City Council authorize the City Manager to accept the work constructed under FY 2020-21 CDBG Street Improvements (C.O. No. 7162); authorize staff to record a "Notice of Completion"; and release all withheld retention amounts after 35 calendar days from the date of recordation.

Sponsors: Project Construction Manager David Burkett

5. Award Contract for City Hall Minor Tenant Improvements - Phase II

Recommended Action:

It is recommended that the City Council award a contract to the lowest responsive/responsible bidder, Burner Construction Corporation in the amount of \$59,767; approve an additional 10% contingency in the amount of \$5,977 for a total construction budget of \$65,744; approve the design of the project represented by the plans and specifications; and authorize the City Manager to execute the contract.

Sponsors: Project Construction Manager David Burkett

6. Amendment to Contract Services Agreement with Aleshire & Wynder, LLP

Recommended Action:

It is recommended that the City Council consider an amendment to the Contract Services Agreement with Aleshire & Wynder, LLP (City Attorney) amending rates for legal services.

Sponsors: City Attorney Eric Dunn

7. Assignment and Assumption Agreement for Hesperia Venture I LLC Development Agreement

Recommended Action:

It is recommended that the City Council approve the Assignment and Assumption Agreement for Hesperia Venture I LLC (Assignor), a California limited liability corporation and Tapestry Development Phase I, LLC a Delaware Limited Liability Corporation (Assignee).

Sponsors: Assistant City Manager Rachel Molina

CONSENT ORDINANCES

Items 8 and 9 were voted on as individual items. Item 9 was voted on first, after New Business items 11 and 12.

8. Residential Commercial Truck Parking Permit Program

Recommended Action:

Place on second reading and adopt by title waiving the text of Ordinance No. 2021-03 regarding the Residential Commercial Truck Parking Permit Program.

Sponsors: Administrative Analyst Tina Bulgarelli and Administrative Analyst Jacquelyn Castillo

The following people spoke during Public Comment on the item;

Unidentified via phone message

Donna Paul commented via phone message

ET Snell

Meeting went into Recess

Meeting Reconvened

Public Comment continued;

Ken Foist
Rick Casas
James De Aguilera
Ryan Elliott
Ron Hutchison
Garegin Kalejian
Edith Torres
John Davis
Mike Thompson
Joe Joe
Ryan Carter
Stephanie Hutchison
Rosaura Hernandez
Fred Kail
Cindy Terrell
Louis Serrata
Gilbert Cantellano
Isabelle Pareyda
Justin Dutton
Adrian Zamora
Erica Turcios

A motion was made by Bennington, seconded by Gregg, that this item be approved. The motion carried by the following vote:

Aye: 3 - Gregg, Bennington, and Holland

Nay: 2 - Bird and Swanson

Meeting went into Recess

Meeting Reconvened

9. Adopt Ordinance No. 2021-06 modifying Title 12, Chapter 12.12, Section 12.12.180 related to a Trench Moratorium

Recommended Action:

Place on second reading and adopt by title waiving the text of Ordinance No. 2021-06: Title 12, Chapter 12.12 adding Section 12.12.180 of the Hesperia Municipal Code regarding implementation of a Trench Moratorium.

Sponsors: Administrative Analyst Bethany Hudson

A motion was made by Bird, seconded by Swanson, that this item be approved. The motion carried by the following vote:

Aye: 5 - Gregg, Bennington, Bird, Holland and Swanson

Nay: 0

PUBLIC HEARING

10. Amend City Fee Schedule Related to Commercial Truck Parking and Fees for Development Services Provided

Recommended Action:

It is recommended that the City Council and respective Boards review, provide direction for amendment and adopt Joint Resolution No. 2021-37, Resolution No. HWD 2021-15, Resolution No. HHA 2021-08, and Resolution No. CDC 2021-04 amending the City-wide fee schedule related to the fees for the Commercial Truck Parking program and amending fees for services provided by the Development Services Department.

Sponsors: Administrative Analyst Tina Bulgarelli and Administrative Analyst Jacqueline Castillo

The following people spoke during Public Comment on this item;

*Ron Hutchison
Ryan Elliott
Garegin Kalejian
Louis Serrata
Stephanie Hutchison
Mike Thompson
Ken Foist
Ryan Carter*

A motion was made by Bird, seconded by Gregg, that this item be approved as amended. The motion carried by the following vote:

Aye: 5 - Gregg, Bennington, Bird, Holland and Swanson

Nay: 0

NEW BUSINESS

Items 11 and 12 were considered immediately following the Consent Calendar.

11. Report Related to the America's Water Infrastructure Act of 2018 (AWIA)

Recommended Action:

It is recommended that the Board of Directors of the Hesperia Water District receive and file this staff report, which provides a summary of the information contained within the documents that were prepared in conformance with the America's Water Infrastructure Act of 2018 (AWIA).

Sponsors: Project Construction Manager David Burkett

Received and filed.

12. Designation of Voting Delegate and Alternates for League of CA Cities Conference

Recommended Action:

It is recommended that the City Council designate a primary voting delegate and up to two alternate delegates to represent the City of Hesperia at the General Business meeting to be held during the League of California Cities annual conference September 22 through September 24, 2021 to be held in Sacramento.

Sponsors: Assistant City Clerk Erin Baum

A motion was made by Swanson, seconded by Bird, that this item be approved. The motion carried by the following vote:

Aye: 5 - Gregg, Bennington, Bird, Holland and Swanson

Nay: 0

GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)

Ken Foist commented on truck parking.

Louis Serrata commented on truck parking.

Mike Thompson commented on truck parking.

Ron Hutchison commented on truck parking.

Jose Zepeda commented on truck parking.

COUNCIL COMMITTEE REPORTS AND COMMENTS

Council Member Bird thank those in attendance for their time, commented on VVTA attendance.

Council Member Swanson Association of San Bernardino County Districts (water) meeting attendance, water conservation, having students back in the classroom, school taxes, and the weather.

Council Member Holland replied to issues addressed during public comments regarding contentious meetings, and bond measures, commented on VVWRA attendance, water conservation, recycled water recharge, and the coming California gubernatorial recall election.

Mayor Pro-Tem Bennington commented on ballot drop off locations, Tri-Agency meeting attendance, AQMD meeting attendance, safety around kids, and the coming California gubernatorial recall election, thanked fire staff on engine 302, thanked Public Works staff for responding to water leak calls, thanked those in attendance, thanked the City Attorney, the City Manager, and law enforcement, and wished a Happy Anniversary to Jeff.

Mayor Gregg thanked those in attendance, commented on truck parking, chickens and roosters, Tri-Agency attendance, SBCTA attendance, representation of the community, thanked SBCSD, and safe driving.

CITY MANAGER/CITY ATTORNEY/STAFF REPORTS

None

ADJOURNMENT

Meeting was adjourned at 11:53 PM in honor of this week's passing of two former Sultans, Casey and Sienna, and the Bennington's wedding anniversary.

*Erin Baum,
Assistant City Clerk*

City of Hesperia STAFF REPORT



DATE: August 16, 2022

TO: Mayor and Council Members
City Council, as Successor Agency to the Hesperia Community Redevelopment Agency
Chair and Commissioners, Hesperia Housing Authority
Chair and Commissioners, Community Development Commission
Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Casey Brooksher, Director of Administrative Services
Anne Duke, Deputy Finance Director
Fatima Jacobo, Accountant

SUBJECT: Warrant Run Report (City – Successor Agency – Housing Authority – Community Development Commission – Water)

RECOMMENDED ACTION

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

BACKGROUND

The Warrant Run totals represented below are for the period July 2, 2022 through July 15, 2022.

<u>Agency/District</u>	<u>Accounts Payable</u>	<u>Payroll</u>	<u>Wires</u>	<u>Totals</u>
City of Hesperia	\$1,388,474.55	\$284,273.37	\$0.00	\$1,672,747.92
Successor Agency	0.00	0.00	0.00	0.00
Housing Authority	7.44	193.08	0.00	200.52
Community Development Commission	0.00	0.00	0.00	0.00
Water	713,770.48	111,113.23	0.00	824,883.71
Totals	\$2,102,252.47	\$395,579.68	\$0.00	\$2,497,832.15

ATTACHMENT(S)

1. Warrant Runs

City of Hesperia
WARRANT RUNS
07/02/2022-07/15/2022

Attachment 1

FUND #	FUND NAME	W/E 7/8/2022	W/E 7/15/2022	WARRANT TOTALS	Wires	YEAR-TO DATE TOTALS *	PRIOR FY YTD DATE TOTALS
Accounts Payable							
100	GENERAL	\$ 119,977.99	\$ 219,054.65	\$ 339,032.64	\$ -	\$ 339,032.64	\$ 221,765.88
200	HESPERIA FIRE DISTRICT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
204	MEASURE I - RENEWAL	\$ 40,056.65	\$ -	\$ 40,056.65	\$ -	\$ 40,056.65	\$ 9,340.05
207	LOCAL TRANSPORT-SB 325	\$ -	\$ 614.18	\$ 614.18	\$ -	\$ 614.18	\$ -
209	GAS TAX-RMRA	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
210	HFPD (PERS)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
251	CDBG	\$ -	\$ 7.44	\$ 7.44	\$ -	\$ 7.44	\$ 7,625.19
254	AB2766 - TRANSIT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
256	ENVIRONMENTAL PROGRAMS GRANT	\$ 1.50	\$ 38.01	\$ 39.51	\$ -	\$ 39.51	\$ 592.01
257	NEIGHBORHOOD STABILIZATION PROG	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
258	CDBG-CV CARES ACT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
260	DISASTER PREPARED GRANT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
263	STREETS MAINTENANCE	\$ 30,731.47	\$ 11,261.99	\$ 41,993.46	\$ -	\$ 41,993.46	\$ 47,845.70
300	DEV. IMPACT FEES - STREET	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
301	DEV. IMPACT FEES - STORM DRAIN	\$ 17,460.50	\$ -	\$ 17,460.50	\$ -	\$ 17,460.50	\$ 11,959.50
302	DEV. IMPACT FEES - FIRE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
303	DEV. IMPACT FEES - POLICE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
304	DEV. IMPACT FEES - PUBLIC WKS.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
306	DEV. IMPACT FEES - 2018-STREETS	\$ -	\$ 110,940.66	\$ 110,940.66	\$ -	\$ 110,940.66	\$ -
312	DIF 2018-POLICE FACILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
313	DIF A-04 DRAINAGE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
396	DEVELOPMENT IMPACT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
399	FEMA-1203-DR (DISASTER)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
400	2004 STREETS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
401	CITY DEBT SERVICES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
402	WATER RIGHTS ACQUISITION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
403	2013 REFUNDING LEASE REV BONDS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
501	CFD 91-3 BELGATE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
504	CITY WIDE STREETS - CIP	\$ -	\$ 321,648.88	\$ 321,648.88	\$ -	\$ 321,648.88	\$ -
509	CITY FACILITIES CIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
800	EMPLOYEE BENEFITS	\$ 294,103.72	\$ 87,897.39	\$ 382,001.11	\$ -	\$ 382,001.11	\$ 339,613.83
801	TRUST/AGENCY	\$ 15,555.02	\$ 109,657.00	\$ 125,212.02	\$ -	\$ 125,212.02	\$ 1.40
802	AD 91-1 AGENCY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
804	TRUST-INTEREST BEARING	\$ -	\$ 9,467.50	\$ 9,467.50	\$ -	\$ 9,467.50	\$ 168.00
807	CFD 2005-1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 263.67
808	HFPD (TRANSITION)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
815	PLAN REVIEW TRUST - FRONTIER	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	CITY	\$ 517,886.85	\$ 870,587.70	\$ 1,388,474.55	\$ -	\$ 1,388,474.55	\$ 639,175.23
163	REDEVELOP OBLIG RETIREMENT-2018	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	SUCCESSOR AGENCY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
370	HOUSING AUTHORITY	\$ -	\$ 7.44	\$ 7.44	\$ -	\$ 7.44	\$ 682.50
	HOUSING AUTHORITY	\$ -	\$ 7.44	\$ 7.44	\$ -	\$ 7.44	\$ 682.50
170	COMMUNITY DEVELOPMENT COMMISSION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	COMMUNITY DEVELOPMENT COMMISSION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
700	WATER OPERATING	\$ 366,830.94	\$ 38,262.50	\$ 405,093.44	\$ -	\$ 405,093.44	\$ 416,895.42
701	WATER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 951.15
710	SEWER OPERATING	\$ 299,966.38	\$ 7,638.24	\$ 307,604.62	\$ -	\$ 307,604.62	\$ 291,203.23
711	SEWER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 776.02
713	SEWER CAPITAL REHAB AND REPLACE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
720	RECLAIMED WATER OPERATIONS	\$ 945.74	\$ 126.68	\$ 1,072.42	\$ -	\$ 1,072.42	\$ -
	WATER	\$ 667,743.06	\$ 46,027.42	\$ 713,770.48	\$ -	\$ 713,770.48	\$ 709,825.82
	ACCOUNTS PAYABLE TOTAL	\$ 1,185,629.91	\$ 916,622.56	\$ 2,102,252.47	\$ -	\$ 2,102,252.47	\$ 1,349,683.55
REG. PAYROLL							
	City	\$ 284,273.37	\$ -	\$ 284,273.37	\$ -	\$ 284,273.37	\$ 236,908.51
	Housing Authority	\$ 193.08	\$ -	\$ 193.08	\$ -	\$ 193.08	\$ 147.66
	Water	\$ 111,113.23	\$ -	\$ 111,113.23	\$ -	\$ 111,113.23	\$ 104,560.67
	PAYROLL TOTAL	\$ 395,579.68	\$ -	\$ 395,579.68	\$ -	\$ 395,579.68	\$ 341,616.84

*No payments were issued on July 1, 2022.

