

# City of Hesperia

## STAFF REPORT



**DATE:** January 27, 2022

**TO:** Planning Commission

**FROM:** Mike Hearn, Deputy Director of Community Development

**BY:** Chris Borchert, Principal Planner

**SUBJECT:** Appeal APP21-00001 of the DRC approval of SPRR21-00005, a retail commercial building located in the parking lot of the Hesperia Square shopping center; Appellant: Envision Foods, LLC. (dba Jack in the Box)

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### RECOMMENDED ACTION

It is recommended that the Planning Commission review testimony from the appellant, the project proponent and the public and adopt Resolution No. PC-2021-17, denying the appeal.

### BACKGROUND/HISTORY

The “Hesperia Square” shopping center sits on about 10 acres of land at the northwest corner of Main Street and I Avenue. The main tenant is currently Vallarta Market, along with TB Furniture, Dollar Tree and Victor Valley Rescue Mission Thrift Store. The owner of the majority of the center, excepting the 2 outpads for Jack-in-the-Box and Country Kitchen, has proposed a new building in between the Firestone tire service building and the Jack-in-the-Box. (Attachment 1)

The proposed 3,469 square foot building was submitted by Westland Real Estate Group, who represent the ownership, 17320-90 Main St. Hesperia, LLC. SPRR21-00005 went through the Development Review Committee process, where it was scheduled for a public hearing on October 6, 2021. That morning, the appellant (Jack in the Box) emailed concerns with the project and its impact on their business. No other comments were received about the project. The email chain is included as Attachment 2.

### ISSUES/ANALYSIS

The development review process was fairly simple since the building is proposed where a parking lot currently exists, neither Engineering nor the Fire Department had any requirements or changes. For Planning, there are a number of code requirements to review:

#### Parking

Retail and most other standard commercial development is parked at 5 spaces per 1,000 square feet of building, while restaurants require 10 spaces per 1,000 square feet. In a multi-tenant shopping center of this size, the parking is 4 spaces per 1,000 square feet, regardless of use. Including the 17 spaces for the new building, that would result in a need for 465 total spaces, and the site has over that amount, including the spaces located behind the buildings.

#### Lot Coverage/Floor Area Ratio

Single story buildings can cover 35% of the site in the Neighborhood Commercial zone. The site size is approximately 417,260 square feet in size, allowing 146,041 s.f. of building. The existing buildings appear to add up to approximately 112,000 square feet, well below the maximum.

#### Parking Spaces/Drive Aisles

The parking spaces meet the minimum requirements of nine feet width and 18 feet length, with two feet of length able to overhang the sidewalk. Drive aisles for two-way traffic are required to be a minimum of 26 feet wide.

#### Architectural Design

While the building's architectural style does not match any other buildings in the center, it is very well designed and meets or exceeds the commercial design guidelines. Additionally, the other three buildings along Main Street also don't match the center.

#### Covenants, Creeds & Restrictions (CC&R's)

CC&R's are very common in shopping center development, and can often be used to lure an anchor tenant by then writing restrictions that prevent another similar business from being allowed to locate in the shopping center. CC&R's can be more restrictive than the municipal code, but not less restrictive. These documents are recorded on the property and do not involve the city, although occasionally we'll review them to ensure they comply with codes. Challenges to CC&R's would be a civil suit and not involve the city.

When a building is proposed to be built for permitted uses like retail and restaurants, the Development Review Committee is the reviewing authority, and if the project complies with the development standards, it must be approved.

In order to prevent this, the parcel map should not have been approved with the outpads not having enough parking for their buildings. The stand-alone Jack in the Box restaurant typically requires 40 parking spaces, within the center it requires 16 spaces, and the parcel map gave them eight. While reciprocal parking and access agreements ensure the ability to park in any space, they don't address where the parking spaces need to be.

### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

### **ATTACHMENT(S)**

1. Aerial photo showing location on site
2. Site Plan showing new building and changes
3. Site Plan showing revised parking
4. Email Chain with Appellant
5. Resolution No. PC-2021-17