City of Hesperia

STAFF REPORT



DATE: August 16, 2022

TO: Chair and Board Members, Hesperia Water District

FROM: Nils Bentsen, City Manager

BY: Jeremy McDonald, Director of Public Works
Robert Worby, Fleet/Warehouse Supervisor

SUBJECT: Equipment Procurement for Water Distribution Program

RECOMMENDED ACTION

It is recommended that the Board of Directors of the Hesperia Water District authorize the City Manager to approve the procurement of one vacuum excavator and enter into an agreement with Ditch Witch West in the not-to-exceed amount of \$84,808.

BACKGROUND

The Distribution Program is responsible for all preventative and reactive maintenance on existing water infrastructure, as well as 24-hour emergency services. The requested additional vacuum excavation system will be more cost effective and allow staff to work more efficiently while installing new water services and repairing emergency water leaks throughout the District. The existing vacuum excavator is fifteen years old with over 1,955 hours. It is currently not in service as the engine is out of production and the parts for repair are expensive and difficult to attain.

ISSUES/ANALYSIS

Public Works released a formal request for bid (RFB) on July 14, 2022. RFB 2022-23-001 solicited bids from five vendors and a public bid opening was held on July 26, 2022. One response was received, which is Ditch Witch West. Bids were sent to and not received from RDO Equipment, Pres Tech, Pacific-Tek, or Truvac. There is currently a shortage of heavy equipment with manufacturing times taking six months to a year. Staff recommends executing an agreement with Ditch Witch West, who has been deemed to be the responsive/responsible vendor, as they have one manufactured that will be available for delivery within one month.

FISCAL IMPACT

Funding for the purchase of one (1) vacuum excavator is available in the Fiscal Year 2022-23 Adopted Water Operating Budget.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Bid Comparison

**RFB 2022-23-001 New Vacuum Excavator
Bid Comparison**

Attachment 1

Bid Comparison Type: Taxable

Bid Comparison Completed By: Robert Worby

Date: 7/28/2022

			Ditch Witch West Corona, California			RDO Equipment Riverside, California			Pres Tech Westminster, California			Pacific-Tek Phoenix, Arizona			TruVac La Verne, California		
Item No.	Qty	Description	Bidder Part #	Unit Cost	Extended Amount	Bidder Part #	Unit Cost	Extended Amount	Bidder Part #	Unit Cost	Extended Amount	Bidder Part #	Unit Cost	Extended Amount	Bidder Part #	Unit Cost	Extended Amount
1	1	New Vacuum Excavator	HX30A	\$78,700.80	\$78,700.80												
		Total Before Tax For Taxable Items			\$78,700.80												
		Sales Tax At 7.75%			\$6,099.31												
2	1	Tire Fee (Non-Taxable)		\$7.00	\$7.00												
			Total Bid		\$84,807.11	Total Bid Before Tax			Total Bid Before Tax			Total Bid Before Tax			Total Bid Before Tax		
			Less: 1% (Hesperia Bid)*		\$0.00	Less: 1% (Hesperia Bid)*			Less: 1% (Hesperia Bid)*			Less: 1% (Hesperia Bid)*			Less: 1% (Hesperia Bid)*		
			Total Actual Bid		\$84,807.11	Total Actual Bid			Total Actual Bid			Total Actual Bid			Total Actual Bid		
			Submitted Bid Amount		\$84,807.11	Submitted Bid Amount			Submitted Bid Amount			Submitted Bid Amount			Submitted Bid Amount		
			Difference		\$0.00	Difference			Difference			Difference			Difference		
			Lowest / Responsive Bidder			Did Not Bid			Did Not Bid			Did Not Bid			Did Not Bid		

City of Hesperia

STAFF REPORT



DATE: August 16, 2022
TO: Mayor and Council Members
FROM: Nils Bentsen, City Manager
BY: Melinda Sayre, Director of Government Services/City Clerk
Erin Baum, Assistant City Clerk
SUBJECT: Granicus Acquisition of GovQA

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to enter into a one (1) year agreement with Granicus LLC in an amount not-to-exceed \$10,866.50 to provide services for the City's electronic public records request and claims software program.

BACKGROUND

In 2014, the City entered into a contract with GovQA for a Freedom of Information Act (FOIA) Request Service workflow software, which allows electronic submittal and processing of FOIA requests via the City's website. In 2019, the City expanded the contract with GovQA to include a Claims portal to allow for the electronic submittal and processing of claims against the City.

ISSUES/ANALYSIS

On June 14, 2022, The City was notified that Granicus acquired GovQA. This acquisition has allowed Granicus to extend the public records capabilities of their Civic Engagement Platform, helping governments deliver consistent, unified digital experiences to their communities while automating, streamlining and transforming internal process workflows.

FISCAL IMPACT

The services provided by Granicus will cost \$10,866.50 for FY 2022-23. Funding has been included in the adopted budget for Software Licenses.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Fee Schedule



408 Saint Peter Street, Suite 600
Saint Paul, MN 55102
United States

THIS IS NOT AN INVOICE

Order Form
Prepared for
Hesperia, CA

Granicus Proposal for Hesperia, CA

ORDER DETAILS

Prepared By:	Korgbae Freeman
Phone:	
Email:	korgbae.freeman@granicus.com
Order #:	Q-207946
Prepared On:	07/19/2022
Expires On:	07/30/2022

ORDER TERMS

Currency:	USD
Payment Terms:	Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Subscription End Date:	06/30/2022
Period of Performance:	07/01/2022 - 06/30/2023

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Renewing Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Claims Module	Annual	1 Each	\$4,694.75
FOIA Module Non Enterprise	Annual	1 Each	\$5,000.70
Redaction License (per named user)	Annual	3 Each	\$1,171.05
SUBTOTAL:			\$10,866.50

PRODUCT DESCRIPTIONS

Solution	Description
Claims Module	Claims Module
FOIA Module Non Enterprise	FOIA Module Non Enterprise
Redaction License (per named user)	Redaction License (per named user)

TERMS & CONDITIONS

- Granicus terms and conditions <https://granicus.com/legal/licensing>
- This quote is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of Hesperia, CA to provide applicable exemption certificate(s).
- Any lapse in payment may result in suspension of service and will require the payment of a setup fee to reinstate the subscription.
- Notwithstanding anything to the contrary, Granicus reserves the right to adjust pricing at any renewal in which the volume has changed from the prior term without regard to the prior term's per-unit pricing.

BILLING INFORMATION

Billing Contact:		Purchase Order Required?	[] - No [] - Yes
Billing Address:		PO Number: <i>If PO required</i>	
Billing Email:		Billing Phone:	

If submitting a Purchase Order, please include the following language:

The pricing, terms, and conditions of quote Q-207946 dated 07/19/2022 are incorporated into this Purchase Order by reference and shall take precedence over any terms and conditions included in this Purchase Order.

AGREEMENT AND ACCEPTANCE

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

Hesperia, CA	
Signature:	
Name:	
Title:	
Date:	

City of Hesperia

STAFF REPORT



DATE: July 19, 2022

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager **SECOND READING AND ADOPTION**

BY: Rachel Molina, Assistant City Manager
Jamie Carone, Management Analyst
Jennifer Colby, Community Relations Specialist

SUBJECT: Emergency Service Roles

RECOMMENDED ACTION

It is recommended that the City Council hold a public hearing for, and place on first reading, Ordinance No. 2022-11 amending Hesperia Municipal Code Chapter 2.20 regarding the line of succession in the direction of emergency services.

***City Council requested several changes to Ordinance No. 2022-11 and Staff Report for second reading.**

BACKGROUND

Emergency management is an essential priority of local government. The City is the first line of defense against emergencies and is responsible for leading public preparedness, response, recovery, and mitigation efforts. Members of a community look to local government for reassurance, direction, and connection to vital resources and recovery efforts throughout the phases of an emergency.

The City executes emergency management through procedures outlined in the Hesperia Municipal Code, Emergency Operations Plan, and Hazard Mitigation Plan. Each plan addresses certain components of emergency management but are all structured to complement one another for an efficient and cohesive response to various emergency situations.

The Emergency Operations Plan (EOP) addresses the City's planned response to extraordinary situations and natural, human caused or technological disasters. The EOP guides the activation of the City's Emergency Operations Center which provides citywide priorities, communications, and logistical support through all phases of an emergency. The Hazard Mitigation Plan (HMP) demonstrates long-term strategies to reduce the loss of life and property due to disasters. The HMP process encourages communities to develop goals and projects that will reduce risk and build a more disaster-resilient community by identifying potential local hazards.

The EOP and HMP are updated every four (4) years to ensure compliance with state and federal regulations. Their standards are modified to reflect the most current structure of City staff and resources available to the community. As a component of emergency management, the procedures stated in the Hesperia Municipal Code must be updated to complement language, regulations, and protocol provided in the EOP, HMP, and state and federal regulations.

Title 2, Chapter 2.20, Emergency Services, of the Hesperia Municipal Code declares the preparation and implementation of plans within Hesperia during an emergency, the direction of the Emergency Operations Center, and the coordination of emergency functions by City personnel and partners. Among personnel addressed in this section are the Director of Emergency Services, Assistant Director of Emergency Services, and Emergency services Coordinator. Additionally, this chapter establishes and defines membership of the Hesperia Disaster Council, which acts to develop emergency and mutual aid plans and agreements.

ISSUES/ANALYSIS

Multiple sections in Title 2, Chapter 2.20 establish procedures in Emergency Services that are outdated and do not comply with the current structure of City staff or other emergency plans. The proposed amendments resolve these discrepancies including representation on the Hesperia Disaster Council, roles of internal staff in emergency operations, and other protocol as pertinent. These changes are necessary for the municipal code to reflect current emergency response standards. Furthermore, as the City is in the final stages of producing the 2022 Emergency Operations Plan, these amendments allow the EOP to emphasize the responsibilities of internal staff.

Section 2.20.030 defines the members of the Hesperia Disaster Council as follows: Mayor, who shall be chairman; City Manager, who is the Director of Emergency Services; Fire Chief, who is the Assistant Director of Emergency Services; Police Chief; and Superintendent of the Hesperia School District. ~~It is recommended to maintain the seats of the Mayor and City Manager and to add a seat for the Assistant City Manager, who will act as the Assistant Director of Emergency services. The Fire Chief and Police Chief will be included as chiefs of emergency services, and the Superintendent of the Hesperia Unified School District will be replaced with such language to include representatives of other organizations as appointed by the Director of Emergency Services. Amending the membership of the Hesperia Disaster Council establishes representation from significant community leaders and ensures that input is provided by those with an official emergency responsibility.~~

It is recommended to maintain the seat of the Mayor as Chairman and assign the Mayor Pro Tem as an alternate in the Mayor's absence. The City Manager will remain on the disaster council as the Director of Emergency Services, and the Assistant City Manager will be added as the Assistant Director of Emergency Services. The Fire Chief and Police Chief will be included as Chiefs of Emergency Services. The Superintendent of the Hesperia Unified School District will remain on the disaster council, and additional seats will be added to include representatives of other organizations as appointed by the Director of Emergency Services. Amending the membership of the Hesperia Disaster Council establishes representation from significant community leaders and ensures that input is provided by those with an official emergency responsibility.

Section 2.20.050 establishes the roles of the Director of Emergency services, Assistant Director of Emergency Services, and the Emergency Services Coordinator. Presently, these roles are defined as follows: The City Manager is the Director of Emergency Services; the Fire Chief is the Assistant Director of Emergency Services; the Emergency Services Coordinator is appointed by the Assistant Director of Emergency Services. It is recommended that the Assistant City Manager replace the Fire Chief as the Assistant Director of Emergency services. This amendment is necessary to assign leadership to internal staff and reflects the role of the Assistant City Manager in other established emergency plans.

Section 2.20.060 outlines the specific powers and duties of the Director of Emergency Services. The City Manager is assigned as the Director of Emergency Services, who leads emergency organization efforts for the City and may request the proclamation of a local emergency. Within this section, the Director of Emergency Services is authorized to designate an order of succession to that office when unavailable to perform duties during an emergency. Currently, the order of succession places responsibility in the order of Fire Chief; Police Chief; second in command of the fire department; and second in command of the police department. This order of succession does not reflect the current structure of City staff or emergency response procedures. The proposed amendments will instead place responsibility on internal, senior management staff. If amended, the succession will be written as follows: Assistant City Manager; Director of Government Services/City Clerk; Director of Administrative Services; and Director of Public Works. These updates reflect the roles proposed in the 2022 Emergency Operations Plan as well as the current staff structure, which no longer includes the fire department or police department.

2.20.110 addresses the safety assessment program (SAP) which is implemented to evaluate the safety of built structures after a disaster. The City Building Official is named the SAP coordinator and is permitted to use the office of the Building Official for SAP activities. If this office is not habitable after a disaster, then the facilities at 11011 Santa Fe Avenue are offered as an alternate site. Presently, this facility houses the Hesperia Animal Shelter. Therefore, it is recommended to designate the Mojave Corporation Yard located at 17828 Mojave Street as the alternate site.

FISCAL IMPACT

There are no fiscal impacts associated with approval of the recommended action.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance No. 2022-11
2. Exhibit "A" Municipal Code Title 2, Chapter 2.20 redlined copy
3. Exhibit "B" Municipal Code Title 2, Chapter 2.20 amended copy

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING TITLE 2, CHAPTER 2.20 OF THE HESPERIA MUNICIPAL CODE, RELATED TO EMERGENCY SERVICE ROLES AND THE ORDER OF SUCCESSION OF THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS, Title 2, Chapter 2.20 of the Hesperia Municipal Code outlines personnel duties in a local emergency; and

WHEREAS, several changes to this Chapter are necessary to comply with current emergency operations plans and procedures;

WHEREAS, the membership of the Hesperia Disaster Council per Section 2.20.030 is amended to include the Mayor, who shall be chairman, with the Mayor Pro Tem assigned as an alternate; the City Manager, who is the director of emergency services; the Assistant City Manager, who is the assistant director of emergency services; such chiefs of emergency services as are provided for in a current emergency plan; the Superintendent of the Hesperia School District; and such representatives of civic, business, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the City Council; and

WHEREAS, the Assistant City Manager is named the assistant director of emergency services to replace the Fire Chief in Section 2.20.050;

WHEREAS, the order of succession of the director of emergency services per Section 2.20.060 is revised to consist of City staff in lieu of public safety personnel;

WHEREAS, the alternate office site for the Safety Assessment Program Coordinator per Section 2.20.110 is assigned to the Mojave Corporation Yard at 17282 Mojave Street; and

WHEREAS, amending these duties and standards will complement the direction outlined in the Emergency Operations Plan and current emergency procedures.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES ORDAIN AS FOLLOWS:

- Section 1. All of the facts set forth in this Ordinance are true, correct, and are adopted as findings.
- Section 2. Title 2, Chapter 2.20, Emergency Services, is hereby amended by replacing Sections 2.20.030, 2.20.050, 2.20.060, and 2.20.110 as set forth in Exhibit "A," attached hereto.
- Section 3. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 4. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED this 16th day of August, 2022.

Brigit Bennington, Mayor

ATTEST:

Erin Baum, Assistant City Clerk

EXHIBIT “A”

Additions are underlined red text and deletions are ~~red and strikethrough~~

1) The following are modifications to Title 2, Chapter 2.20 in the Hesperia Municipal Code.

2.20.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an emergency, the direction of the emergency organization and the coordination of the emergency functions of this city with all other public agencies, corporations and affected private persons.

2.20.030 Disaster council membership.

The Hesperia Disaster Council is created and shall consist of the following:

- A. The mayor, who shall be chairman, with the mayor pro tem assigned as an alternate;
- B. The city manager, who is the director of emergency services;
- C. ~~The fire chief~~ assistant city manager, who is the assistant director of emergency services;
- D. ~~Police chief;~~ Such chiefs of emergency services as are provided for in a current emergency plan;
- E. Superintendent of the Hesperia School District;
- F. Such representatives of civic, business, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the City Council.

2.20.040 Disaster council powers and duties.

It shall be the duty of the city disaster council, and it is empowered, to develop and recommend for adoption by the city council emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman, or in his absence from the city or inability to call such meeting, upon call of the director of emergency services.

2.20.050 Director of emergency services.

- A. There is created the office of director of emergency services. The city manager shall be the director of emergency services.
- B. There is created the office of assistant director of emergency services. The ~~deputy city manager of public safety (fire chief)~~ assistant city manager shall be designated as the assistant director of emergency services.
- C. There is further created the office of emergency services coordinator, who shall be appointed by the assistant director of emergency services.

2.20.060 Powers and duties of the director and assistant director of emergency services.

A. The director is empowered to:

1. Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter, or the proclamation shall have no further effect.
2. Request the Governor to proclaim a "state of emergency," when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.
3. Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter.
4. Direct cooperation between and coordination of services and staff of the emergency organization of this city, and resolve questions of authority and responsibility that may arise between them.
5. Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
6. In the event of the proclamation of a "local emergency" as provided in this chapter, the proclamation of a "state of emergency" by the Governor or the director of the State Office of Emergency Services, or the existence of a "state of war emergency," the director is empowered:
 - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, that such rules and regulations be confirmed at the earliest practicable time by the city council;
 - b. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;
 - c. To require emergency services of any city officer or employee and, in the event of the proclamation of a local emergency, a "state of emergency," in the county in which this city is located or the existence of a "state of war emergency" to command the aid of as many citizens of this community as he deems necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers, (Gov. Code § 8657);
 - d. To requisition necessary personnel or material of any city department or agency, and;
 - e. To execute all of his ordinary power as city manager, all of the special powers conferred upon him by this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him by any statute, by any agreement approved by the city council, and by any other lawful authority.

B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be designated as follows:

- | | |
|---|--|
| 1. Fire chief; | <u>Assistant City Manager;</u> |
| 2. Police chief; | <u>Director of Government Services/City Clerk;</u> |
| 3. Second in command of the fire department; | <u>Director of Administrative Services;</u> |
| 4. Second in command of the police department; | <u>Director of Public Works.</u> |

- C. The assistant director of emergency services shall, under supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of the city; and shall have such other powers and duties as may be assigned by the director.
- D. The emergency services coordinator under the direct supervision of the director and the assistant director of emergency services shall assist in the development of emergency plans and emergency programs for the city; and shall have such other powers and duties as may be assigned or delegated by the director or assistant director of emergency services.

2.20.070 Emergency organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.20.080, shall be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city.

2.20.080 Emergency plan.

The director of emergency services is responsible for the development of the city emergency plan, which plan shall provide for the effective mobilization of all of the resources of this city, both private and public, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization's powers and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council.

2.20.090 Expenditures.

Any expenditures made in connection with emergency activities; including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

2.20.100 Punishment of violations.

It is a misdemeanor for any person during an emergency to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof;
- C. Wear carry or display without authority any means of identification specified by the emergency agency of the state or local agency.

2.20.110 Safety assessment program.

- A. Safety Assessment Program Coordinator. The city building official shall be named as safety assessment program (SAP) coordinator and shall be assigned to work under the operations section chief.
- B. The safety assessment program coordinator shall utilize the office of the building official for SAP activities. Should facilities at city hall not be habitable after the event, ~~the facilities at 11011 Santa Fe, housing code enforcement activities, may serve as an alternate site.~~ the Mojave Corporation Yard at 17282 Mojave Street may serve as an alternate site.

C. Placards.

1. The attached "Inspected" (green-Attachment 1), "Restricted Use" (yellow-Attachment 2), and "Unsafe" (red-Attachment 3) placards are hereby adopted for use in the City of Hesperia.
2. Placards may be placed by City of Hesperia Building Inspectors (including plans examiners and contract staff) and deputized building inspectors. Non-deputized building inspectors shall use generic placards not bearing the city logo.
3. Placards may be changed with approval of the SAP coordinator when an engineering evaluation of the building determines that the original posting was either too restrictive or not restrictive enough, when temporary measures were applied and the building posting could be changed to something less restrictive, or when evaluation by a deputized building inspector indicates that the posting should be changed.
4. Buildings posted as "Unsafe" (red) shall not be entered by residents. When, in the opinion of the building official or operations section chief, staffing resources are such that city or district staff may be free to escort residents into buildings posted as unsafe, residents may be allowed to recover personal items. In each case, the city/district representative has the authority to deny access if conditions appear imminently dangerous.
5. Placards shall not be removed unless the following:
 - a. "Inspected" placards shall not be removed until the SAP coordinator makes a public announcement to that effect.
 - b. "Restricted Use" placards shall not be removed until an engineering evaluation determines that the posting may be changed to "Inspected" and the SAP coordinator has publically announced (as in 5.a.) or that permitted repairs have been made and the city building inspector has approved the repairs.
 - c. "Unsafe" placards shall not be removed unless permitted demolition or repairs have been made and the city building inspector has approved the repairs.

D. Inspection Priorities.

1. In general, the inspection of city facilities after a city-wide event, such as a major earthquake, shall follow the priorities below. Smaller, more localized events, may be limited by the operations section chief or SAP coordinator to a quadrant or sub-region of the city.
2. Priority one would include essential services facilities (fire and police) and major city facilities (city hall, animal control, Mojave Yard, etc).
3. Priority two would include parks, schools, hotels, motels, and church facilities that might be necessary for shelters.
4. Priority three would include commercial, industrial, and office buildings in order to restore the city's economy.
5. Priority four would include large residential apartments.
6. Other residential would be inspected in priority five.
7. Other structures not intended for human occupancy, but potentially hazardous, such as walls, signs, barns, stables, etc., would be priority six.
8. Full safety evaluations would be performed initially in the priority one and two buildings while windshield surveys would be first performed in the other priorities to determine the resources necessary to fully survey the city.

EXHIBIT “B”

1) The following includes proposed modifications to Title 2, Chapter 2.20 in the Hesperia Municipal Code.

2.20.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this city in the event of an emergency, the direction of the emergency organization and the coordination of the emergency functions of this city with all other public agencies, corporations and affected private persons.

2.20.030 Disaster council membership.

The Hesperia Disaster Council is created and shall consist of the following:

- A. The mayor, who shall be chairman, with the mayor pro tem assigned as an alternate;
- B. The city manager, who is the director of emergency services;
- C. The assistant city manager, who is the assistant director of emergency services;
- D. Such chiefs of emergency services as are provided for in a current emergency plan;
- E. Superintendent of the Hesperia School District;
- F. Such representatives of civic, business, professional, or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the City Council.

2.20.040 Disaster council powers and duties.

It shall be the duty of the city disaster council, and it is empowered, to develop and recommend for adoption by the city council emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman, or in his absence from the city or inability to call such meeting, upon call of the director of emergency services.

2.20.050 Director of emergency services.

- A. There is created the office of director of emergency services. The city manager shall be the director of emergency services.
- B. There is created the office of assistant director of emergency services. The assistant city manager shall be designated as the assistant director of emergency services.
- C. There is further created the office of emergency services coordinator, who shall be appointed by the assistant director of emergency services.

2.20.060 Powers and duties of the director and assistant director of emergency services.

- A. The director is empowered to:

1. Request the city council to proclaim the existence or threatened existence of a "local emergency" if the city council is in session, or to issue such proclamation if the city council is not in session. Whenever a local emergency is proclaimed by the director, the city council shall take action to ratify the proclamation within seven days thereafter, or the proclamation shall have no further effect.
 2. Request the Governor to proclaim a "state of emergency," when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.
 3. Control and direct the effort of the emergency organization of this city for the accomplishment of the purposes of this chapter.
 4. Direct cooperation between and coordination of services and staff of the emergency organization of this city, and resolve questions of authority and responsibility that may arise between them.
 5. Represent this city in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
 6. In the event of the proclamation of a "local emergency" as provided in this chapter, the proclamation of a "state of emergency" by the Governor or the director of the State Office of Emergency Services, or the existence of a "state of war emergency," the director is empowered:
 - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, that such rules and regulations be confirmed at the earliest practicable time by the city council;
 - b. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property and to bind the city for the fair value thereof and, if required immediately, to commandeer the same for public use;
 - c. To require emergency services of any city officer or employee and, in the event of the proclamation of a local emergency, a "state of emergency," in the county in which this city is located or the existence of a "state of war emergency" to command the aid of as many citizens of this community as he deems necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers, (Gov. Code § 8657);
 - d. To requisition necessary personnel or material of any city department or agency, and;
 - e. To execute all of his ordinary power as city manager, all of the special powers conferred upon him by this chapter or by resolution or emergency plan pursuant hereto adopted by the city council, all powers conferred upon him by any statute, by any agreement approved by the city council, and by any other lawful authority.
- B. The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be designated as follows:
1. Assistant City Manager;
 2. Director of Government Services/City Clerk;
 3. Director of Administrative Services;
 4. Director of Public Works.
- C. The assistant director of emergency services shall, under supervision of the director and with the assistance of emergency service chiefs, develop emergency plans and manage the emergency programs of the city; and shall have such other powers and duties as may be assigned by the director.
- D. The emergency services coordinator under the direct supervision of the director and the assistant director of emergency services shall assist in the development of emergency plans and emergency programs for the city;

and shall have such other powers and duties as may be assigned or delegated by the director or assistant director of emergency services.

2.20.070 Emergency organization.

All officers and employees of this city, together with those volunteer forces enrolled to aid them during an emergency, and all groups, organizations and persons who may by agreement or operation of law, including persons impressed into service under the provisions of Section 2.20.080, shall be charged with duties incident to the protection of life and property in this city during such emergency, shall constitute the emergency organization of the city.

2.20.080 Emergency plan.

The director of emergency services is responsible for the development of the city emergency plan, which plan shall provide for the effective mobilization of all of the resources of this city, both private and public, to meet any condition constituting a local emergency, state of emergency, or state of war emergency; and shall provide for the organization's powers and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the city council.

2.20.090 Expenditures.

Any expenditures made in connection with emergency activities; including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the city.

2.20.100 Punishment of violations.

It is a misdemeanor for any person during an emergency to:

- A. Willfully obstruct, hinder, or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;
- B. Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy, or to imperil the lives or property of inhabitants of this city, or to prevent, hinder, or delay the defense or protection thereof;
- C. Wear carry or display without authority any means of identification specified by the emergency agency of the state or local agency.

2.20.110 Safety assessment program.

- A. Safety Assessment Program Coordinator. The city building official shall be named as safety assessment program (SAP) coordinator and shall be assigned to work under the operations section chief.
- B. The safety assessment program coordinator shall utilize the office of the building official for SAP activities. Should facilities at city hall not be habitable after the event, the Mojave Corporation Yard at 17282 Mojave Street may serve as an alternate site.
- C. Placards.
 - 1. The attached "Inspected" (green-Attachment 1), "Restricted Use" (yellow-Attachment 2), and "Unsafe" (red-Attachment 3) placards are hereby adopted for use in the City of Hesperia.
 - 2. Placards may be placed by City of Hesperia Building Inspectors (including plans examiners and contract staff) and deputized building inspectors. Non-deputized building inspectors shall use generic placards not bearing the city logo.

3. Placards may be changed with approval of the SAP coordinator when an engineering evaluation of the building determines that the original posting was either too restrictive or not restrictive enough, when temporary measures were applied and the building posting could be changed to something less restrictive, or when evaluation by a deputized building inspector indicates that the posting should be changed.
4. Buildings posted as "Unsafe" (red) shall not be entered by residents. When, in the opinion of the building official or operations section chief, staffing resources are such that city or district staff may be free to escort residents into buildings posted as unsafe, residents may be allowed to recover personal items. In each case, the city/district representative has the authority to deny access if conditions appear imminently dangerous.
5. Placards shall not be removed unless the following:
 - a. "Inspected" placards shall not be removed until the SAP coordinator makes a public announcement to that effect.
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 - c. "Unsafe" placards shall not be removed unless permitted demolition or repairs have been made and the city building inspector has approved the repairs.

D. Inspection Priorities.

1. In general, the inspection of city facilities after a city-wide event, such as a major earthquake, shall follow the priorities below. Smaller, more localized events, may be limited by the operations section chief or SAP coordinator to a quadrant or sub-region of the city.
2. Priority one would include essential services facilities (fire and police) and major city facilities (city hall, animal control, Mojave Yard, etc).
3. Priority two would include parks, schools, hotels, motels, and church facilities that might be necessary for shelters.
4. Priority three would include commercial, industrial, and office buildings in order to restore the city's economy.
5. Priority four would include large residential apartments.
6. Other residential would be inspected in priority five.
7. Other structures not intended for human occupancy, but potentially hazardous, such as walls, signs, barns, stables, etc., would be priority six.
8. Full safety evaluations would be performed initially in the priority one and two buildings while windshield surveys would be first performed in the other priorities to determine the resources

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City of Hesperia

STAFF REPORT



DATE: August 16, 2022

TO: Mayor and Council Members
Chair and Board Members, Hesperia Water District
Chair and Board Members, Hesperia Housing Authority
Chair and Board Members, Hesperia Community Development Commission

FROM: Nils Bentsen, City Manager

BY: Melinda Sayre, Director of Government Services/City Clerk
Jacquelyn Castillo, Administrative Analyst

SUBJECT: Consideration of the Amendment to Title 1 related to Police Multiple Response/Firework Fees and Amendment to the City-wide Fee Schedule and Bail Schedule Related to Police Multiple Response/Firework Fees

RECOMMENDED ACTION

It is recommended that the City Council, Board of Directors for the Hesperia Water District, Board of Directors for the Hesperia Housing Authority, and the Commissioners of the Community Development Commission introduce and place on first reading Ordinance No. 2022-12 amending Title 1 of the Hesperia Municipal Code related to Police Multiple Response/Firework fees; adopt Joint Resolution No. 2022-62, Resolution No. HWD 2022-14, Resolution No. HHA 2022-07, and Resolution No. HCDC 2022-04 amending the City-wide fee schedule related to the fees for the Multiple Response Program; and adopt Resolution No. 2022-63 amending the City-wide bail schedule related to prohibited firework fees.

BACKGROUND

The City's Multiple Response Program is governed by Hesperia Municipal Code Section 1.12.130 Special Enforcement Procedures, where large or tumultuous parties, domestic disturbances, gatherings, boisterous activities, or music, or any combination thereof, which interfere with the neighbors' reasonable enjoyment of their property, constitute a threat to public peace, morals, and safety, and elicit numerous calls to the police department.

In addition to disturbances and boisterous activities, the occurrence of multiple false alarms requiring police department response and multiple 911 calls where reasonable circumstances are not established have the effect of reducing manpower availability and therefore, threatening public safety. For the purposes of this section, multiple false alarms and/or multiple unreasonable 911 calls are considered a disturbance and subject to police multiple response fees. For the first incident, the responsible party will be issued a written warning (no fee) and the property will be placed on a probation period for three years from the date of the initial response. Any additional responses that occur during the three-year probation period will cause the property to be subject to the fee schedule on the next page.

Furthermore, the possession and usage of fireworks requires police and city department response and reduces manpower availability, in addition to creating an unsafe situation and threatening public safety and so shall be considered a disturbance and subject to police multiple

response fees, and are subject to a separate fine schedule, and fees are issued upon the first occurrence.

ISSUES/ANALYSIS

Multiple Disturbance/Firework Fees

Multiple Disturbance/Firework fees were presented as a discussion item at the July 19, 2022 City Council meeting. Staff sought direction from City Council members to amend fees related to the Multiple Disturbance fees. Accordingly, it was determined that fees should be increased to deter repeat offenders from engaging in boisterous activities, false alarms/multiple unreasonable 911 calls, and use of illegal fireworks.

It is recommended that the fee schedule for general disturbances be updated as follows:

General Disturbance Fees:

- First Response: No Charge/ Warning and three-year probation
- Second Response: Increase from \$150 to \$500
- Third Response: Increase from \$500 to \$1000
- Fourth Response: Will remain at \$1,000
- Each Subsequent Response: Will remain at \$2,500
- (Actual costs may be assessed in addition to any subsequent response)
- Citation Filing Fee: \$19 (charged to each response)
- Late Fees: 50% of total due

It is recommended that the bail schedule for fireworks be updated as follows:

Fireworks Fine Schedule

- First Response: Increase from \$1,000 to \$1,250 (to align with County fines)
- Second Response: Increase from \$2,000 to \$2,500
- Third Response: Increase from \$3,000 to \$5,000
- Fourth Response: Increase from \$3,000 to \$5,000
- Subsequent response: Increase from \$3,000 to \$5,000
- (Actual costs may be assessed in addition to any subsequent response)
- Citation Filing Fee: \$19 (charged to each response)
- Late Fees: 50% of total due

Multiple Disturbance/Firework Statistics

Staff conducted an analysis of the total number of multiple disturbances/firework responses for the period of January 1, 2020 through July 31, 2022. Grand totals are outlined in the chart below by year and activity type:

YEAR	911 CALLS	DISTURBING THE PEACE	FALSE ALARM BUSINESS	FALSE ALARM RESIDENTIAL	FIREWORKS	MUSIC	OTHER	PARTY	GRAND TOTALS
2020	2	25	32	1	31	38	1	55	185
2021		19	35	4	19	24	15	11	127
2022		12	23	5	18	28	4	75	165
TOTALS	2	56	90	10	68	90	20	141	477

An analysis of the statistical data for this scope period revealed that there was a total of 385 locations where there were multiple disturbances/firework responses. Of this total, 50 locations had 2 or more calls.

With the increased fees, staff anticipates a reduction in the number of repeat offenses.

FISCAL IMPACT

Adoption of this resolution will allow the City to continue to collect fees that adequately recover costs based on services provided.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance No. 2022-12
2. Exhibit "A" Title 1 Chapter 1.12.130 (16)(d) Multiple Police Response - Fireworks
3. Joint Resolution No. 2022-62
4. Fee Schedule and Exhibit "A" attached
5. Resolution No. 2022-63
6. Bail Schedule with Exhibit "A" attached

ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING TITLE 1 OF THE HESPERIA MUNICIPAL CODE, CHAPTER 1.12.130 TO UPDATE THE FEES RELATED TO THE MULTIPLE DISTURBANCE/FIREWORK RESPONSE PROGRAM

WHEREAS, the City of Hesperia has the authority and responsibility to protect the public health, safety, and welfare; and

WHEREAS, Title 1 of the Hesperia Municipal code contains regulations related to the Multiple Disturbance/Firework Response program; and

WHEREAS, the City Council finds that increasing multiple disturbance/firework response fees will deter individuals from repeatedly engaging in boisterous activities, false alarms/multiple unreasonable 911 calls, and illegal fireworks; and

WHEREAS, modifications to the program are necessary to update reference to multiple disturbance/firework response fees; and

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

NOW THEREFORE, THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. All of the facts set forth in the forgoing recitals are true, correct and are adopted as findings.

Section 2. Title 1, Chapter 1.12.130 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "A", attached hereto.

Section 3. This Ordinance shall take effect on September 16th, 2022.

Section 4. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 5. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution 93-78.

ADOPTED AND APPROVED this 16th day of August, 2022.

Brigit Bennington, Mayor

ATTEST _____
Erin Baum, Assistant City Clerk

Attachment 2

Exhibit A: Title 1 Chapter 1.12.130(16)(d) – Special Enforcement Procedures - Multiple Response - Fireworks

d. Fireworks. The possession and usage of fireworks requires police and city department response and reduces manpower availability, in addition to creating an unsafe situation and threatening public safety and so shall be considered a disturbance and subject to police multiple response fees.

Responses related to fireworks shall be subject to fees established by resolution of the Hesperia City Council. the following schedule of fees: First Response – \$150.00; Second Response – \$500.00; Third Response – \$1,000.00; Fourth and all subsequent responses – \$2,500.00. Additionally, at the discretion of the Police Captain or their designee, any response shall also incur actual costs.

Response for fireworks shall be subject to the probation requirements as required by this chapter for multiple responses.

**JOINT RESOLUTION NO. 2022-62
RESOLUTION NO. HWD-2022-14
RESOLUTION NO. CDC-2022-04
RESOLUTION NO. HHA-2022-07**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, AND THE COMMISSIONERS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AMENDING THE CITY-WIDE FEE SCHEDULE RELATED TO FEES FOR THE MULTIPLE RESPONSE/FIREWORKS PROGRAM

WHEREAS, on December 6, 2016, the City of Hesperia City Council, Hesperia Water District, Hesperia Fire District, Hesperia Housing Authority and Hesperia Community Development Commission adopted a revised City-wide fee schedule inclusive of all City, District, and Commission fees.

WHEREAS, Pursuant to Article XIII B (Proposition 4) of the California Constitution, it is the intent of the City Council of the City of Hesperia, the Board of Directors of the Hesperia Water District, the Board of Directors of the Hesperia Housing Authority, and the Board of Directors of the Hesperia Community Development Commission to recover costs reasonably borne from fees and charges for services rendered; and

WHEREAS, Pursuant to Article XIII C and Article XIII D (Proposition 218) of the California Constitution the fees, charges and regulatory fees are levied as an incident of the voluntary act of an individual or business and not the result of property ownership; and

WHEREAS, the City Council heard and took action on Ordinance No. 2022-12, amending Title 1 of the Hesperia Municipal Code related to Police Multiple Response/Firework fees; and

WHEREAS, large or tumultuous parties, domestic disturbances, gatherings, boisterous activities, or music, or any combination thereof, interfere with the neighbors' reasonable enjoyment of their property, constitute a threat to public peace, morals, and safety, and elicit numerous calls to the police department; and

WHEREAS, the Council finds that increasing multiple disturbance fees will deter individuals from repeatedly engaging in boisterous activities, false alarms/multiple unreasonable 911 calls; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT, THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY, AND THE COMMISSIONERS OF THE HESPERIA COMMUNITY DEVELOPMENT COMMISSION, AS FOLLOWS:

Section 1. In all respects, the facts as set forth in this resolution are true and correct.

Section 2. The schedule of fees and charges set forth in Exhibit "A" are hereby adopted and shall be applied to the specified services. The effective date of this resolution shall be October 16, 2022.

- Section 3. All fees described are for each identified process and additional fees shall be required for each additional process or service required.
- Section 4. Interpretation of this resolution may be made by the City Manager or designee. When there are conflicts between fees, the lower fee shall be applied.
- Section 5. If any section, sub-section, sentence, clause, or word in the resolution is held to be invalid by decision of any court of competent jurisdiction or action of State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution.
- Section 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 16th day of August 2022.

Brigit Bennington, Mayor/Chair

ATTEST:

Erin Baum, Assistant City Clerk

Attachment 4

Exhibit A – City Fee Schedule

SECTION 200:

Police- Public Safety

Police-Public Safety

1) Administrative Fees

B. Excessive False Alarms (Police Multiple Disturbance Response Program)

1st = Warning; 2nd
=~~\$500~~ \$150,
3rd= ~~\$1,000~~ \$500,
4th= \$1,000,
5th + =\$2,500

RESOLUTION NO. 2022-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING RESOLUTION NO. 2022-63, AMENDING THE CITY-WIDE ADMINISTRATIVE BAIL SCHEDULE

WHEREAS, the administrative bail schedule was originally adopted via Resolution No. 2002-42; and

WHEREAS, the City of Hesperia is responsible for enforcement of the Hesperia Municipal Code in its entirety; and

WHEREAS, on August 16, 2022, the City Council heard and took action on Ordinance No. 2022-12, which amends Title 1 of the Hesperia Municipal Code related to Police Multiple Response/Firework Fees; and

WHEREAS, the possession and usage of fireworks requires police and city department response and reduces manpower availability, in addition to creating an unsafe situation and threatening public safety; and

WHEREAS, the Council finds that increasing prohibited firework fees will deter individuals from the use of illegal fireworks; and

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

- Section 1. In all respects, the facts as set forth in this resolution are true and correct.
- Section 2. The fines for violations set forth in Exhibit "A" are hereby adopted and shall be applied to the specified services. The effective date of this resolution shall be October 16, 2022.
- Section 3. Interpretation of this resolution may be made by the City Manager or designee. When there are conflicts between fees, the lower fee shall be applied.
- Section 4. If any section, sub-section, sentence, clause, or word in the resolution is held to be invalid by decision of any court of competent jurisdiction or action of State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution.
- Section 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 16th day of August 2022.

Brigit Bennington, Mayor

ATTEST:

Erin Baum, Assistant City Clerk

EXHIBIT A

City of Hesperia Administrative Fine Schedule				
SECTION	DESCRIPTION	1st	2nd	3 rd <u>And</u> <u>Subsequent</u>
8.36.010	Fireworks Prohibited	\$1, 250,000 .00	\$2, 50 000.00	\$ 53 ,000.00

City of Hesperia

STAFF REPORT



DATE: August 16, 2022

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Rachel Molina, Assistant City Manager
Ryan Leonard, Senior Planner
Yuying Ma, Assistant Planner

SUBJECT: Development Code Amendment DCA22-00003; Applicant: City of Hesperia; Area affected: City-wide

RECOMMENDED ACTION

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2022-13 approving Development Code Amendment DCA22-00003 modifying development standards associated with Accessory Dwelling Units (ADUs).

BACKGROUND

On May 19, 2020, the City Council adopted Ordinance No. 2020-04 adopting development standards associated with Accessory Dwelling Units (ADUs). On June 1, 2021, the City Council adopted Ordinance No. 2021-01 modifying various sections of the ADU Ordinance for the purpose of providing added clarity and to be consistent with State requirements.

In January 2022, the California Department of Housing and Community Development (HCD) requested copies of the City's existing ADU Ordinance. On June 3, 2022, HCD provided written comments to the City regarding the existing ADU Ordinances. The adopted ADU Ordinances comply with many of the State's statutory requirements, however certain aspects of the ADU Ordinances must be revised to comply with State ADU Law.

PROJECT SUMMARY

The ADU Ordinance (specifically section 16.12.360 of the Development Code) currently allows ADU's in the agricultural, single family, multi-family, and mixed-use zoning designations. However, it was discovered that Section 16.16.085 of the Municipal Code is inconsistent with the ADU Ordinance because it incorrectly lists ADUs as a prohibited use in the R3 zoning designation. Therefore, DCA22-00003 will modify Section 16.16.085 of the Municipal Code to clarify that ADUs are an allowed use in the multifamily zoning designations.

Development Code Amendment DCA22-00003 will also clarify that an ADU may be allowed on a lot with an existing or proposed "primary residence" as opposed to a "single family residence." This will ensure that references to multifamily buildings are not omitted in the ADU Ordinance.

DCA22-00003 will amend the existing ADU Ordinance to remove two regulations that are considered to be subjective terms. The existing ADU Ordinance currently requires that "the entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary

unit and shall be installed in a manner as to eliminate an obvious indication of two units in the same structure.” HCD determined that “obvious indication” could be a subjective term. Therefore, this requirement will be removed.

In addition, the existing ADU Ordinance states that an ADU “shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.” As with above, the terms “excessive noise, traffic or other disturbances” and “significantly adverse impacts” were determined to be subjective terms and will be removed. However, the City may continue to use the adequacy of water and sewer services to determine where ADUs may be permitted.

Planning Commission Review: On July 14, 2022 the Planning Commission voted 5-0 to forward this item to the City Council with a recommendation for approval.

Conclusion: The Ordinance is consistent the goals, policies and objectives of the General Plan and will bring the City’s Accessory Dwelling Unit regulations into compliance with State ADU law.

ATTACHMENT(S)

1. Ordinance No. 2022-13
2. Exhibit "A"
3. Planning Commission Staff Report with attachments.

ORDINANCE NO. 2022-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING A DEVELOPMENT CODE AMENDMENT MODIFYING DEVELOPMENT STANDARDS ASSOCIATED WITH ACCESSORY DWELLING UNITS (DCA22-00003)

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

WHEREAS, the City proposes to amend Section 16.12.360 of the City of Hesperia Development Code regulations, which pertain to Accessory Dwelling Units (ADUs); and

WHEREAS, the proposed Development Code Amendment will modify Section 16.16.085 of the Municipal Code to state that an ADU is an allowed use in the R3 zoning designation; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 (E)(1) to clarify that an ADU may be allowed on a lot with an existing or proposed “primary residence” as opposed to a “single family residence”; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 (E) of the Municipal Code to remove two regulations that are considered to be subjective terms; the term “obvious indication” of two units will be removed and the terms “excessive noise, traffic or other disturbances” and “significantly adverse impacts” and will be removed; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 of the City of Hesperia Development Code regulations to add the approval time of 120 days; and

WHEREAS, the proposed Development Code Amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City’s CEQA Guidelines, as the Amendment is exempt if it does not propose to increase the density or intensity allowed in the General Plan; and

WHEREAS, on July 14, 2022, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Amendment and concluded said hearing on that date; and

WHEREAS, on August 16, 2022, the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Amendment and concluded said hearing on that date; and

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

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES ORDAIN AS FOLLOWS:

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

Section 2. Based upon substantial evidence presented to the Council, including written and oral staff reports, the Council specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA22-00003 amending the ADU regulations as shown on Exhibit "A."

Section 4. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED on this 16th day of August 2022.

Brigit Bennington, Mayor

ATTEST:

Erin Baum, Assistant City Clerk

EXHIBIT "A"

The following are modifications to Article X of Chapter 16.12 (additions are in underlined red text and deletions are shown with ~~red and strikethrough~~):

16.12.360 Accessory dwelling units.

- A. Purpose. The purpose of these provisions is to establish procedures for permitting an accessory dwelling unit (ADU); to implement state law requiring consideration for such uses.
- B. Definitions.
 - a. "Accessory dwelling unit" or "ADU" means an additional detached or attached dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with an existing or proposed primary residence. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit is situated. An accessory dwelling unit also includes the following:
 - i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
 - b. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - c. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- C. Application Procedure—Accessory Dwelling Units. Application for a permit to construct an accessory dwelling unit shall be made by pursuant to the provisions and limitations of this article.
 - a. The review procedure shall be administrative review without notice (ministerial), pursuant to the provisions of Section 16.12.005(A)(3).
 - b. The City shall act on the application to create an ADU or a Junior ADU within 120 days from the date that the City receives a completed application, unless either:
 - a) The Applicant requests for a delay, in which case the 120 day time period is tolled for the period of the requested delay, or

2.

b) An application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is submitted with a permit application to create a new primary residence on the lot, the City may delay acting on the permit application for the Accessory Dwelling Unit or the Junior Accessory Dwelling until the City acts on the permit application to create the primary residence. The application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is still considered ministerially without discretionary review or a public hearing.

c. Approval of a permit to construct an accessory dwelling unit shall be valid for a period not to exceed thirty-six (36) months.

D. Requirements for Approval.

1. An accessory dwelling unit may only be permitted on lots that are zoned for agricultural, single family, multi-family, or mixed uses and that contain an existing or proposed single-family or multi-family dwelling.
2. Accessory dwelling units are exempt from the density limitations of the General Plan and subject to the following:
 - a. Lots with an existing or proposed single-family residence may be permitted one (1) accessory dwelling, and one (1) junior accessory dwelling unit (see Section 16.12.360 F for additional regulations pertaining to junior accessory dwelling units).
 - b. Lots with existing multifamily units may convert non-habitable space within an existing multifamily structure into accessory dwelling units. The number of these types of units shall be limited to -one (1) accessory dwelling or up to 25 percent of the existing multifamily dwelling units, whichever is greater. In addition, no more than two (2) detached accessory dwelling units may be permitted. A detached accessory dwelling may be converted from non-habitable space, or newly constructed.
3. An accessory dwelling unit shall be located on the same lot as the proposed or existing primary dwelling.
4. The correction of a nonconforming zoning condition that would result in a physical improvement on the property shall not be a condition of approval for an accessory dwelling unit.
5. On lots with an existing or proposed single family residence, the primary dwelling unit or accessory dwelling unit on the property shall be owner-occupied. (This provision is suspended for all permits until January 1, 2025, unless otherwise amended by California Government Code 65852.2).
6. The accessory dwelling unit shall provide complete and independent living facilities.
7. The accessory dwelling unit shall not be sold separately and may be rented for periods of not less than 30 days.
8. The accessory dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.
9. In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.

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10. The design and construction of each ADU shall conform to all applicable provisions of the Building Code. The ADU shall comply with all provisions of the Code pertaining to the adequacy of water, sewer, electrical, drainage, and fire and emergency services to the property on which the ADU will be located as well as all applicable codes pertaining to building, fire, health, and/or safety.

E. Design and Development Standards—Accessory Dwelling Units.

1. The accessory dwelling unit may be either attached to or detached from an existing or proposed ~~single-family primary~~ residence, or converted from an existing accessory building, garage, storage area, or other similar non-habitable area. An accessory dwelling may be converted from non-habitable space within, or detached from, an existing or proposed multi-family structure.
2. A detached accessory unit shall not exceed 1,200 square feet per structure of livable floor area (excludes garage and any accessory structure) on any parcel. Accessory dwelling units attached to the principal unit may be up to fifty (50) percent of the area of the principal unit, up to a maximum of one thousand (1,000) square feet, except that if the principal unit has a floor area of 1,600 square feet or less, an attached accessory dwelling unit shall conform to the provisions of Section 16.20.360(E)(6), below. The area of an accessory dwelling unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20. No accessory dwelling unit shall be less than one hundred and fifty (150) square feet in area. Further, a recreational vehicle, does not qualify for use as an accessory dwelling unit.
3. The entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary unit and ~~shall be installed in a manner as to eliminate an obvious indication of two units in the same structure the separate entrance shall be located on the side or rear of the structure and whenever possible, located facing toward the interior yard areas.~~
4. For new attached or detached accessory dwelling units, a minimum four-foot side yard and four-foot rear yard setback is allowed. The front yard and street side yard standards for the primary unit shall apply to the accessory dwelling unit. In addition, detached accessory dwelling units shall be located to the rear of the primary dwelling unit.
5. No setback shall be required for the conversion of existing living area, conversion of an existing accessory structure, or for a new structure that is constructed in the same location and to the same dimensions as an existing structure.
6. The accessory dwelling unit shall be constructed in accordance with minimum standards for single-family residential uses on individual lots as specified in Section 16.20.160, unless otherwise specified herein.
7. No provisions within this Section, including lot coverage or legal nonconformity, shall preclude either an attached or detached 800 square foot accessory dwelling unit that is at least sixteen (16) feet in height with four-foot side yard and rear yard setbacks, and that is constructed in compliance with all other development standards
8. At least one covered or uncovered parking space for the accessory dwelling unit shall be provided by a minimum interior size of nine feet in width and nineteen (19) feet in depth. Parking can be tandem on an existing driveway. The City shall not impose parking standards for an accessory dwelling unit if the accessory dwelling unit is

located within one-half mile of public transit, when the accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure, when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit, or when there is a care share vehicle located within one block of the accessory dwelling unit. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

9. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces do not need to be replaced.
10. The accessory dwelling unit shall be compatible with the design of the primary unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, ~~and shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.~~
11. The construction of an accessory dwelling unit shall not be considered when calculating minimum distance requirements for animal uses on the subject lot or on adjacent lots.

F. Junior Accessory Dwelling Units.

1. Purpose-This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing single family residence, and requires owner occupancy of the single family residence where the unit is located.
2. Development Standards- Junior accessory dwelling units shall comply with the following standards:
 - a) Lots with an existing or proposed single family residence may be permitted one (1) accessory dwelling unit and one (1) junior accessory dwelling unit.
 - b) In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.
 - c) A junior accessory dwelling unit shall not exceed 500 square feet in size and shall be contained entirely within a single family residence. However, an additional 150 square foot expansion beyond the physical dimensions of the existing structure is permitted strictly to accommodate ingress and egress to the junior accessory dwelling unit.
 - d) The junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single family residence.
 - e) The junior accessory dwelling unit must include an efficiency kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

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- f) The junior accessory dwelling unit may have a bathroom or share with the proposed or existing single family residence.
 - g) Additional parking shall not be required.
 - h) A deed restriction, in a form to be approved and provided by the City, must be recorded filed with the City, and must include the following stipulations: i) prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single family residence; ii) restriction on the size and attributes of the junior accessory dwelling unit; iii) if the unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days; and iv) owner occupancy of one of the units on-site is required, unless the owner is a governmental agency, land trust, or housing organization. These restrictions shall run with the land.

(Ord. 2003-05 § 4 (part), 2003; Ord. 299 § 4 (Exh. A § 3 (part)), 2000; Ord. 250 (part), 1997; Ord. 192 Exh. A (§ 83.10.020), 1994)

(Ord. No. 2009-08, § 3(Exh. A), 10-20-09; Ord. No. 2012-14, § 3(Exh. A), 8-7-12; Ord. No. 2017-12 , § 3(Exh. A), 6-20-17; Ord. No. 2020-04 , § 3(Exh. A), 5-19-20; Ord. No. 2021-01 , 3(Exh. A), 6-1-21)

The following are modifications to Article IV of Chapter 16.16:

16.16.085 Residential and ancillary uses.

Residential and Ancillary Uses	R1	R3 ¹	RR	A1	A2	See Section(s)
A. Single-family dwelling	P	P	P	P	P	
B. Multiple-family dwellings	NP	S	NP	NP	NP	
C. Accessory dwelling unit	A	NP A	A	A	A	16.12.360
D. Guest house ²	A	NP	A	A	A	
E. Home Occupation	A	A	A	A	A	Chapter 5.44 (Municipal Code)
F. Board and room, not to exceed two persons, without kitchen privileges	A	A	A	A	A	
G. Accessory buildings and structures ³	A	A ⁴	A	A	A	16.20.385—16.20.425
H. Buildings or structures to store agricultural vehicles, food, and equipment (i.e. barn or outbuilding)	A	NP	A	A	A	16.20.385—16.20.425
I. Buildings or structures to keep animals (i.e. stable, corral, pen or coop)	A	NP	A	A	A	16.16.115 and 16.20.385—16.20.425
J. Small, community, or handicapped residential care facilities, senior housing, intermediate care of six or less and licensed by the state	P	P	P	P	P	
K. Large or community residential care facilities, senior housing, intermediate care of seven or more and licensed by the state and Single Room Occupancy Development (SRO) ⁷	C	C	C	C	C	
L. Group homes not licensed by the state with six or more residents	C	C	C	C	C	
M. Supportive housing and transitional housing	S	S	S	S	S	16.08.332 and 16.08.333
N. Parking of commercial vehicles, as defined in the California Vehicle Code	A	NP	A	A	A	16.20.090(H)
O. Mobile home parks	S	S ⁵	S	S	S	16.28.010—16.28.070
P. Hotels and Motels	NP	S ⁶	NP	NP	NP	
Q. Small family day care to 12 or fewer children	A	A	A	A	A	

R. Large family day care to 13 or more children	S	S	S	S	S	
S. Other similar uses, as interpreted by the Development Services Director or his/her designee	P	P	P	P	P	

Notes:

1. Prohibited uses shall be uses not specifically authorized or determined by the development services director or his/her designee to be detrimental to public welfare.
2. Guest house shall not exceed a building area of four hundred ninety-nine (499) square feet and shall not include kitchen facilities.
3. Accessory structures and uses shall be customarily incidental to any permitted uses when located on the same site with the main building and use.
4. Shall include recreational vehicle parks.
5. Business may be conducted for the convenience of the residents of the building; there shall not be an entrance to such place of business, except from the inside of the building; and no sign visible from the outside advertising such business.
6. SRO developments are subject to Section G 4.15 of the Main Street and Freeway Corridor Specific Plan—Standards for Single Room Occupancy for all residential zones.

(Ord. No. 2011-10, § 3(Exh. A), 8-16-11; Ord. No. 2014-02, § 3(Exh. A), 2-18-14 ; Ord. No. 2021-01 , 3(Exh. A), 6-1-21)

City of Hesperia
STAFF REPORT

DATE: July 14, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner
Yuying Ma, Assistant Planner

SUBJECT: Development Code Amendment DCA22-00003; Applicant: City of Hesperia; Area affected: City-wide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-10 recommending that the City Council introduce and place on first reading an ordinance approving DCA22-00003, modifying development standards associated with Accessory Dwelling Units (ADUs).

BACKGROUND

On May 19, 2020 the City Council adopted Ordinance No. 2020-04 adopting development standards associated with Accessory Dwelling Units (ADUs). On June 1, 2021 the City Council adopted Ordinance No. 2021-01 modifying various sections of the ADU Ordinance for the purpose of providing added clarity and to be consistent with State requirements.

In January 2022 the California Department of Housing and Community Development (HCD) requested copies of the City's existing ADU Ordinance. On June 3, 2022, HCD provided written comments to the City regarding the existing ADU Ordinances. The adopted ADU Ordinances address many of the State's statutory requirements, however certain aspects of the ADU Ordinances must be revised to comply with State ADU Law.

ISSUES/ANALYSIS

Staff has identified required changes to the ADU Ordinance as well as other opportunities to improve the existing ordinance, as discussed below. The proposed Development Code Amendment will modify the City's existing ADU Ordinance to fully comply with the State ADU Law.

The ADU Ordinance (specifically section 16.12.360 of the Development Code) currently allows ADU's in the agricultural, single family, multi-family, and mixed-use zoning designations. However, it was discovered that Section 16.16.085 of the Municipal Code is inconsistent with the ADU Ordinance because it incorrectly lists ADUs as a prohibited use in the R3 zoning designation. Therefore, DCA22-00003 will modify Section 16.16.085 of the Municipal Code to clarify that ADUs are an allowed use in the multifamily zoning designations.

Development Code Amendment DCA22-00010 will also clarify that an ADU may be allowed on a lot with an existing or proposed “primary residence” as opposed to a “single family residence.” This will ensure that references to multifamily buildings are not omitted in the ADU Ordinance.

DCA22-00010 will amend the existing ADU Ordinance to remove two regulations that are considered to be subjective terms. The existing ADU Ordinance currently requires that “the entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary unit and shall be installed in a manner as to eliminate an obvious indication of two units in the same structure.” HCD determined that “obvious indication” could be a subjective term. Therefore, this requirement will be removed.

In addition, the existing ADU Ordinance states that an ADU “shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.” As with above, the terms “excessive noise, traffic or other disturbances” and “significantly adverse impacts” were determined to be subjective terms and will be removed. However, the City may continue to use the adequacy of water and sewer services to determine where ADUs may be permitted.

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Development Code Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City’s CEQA Guidelines, as a Development Code Amendment is exempt if it does not propose to increase the density or intensity allowed in the General Plan. According to Government Code 65852.2, ADUs do not count towards the allowable density, and are a residential use consistent with the existing General Plan and zoning designation.

Conclusion: The Ordinance is consistent the goals, policies and objectives of the General Plan and will bring the City’s Accessory Dwelling Unit regulations into compliance with State ADU law.

FISCAL IMPACT

None.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. PC-2022-10, with Exhibit “A”

ATTACHMENT 1

RESOLUTION NO. PC-2022-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A DEVELOPMENT CODE AMENDMENT MODIFYING DEVELOPMENT STANDARDS ASSOCIATED WITH ACCESSORY DWELLING UNITS (ADUS) (DCA22-00010)

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

WHEREAS, the City proposes to amend Section 16.12.360 of the City of Hesperia Development Code regulations, which pertain to Accessory Dwelling Units (ADUs); and

WHEREAS, the proposed Development Code Amendment will modify Section 16.16.085 of the Municipal Code to state that an ADU is an allowed use in the R3 zoning designation; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 (E)(1) to clarify that an ADU may be allowed on a lot with an existing or proposed “primary residence” as opposed to a “single family residence”; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 (E) of the Municipal Code to remove two regulations that are considered to be subjective terms; the term “obvious indication” of two units will be removed and the terms “excessive noise, traffic or other disturbances” and “significantly adverse impacts” and will be removed; and

WHEREAS, the proposed Development Code Amendment will modify Section 16.12.360 of the City of Hesperia Development Code regulations to add the approval time of 120 days; and

WHEREAS, the proposed Development Code Amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3), where it can be seen with certainty that there is no significant effect on the environment. The proposed Amendment is also exempt from the requirements of the California Environmental Quality Act by Section 16.12.415(B)(10) of the City’s CEQA Guidelines, as the Amendment is exempt if it does not propose to increase the density or intensity allowed in the General Plan; and

WHEREAS, on July 14, 2022, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Amendments 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 Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA22-00003, amending the Accessory Dwelling Unit regulations as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 14th day of July 2022.

Roger Abreo, Chair, Planning Commission

ATTEST:

Maricruz Montes, Secretary, Planning Commission

EXHIBIT “A”

The following are modifications to Article X of Chapter 16.12 (additions are in underlined red text and deletions are shown with ~~red and strikethrough~~):

16.12.360 Accessory dwelling units.

- A. Purpose. The purpose of these provisions is to establish procedures for permitting an accessory dwelling unit (ADU); to implement state law requiring consideration for such uses.
- B. Definitions.
 - a. "Accessory dwelling unit" or "ADU" means an additional detached or attached dwelling unit which provides complete independent living facilities for one or more persons and is located on a lot with an existing or proposed primary residence. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit is situated. An accessory dwelling unit also includes the following:
 - i. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.
 - ii. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
 - b. "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
 - c. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
- C. Application Procedure—Accessory Dwelling Units. Application for a permit to construct an accessory dwelling unit shall be made by pursuant to the provisions and limitations of this article.
 - a. The review procedure shall be administrative review without notice (ministerial), pursuant to the provisions of Section 16.12.005(A)(3).
 - b. The City shall act on the application to create an ADU or a Junior ADU within 120 days from the date that the City receives a completed application, unless either:
 - a) The Applicant requests for a delay, in which case the 120 day time period is tolled for the period of the requested delay, or

2.

b) An application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is submitted with a permit application to create a new primary residence on the lot, the City may delay acting on the permit application for the Accessory Dwelling Unit or the Junior Accessory Dwelling until the City acts on the permit application to create the primary residence. The application of an Accessory Dwelling Unit or a Junior Accessory Dwelling Unit is still considered ministerially without discretionary review or a public hearing.

c. Approval of a permit to construct an accessory dwelling unit shall be valid for a period not to exceed thirty-six (36) months.

D. Requirements for Approval.

1. An accessory dwelling unit may only be permitted on lots that are zoned for agricultural, single family, multi-family, or mixed uses and that contain an existing or proposed single-family or multi-family dwelling.
2. Accessory dwelling units are exempt from the density limitations of the General Plan and subject to the following:
 - a. Lots with an existing or proposed single-family residence may be permitted one (1) accessory dwelling, and one (1) junior accessory dwelling unit (see Section 16.12.360 F for additional regulations pertaining to junior accessory dwelling units).
 - b. Lots with existing multifamily units may convert non-habitable space within an existing multifamily structure into accessory dwelling units. The number of these types of units shall be limited to -one (1) accessory dwelling or up to 25 percent of the existing multifamily dwelling units, whichever is greater. In addition, no more than two (2) detached accessory dwelling units may be permitted. A detached accessory dwelling may be converted from non-habitable space, or newly constructed.
3. An accessory dwelling unit shall be located on the same lot as the proposed or existing primary dwelling.
4. The correction of a nonconforming zoning condition that would result in a physical improvement on the property shall not be a condition of approval for an accessory dwelling unit.
5. On lots with an existing or proposed single family residence, the primary dwelling unit or accessory dwelling unit on the property shall be owner-occupied. (This provision is suspended for all permits until January 1, 2025, unless otherwise amended by California Government Code 65852.2).
6. The accessory dwelling unit shall provide complete and independent living facilities.
7. The accessory dwelling unit shall not be sold separately and may be rented for periods of not less than 30 days.
8. The accessory dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.
9. In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.

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10. The design and construction of each ADU shall conform to all applicable provisions of the Building Code. The ADU shall comply with all provisions of the Code pertaining to the adequacy of water, sewer, electrical, drainage, and fire and emergency services to the property on which the ADU will be located as well as all applicable codes pertaining to building, fire, health, and/or safety.

E. Design and Development Standards—Accessory Dwelling Units.

1. The accessory dwelling unit may be either attached to or detached from an existing or proposed ~~single-family primary~~ residence, or converted from an existing accessory building, garage, storage area, or other similar non-habitable area. An accessory dwelling may be converted from non-habitable space within, or detached from, an existing or proposed multi-family structure.
2. A detached accessory unit shall not exceed 1,200 square feet per structure of livable floor area (excludes garage and any accessory structure) on any parcel. Accessory dwelling units attached to the principal unit may be up to fifty (50) percent of the area of the principal unit, up to a maximum of one thousand (1,000) square feet, except that if the principal unit has a floor area of 1,600 square feet or less, an attached accessory dwelling unit shall conform to the provisions of Section 16.20.360(E)(6), below. The area of an accessory dwelling unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20. No accessory dwelling unit shall be less than one hundred and fifty (150) square feet in area. Further, a recreational vehicle, does not qualify for use as an accessory dwelling unit.
3. The entrance to an attached accessory dwelling unit shall be separate from the entrance to the primary unit and ~~shall be installed in a manner as to eliminate an obvious indication of two units in the same structure~~ the separate entrance shall be located on the side or rear of the structure and whenever possible, located facing toward the interior yard areas.
4. For new attached or detached accessory dwelling units, a minimum four-foot side yard and four-foot rear yard setback is allowed. The front yard and street side yard standards for the primary unit shall apply to the accessory dwelling unit. In addition, detached accessory dwelling units shall be located to the rear of the primary dwelling unit.
5. No setback shall be required for the conversion of existing living area, conversion of an existing accessory structure, or for a new structure that is constructed in the same location and to the same dimensions as an existing structure.
6. The accessory dwelling unit shall be constructed in accordance with minimum standards for single-family residential uses on individual lots as specified in Section 16.20.160, unless otherwise specified herein.
7. No provisions within this Section, including lot coverage or legal nonconformity, shall preclude either an attached or detached 800 square foot accessory dwelling unit that is at least sixteen (16) feet in height with four-foot side yard and rear yard setbacks, and that is constructed in compliance with all other development standards
8. At least one covered or uncovered parking space for the accessory dwelling unit shall be provided by a minimum interior size of nine feet in width and nineteen (19) feet in depth. Parking can be tandem on an existing driveway. The City shall not impose parking standards for an accessory dwelling unit if the accessory dwelling unit is

located within one-half mile of public transit, when the accessory dwelling unit is part of the proposed or existing primary residence or an existing accessory structure, when on-street parking permits are required but not offered to the occupant of the accessory dwelling unit, or when there is a care share vehicle located within one block of the accessory dwelling unit. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

9. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, those off-street parking spaces do not need to be replaced.
10. The accessory dwelling unit shall be compatible with the design of the primary unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, ~~and shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.~~
11. The construction of an accessory dwelling unit shall not be considered when calculating minimum distance requirements for animal uses on the subject lot or on adjacent lots.

F. Junior Accessory Dwelling Units.

1. Purpose-This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit, will be constructed within the walls of an existing single family residence, and requires owner occupancy of the single family residence where the unit is located.
2. Development Standards- Junior accessory dwelling units shall comply with the following standards:
 - a) Lots with an existing or proposed single family residence may be permitted one (1) accessory dwelling unit and one (1) junior accessory dwelling unit.
 - b) In compliance with the State of California Lahontan Regional Water Quality Control Board, lots that are not connected to sewer facilities shall be a minimum of one gross acre in size or install an approved Supplemental Treatment Septic System.
 - c) A junior accessory dwelling unit shall not exceed 500 square feet in size and shall be contained entirely within a single family residence. However, an additional 150 square foot expansion beyond the physical dimensions of the existing structure is permitted strictly to accommodate ingress and egress to the junior accessory dwelling unit.
 - d) The junior accessory dwelling unit shall include a separate entrance from the main entrance to the proposed or existing single family residence.
 - e) The junior accessory dwelling unit must include an efficiency kitchen that includes a cooking facility with appliances, a food preparation counter, and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

-
- f) The junior accessory dwelling unit may have a bathroom or share with the proposed or existing single family residence.
 - g) Additional parking shall not be required.
 - h) A deed restriction, in a form to be approved and provided by the City, must be recorded filed with the City, and must include the following stipulations: i) prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single family residence; ii) restriction on the size and attributes of the junior accessory dwelling unit; iii) if the unit is rented, the unit shall not be rented for a period of less than 30 consecutive calendar days; and iv) owner occupancy of one of the units on-site is required, unless the owner is a governmental agency, land trust, or housing organization. These restrictions shall run with the land.

(Ord. 2003-05 § 4 (part), 2003; Ord. 299 § 4 (Exh. A § 3 (part)), 2000; Ord. 250 (part), 1997; Ord. 192 Exh. A (§ 83.10.020), 1994)

(Ord. No. 2009-08, § 3(Exh. A), 10-20-09; Ord. No. 2012-14, § 3(Exh. A), 8-7-12; Ord. No. 2017-12 , § 3(Exh. A), 6-20-17; Ord. No. 2020-04 , § 3(Exh. A), 5-19-20; Ord. No. 2021-01 , 3(Exh. A), 6-1-21)

The following are modifications to Article IV of Chapter 16.16:

16.16.085 Residential and ancillary uses.

Residential and Ancillary Uses	R1	R3 ¹	RR	A1	A2	See Section(s)
A. Single-family dwelling	P	P	P	P	P	
B. Multiple-family dwellings	NP	S	NP	NP	NP	
C. Accessory dwelling unit	A	NP <u>A</u>	A	A	A	16.12.360
D. Guest house ²	A	NP	A	A	A	
E. Home Occupation	A	A	A	A	A	Chapter 5.44 (Municipal Code)
F. Board and room, not to exceed two persons, without kitchen privileges	A	A	A	A	A	
G. Accessory buildings and structures ³	A	A ⁴	A	A	A	16.20.385—16.20.425
H. Buildings or structures to store agricultural vehicles, food, and equipment (i.e. barn or outbuilding)	A	NP	A	A	A	16.20.385—16.20.425
I. Buildings or structures to keep animals (i.e. stable, corral, pen or coop)	A	NP	A	A	A	16.16.115 and 16.20.385—16.20.425
J. Small, community, or handicapped residential care facilities, senior housing, intermediate care of six or less and licensed by the state	P	P	P	P	P	
K. Large or community residential care facilities, senior housing, intermediate care of seven or more and licensed by the state and Single Room Occupancy Development (SRO) ⁷	C	C	C	C	C	
L. Group homes not licensed by the state with six or more residents	C	C	C	C	C	
M. Supportive housing and transitional housing	S	S	S	S	S	16.08.332 and 16.08.333
N. Parking of commercial vehicles, as defined in the California Vehicle Code	A	NP	A	A	A	16.20.090(H)
O. Mobile home parks	S	S ⁵	S	S	S	16.28.010—16.28.070
P. Hotels and Motels	NP	S ⁶	NP	NP	NP	
Q. Small family day care to 12 or fewer children	A	A	A	A	A	

R. Large family day care to 13 or more children	S	S	S	S	S	
S. Other similar uses, as interpreted by the Development Services Director or his/her designee	P	P	P	P	P	

Notes:

1. Prohibited uses shall be uses not specifically authorized or determined by the development services director or his/her designee to be detrimental to public welfare.
2. Guest house shall not exceed a building area of four hundred ninety-nine (499) square feet and shall not include kitchen facilities.
3. Accessory structures and uses shall be customarily incidental to any permitted uses when located on the same site with the main building and use.
4. Shall include recreational vehicle parks.
5. Business may be conducted for the convenience of the residents of the building; there shall not be an entrance to such place of business, except from the inside of the building; and no sign visible from the outside advertising such business.
6. SRO developments are subject to Section G 4.15 of the Main Street and Freeway Corridor Specific Plan—Standards for Single Room Occupancy for all residential zones.

(Ord. No. 2011-10, § 3(Exh. A), 8-16-11; Ord. No. 2014-02, § 3(Exh. A), 2-18-14 ; Ord. No. 2021-01 , 3(Exh. A), 6-1-21)

City of Hesperia STAFF REPORT



DATE: August 16, 2022

TO: Mayor and Council Members

FROM: Nils Bentsen, City Manager

BY: Rachel Molina Assistant City Manager
Ryan Leonard, Senior Planner

SUBJECT: Appeal to the City Council (APP22-00001); Applicant Pacific Communities
Builder; APNs: 0405-042-23

RECOMMENDED ACTION

It is recommended that the City Council adopt Resolution No. 2022-64, denying appeal APP22-00001 and upholding the Planning Commission and Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17243 (TTE22-00001).

BACKGROUND

Proposal: On July 14, 2022 the Planning Commission voted 3-2 (Commissioner's Steeno and Bartz voted no) to uphold the DRC's denial of a third extension of time for TT-17243. The Planning Commission denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the City Council grant this appeal to overturn the Planning Commission's denial, the City Council is precluded from granting a discretionary extension of time.

Current General Plan, Zoning and Land Uses: The project is located on the north side of Mesa Street between Tamarisk Avenue and Topaz Avenue. The site is within the Low Density Residential (LDR) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 1. The property is currently vacant. The surrounding land uses also consist of vacant land (Attachment 2).

Project Approval Timelines:

- On March 13, 2008, the Planning Commission approved TT-17243 to subdivide 20 gross acres into 125 single-family residential lots. The Small Lot Subdivision Ordinance requires a minimum lot size of 3,000 square feet and an average lot size of not less than 4,500 square feet. The smallest lot within the subdivision is 3,499 square feet, the average lot size is 4,616 square feet, and the largest lot is 9,105 square feet in area. Only four lots are over 7,200 square feet. TT-17243 was approved for 3 years and was set to expire on March 25, 2011.
- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6

total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.

- On April 20, 2016, the DRC approved the first extension of time for TT-17243 that extended the tract for an additional 2 years. On May 2, 2019, the DRC approved the second extension of time that extended TT-17243 for an additional 3 years. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

Land Use Entitlement Activity	Approval Date	Effective Date	Denial Date	Expiration Date	Length of Extension
Tentative Tract No. 17243	03/13/2008	03/25/2008		03/25/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			03/25/17	6 years
TTE16-00002	04/20/2016 ¹			03/25/2019	2 years
TTE19-00001	05/02/2019			03/25/2022	3 years
TTE22-00001			05/18/22		

ISSUES/ANALYSIS

In December 2021, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and subsequently returned to the applicant with corrections. In March 2022 the applicant submitted revised grading plans and improvement plans based upon the first plan check comments. The plans were returned to the applicant in May of 2022 with corrections. City staff then informed the applicant that TR-17243 was determined to have officially expired.

On March 21, 2022, the applicant submitted an application for an extension of time. On May 18, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any discretionary extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

It’s important to point out that while the City Council does not have the authority to approve a *discretionary* extension of time, the City Council is authorized under Government Code Section 65864 to enter into a development agreement that could extend the life of the tract. However, the applicant has not submitted an application for a development agreement. Furthermore, development agreements are customarily considered as part of the land use entitlement

¹ The applicant received approval for the extension 1-year prior to the actual expiration date. As a result, the extension of time became effective 1 year after the approval and only consisted of a 2-year extension.

application at the time when the project is initially approved, not 14 years after the original approval. In addition, approving a development agreement for this purpose would set a questionable precedent and would be inconsistent with Measure N.

CONCLUSION

The City Council does not have the authority to approve a discretionary extension of time. The City Council must uphold the Planning Commission's denial of a third extension of time for Tentative Tract No. 17243.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENTS

1. Resolution No. 2022-64
2. Planning Commission Staff Report with Attachments

RESOLUTION NO. 2022-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, DENYING APPEAL APP22-00001, UPHOLDING THE PLANNING COMMISSION'S DENIAL OF TENTATIVE TRACT EXTENSION TTE22-00001, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17243 ON THE NORTH SIDE OF MESA STREET BETWEEN TAMARISK AVENUE AND TOPAZ AVENUE (APP22-00001)

WHEREAS, Pacific Communities Builder has filed an application requesting approval of Appeal APP22-00001, to overturn the Development Review Committee's denial of Tentative Tract Extension TTE22-00001, a third extension of time for Tentative Tract No. 17243 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a third extension of time for Tentative Tract No. 17243 to subdivide 20 gross acres into 125 single-family residential lots and consists of Assessor's Parcel Number 0405-042-23; and

WHEREAS, TT-17243 was originally approved by the Planning Commission on March 13, 2008; and

WHEREAS, in 2009, 2011, and 2013 the California Legislature passed assembly bills AB-333, AB-208 and AB-116 that automatically extended the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions; and

WHEREAS, on April 20, 2016, the Development Review Committee (DRC) approved the first extension of time for TT-17243 that extended the tract for an additional 2 years; and

WHEREAS, On May 2, 2019, the DRC approved the second extension of time that extended TT-17243 for an additional 3 years; and

WHEREAS, on May 18, 2022, the DRC denied a third extension of time for TT-17243; and

WHEREAS, on July 14, 2022, the Planning Commission upheld the DRC's denial of a third extension of time for TT-17243; and

WHEREAS, this Application, as contemplated, proposes to appeal the Planning Commission's denial of the extension of time for TT-17243; and

WHEREAS, the 20 gross acre site is currently vacant. The surrounding properties also consist of vacant land; and

WHEREAS, the subject property is currently within the Low Density Residential (LDR) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan); and

WHEREAS, in November 2020 a majority of voters of the City approved Ballet Measure N which made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a

subsequent ballot measure. As a result, the City Council does not have the authority to approve any discretionary extensions of time; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on July 14, 2022, the Planning Commission of the City of Hesperia conducted duly noticed public hearings pertaining to the proposed Application, and concluded said hearing on that date; and

WHEREAS, on August 16, 2022, the City Council of the City of Hesperia conducted duly noticed public hearings 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 HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. The City Council 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 City Council during the above-referenced August 16, 2022 hearing, including public testimony and written and oral staff reports, this Council specifically finds as follows:

- (a) In November 2020 a majority of voters of the City approved Ballet Measure N which modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the City Council does not have the authority to approve any discretionary extensions of time.

Section 3. Based on the findings and conclusions set forth in this Resolution, the City Council hereby denies Appeal APP22-00001, denying Tentative Tract Extension TTE22-00001, causing Tentative Tract 17243 to expire.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED on this 16th day of August 2022.

Brigit Bennington, Mayor

ATTEST:

Melinda Sayre, City Clerk

City of Hesperia
STAFF REPORT

DATE: July 14, 2022
TO: Planning Commission
FROM: Rachel Molina, Assistant City Manager
BY: Ryan Leonard, Senior Planner
SUBJECT: Appeal to the Planning Commission (APP22-00001); Applicant Pacific Communities Builder; APNs: 0405-042-23

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-11, denying appeal APP22-00001 and upholding the Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17243 (TTE22-00001).

BACKGROUND

Proposal: On May 18, 2022, the DRC denied an application for a third extension of time for TT-17243. The DRC denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the Planning Commission grant this appeal to overturn the DRC's denial, the Planning Commission is precluded from granting an extension of time.

Current General Plan, Zoning and Land Uses: The project is located on the north side of Mesa Street between Tamarisk Avenue and Topaz Avenue. The site is within the Low Density Residential (LDR) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 1. The property is currently vacant. The surrounding land uses also consist of vacant land (Attachment 2).

Project Approval Timelines:

- On March 13, 2008, the Planning Commission approved TT-17243 to subdivide 20 gross acres into 125 single-family residential lots. The Small Lot Subdivision Ordinance requires a minimum lot size of 3,000 square feet and an average lot size of not less than 4,500 square feet. The smallest lot within the subdivision is 3,499 square feet, the average lot size is 4,616 square feet, and the largest lot is 9,105 square feet in area. Only four lots are over 7,200 square feet. TT-17243 was approved for 3 years and was set to expire on March 25, 2011.
- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6 total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.

- On April 20, 2016, the DRC approved the first extension of time for TT-17243 that extended the tract for an additional 2 years. On May 2, 2019, the DRC approved the second extension of time that extended TT-17243 for an additional 3 years. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

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TTE19-00001	05/02/2019			03/25/2022	3 years
TTE22-00001			05/18/22		

ISSUES/ANALYSIS

In December 2021, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and subsequently returned to the applicant with corrections. In March 2022 the applicant submitted revised grading plans and improvement plans based upon the first plan check comments. The plans were returned to the applicant in May of 2022 with corrections. City staff then informed the applicant that TR-17243 was determined to have officially expired.

On March 21, 2022, the applicant submitted an application for an extension of time. On May 18, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

The Planning Commission does not have the authority to approve any discretionary extensions of time, nor do they have the authority to authorize an amendment to the Development Code to allow for such an approval process.

¹ The applicant received approval for the extension 1-year prior to the actual expiration date. As a result, the extension of time became effective 1 year after the approval and only consisted of a 2-year extension.

CONCLUSION

The Planning Commission does not have the authority to overturn the DRC denial of Tentative Tract Extension TTE22-00001. The Planning Commission must uphold the DRC's denial of a third extension of time for Tentative Tract No. 17243 .

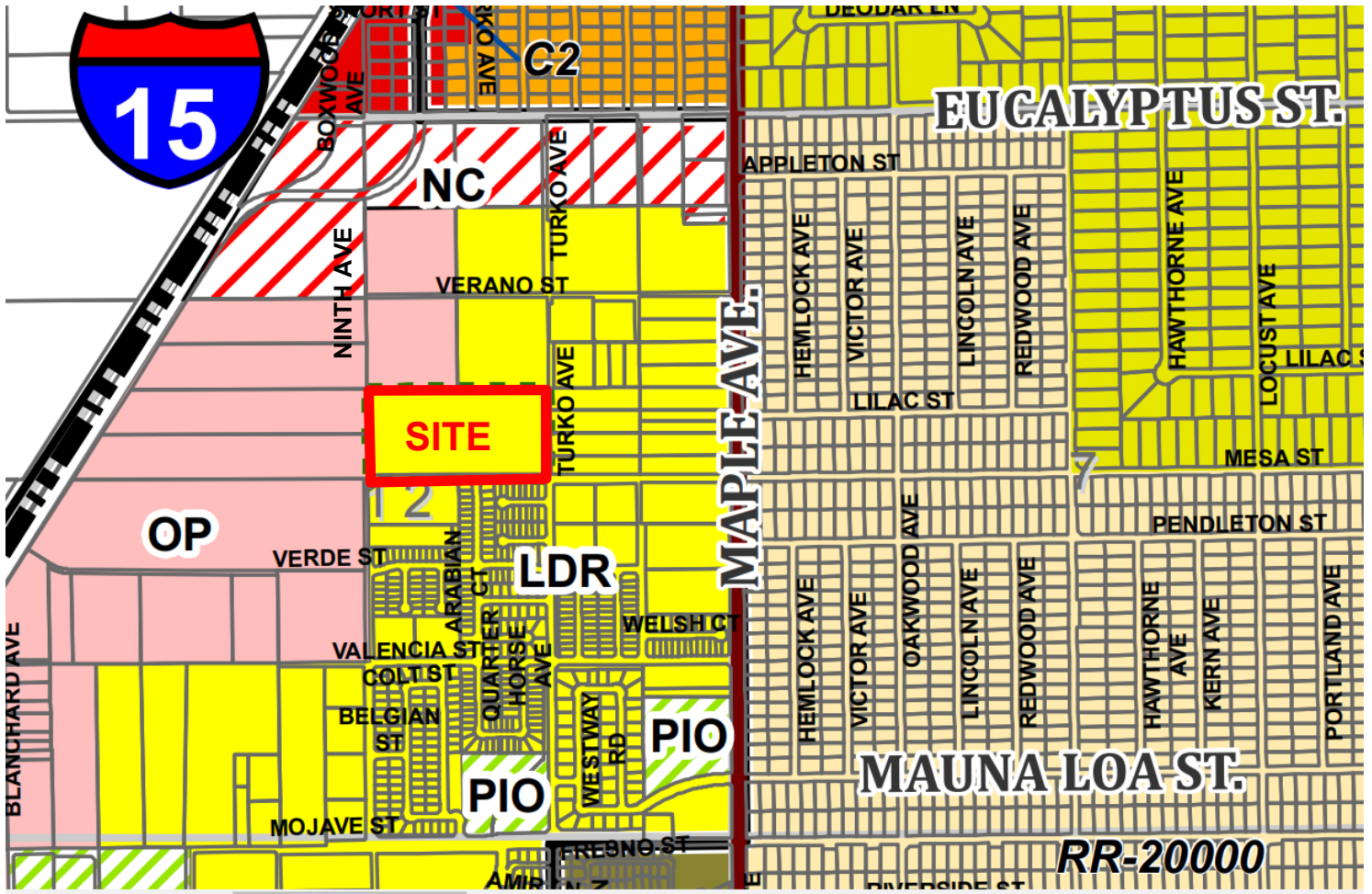
ALTERNATIVE(S)

1. Refer this item to the City Council.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. DRC Denial Letter
4. Resolution No. PC-2022-11

ATTACHMENT 1



APPLICANT(S): PACIFIC COMMUNITIES BUILDER

FILE NO(S): APP22-00001

LOCATION: ON THE NORTH SIDE OF MESA STREET BETWEEN TAMARISK AVENUE AND TOPAZ AVENUE

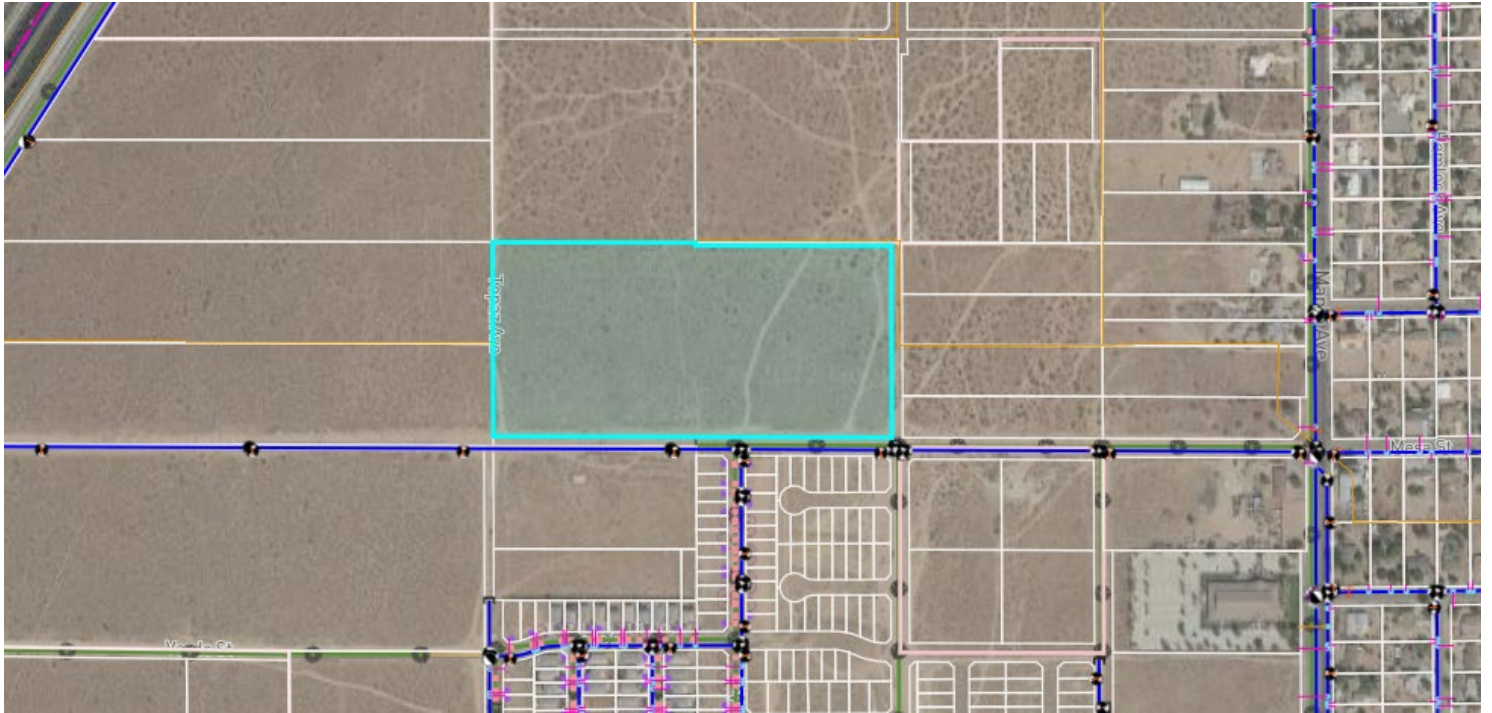
APN(S):
0405-042-23

PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00001, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17243



GENERAL PLAN

ATTACHMENT 2



APPLICANT(S): PACIFIC COMMUNITIES BUILDER

FILE NO(S): APP22-00001

LOCATION: ON THE NORTH SIDE OF MESA STREET BETWEEN TAMARISK AVENUE AND TOPAZ AVENUE

APN(S):
0405-042-23

PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00001, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17243



AERIAL PHOTO



City of Hesperia

Gateway to the High Desert

May 19, 2022

Pacific Communities Builder, Inc.
Attn: Ronald Freeman, Senior Project Manager
1000 Dove Street, Suite 100
Newport Beach, CA 92660

RE: Consideration of TTE22-00001, a third extension of time for TT-17243 to create 125 single-family residential lots on 20 gross acres located on the north side of Mesa Street between Topaz Avenue and Tamarisk Avenue (Applicant: Pacific Communities Builder, Inc.; APN(S): 0405-042-23 & 43)

Dear Mr. Freeman:

After reviewing all the information pertaining to this application, it was the decision of the Development Review Committee to deny TTE22-00001 at its May 18, 2022 meeting due to the following:

- Pursuant to Section 17.08.040 (E) of the Hesperia Municipal Code *"no extensions of time are allowed for residential subdivisions."*

Pursuant to Section 16.12.055 of the Hesperia Municipal Code, unless this decision is appealed to the Planning Commission by May 30, 2022, TTE22-00001 will stand denied on May 31, 2022. All appeals must be submitted on forms available at this office, along with the required fee.

If you have any questions, please contact me at (760) 947-1651.

Sincerely,

Ryan Leonard
Senior Planner

Brigit Bennington, Mayor
Bill Holland, Mayor Pro Tem
Cameron Gregg, Council Member
Rebekah Swanson, Council Member
Larry Bird, Council Member

9700 Seventh Avenue
Hesperia, CA 92345

760-947-1000
TD 760-947-1119

ATTACHMENT 4

RESOLUTION NO. PC-2022-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING APPEAL APP22-00001, UPHOLDING THE DEVELOPMENT REVIEW COMMITTEE'S DENIAL OF TENTATIVE TRACT EXTENSION TTE22-00001, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17243 ON THE NORTH SIDE OF MESA STREET BETWEEN TAMARISK AVENUE AND TOPAZ AVENUE (APP22-00001)

WHEREAS, Pacific Communities Builder has filed an application requesting approval of Appeal APP22-00001, to overturn the Development Review Committee's denial of Tentative Tract Extension TTE22-00001, a third extension of time for Tentative Tract No. 17243 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a third extension of time for Tentative Tract No. 17243 to subdivide 20 gross acres into 125 single-family residential lots and consists of Assessor's Parcel Number 0405-042-23; and

WHEREAS, TT-17243 was originally approved by the Planning Commission on March 13, 2008; and

WHEREAS, in 2009, 2011, and 2013 the California Legislature passed assembly bills AB-333, AB-208 and AB-116 that automatically extended the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions; and

WHEREAS, on April 20, 2016, the Development Review Committee (DRC) approved the first extension of time for TT-17243 that extended the tract for an additional 2 years; and

WHEREAS, On May 2, 2019, the DRC approved the second extension of time that extended TT-17243 for an additional 3 years; and

WHEREAS, on May 18, 2022, the DRC denied a third extension of time for TT-17243; and

WHEREAS, this Application, as contemplated, proposes to appeal the DRC's denial of the extension of time for TT-17243; and

WHEREAS, the 20 gross acre site is currently vacant. The surrounding properties also consist of vacant land; and

WHEREAS, the subject property is currently within the Low Density Residential (LDR) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan); and

WHEREAS, in November 2020 a majority of voters of the City approved Ballet Measure N which made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on July 14, 2022, the Planning Commission of the City of Hesperia conducted duly noticed public hearings 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 July 14, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) In November 2020 a majority of voters of the City approved Ballet Measure N which modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Appeal APP22-00001, denying Tentative Tract Extension TTE22-00001, causing Tentative Tract 17243 to expire.

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

ADOPTED AND APPROVED on this 14th day of July 2022.

Roger Abreo, Chair, Planning Commission

ATTEST:

Maricruz Montes, Secretary, Planning Commission