

ATTACHMENT 5

RESOLUTION NO. PC-2021-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING THE APPEAL (APP21-00001) OF THE DEVELOPMENT REVIEW COMMITTEE (DRC) APPROVAL OF SPRR21-00005, A REQUEST TO CONSTRUCT A 3,469 SQUARE FOOT COMMERCIAL BUILDING IN THE PARKING LOT OF THE HESPERIA SQUARE SHOPPING CENTER WITHIN THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE NORTH SIDE OF MAIN STREET, AT THE INTERSECTION OF I AVENUE (APP21-00005)

WHEREAS, Envision Foods, LLC, dba Jack in the Box, has filed an application requesting appeal of SPRR21-00005 which approved a new 3,469 square foot commercial building discussed herein; and

WHEREAS, Westland Real Estate Group (Westland) applied for the Site Plan Review Revision on September 9, 2021 and the application applies to the existing Hesperia Square Shopping Center at the northwest corner of Main Street and I Avenue also referenced as Assessor's Parcel Number 0410-135-56; and

WHEREAS, the application proposes the alteration of an approximately 24,000 square foot area to modify the parking and drive aisles to allow the construction of the new building; and

WHEREAS, after going through the Development Review Committee process, SPRR21-00005 was scheduled to be approved at the DRC hearing on October 6, 2021 when email contact was received by the appellant Envision Foods, LLC; and

WHEREAS, the approval of the project was placed on hold to allow Envision Foods to understand the proposal and to provide formal comments as to why they oppose the project, and to notify the applicant Westland to see if they could offer any solutions; and

WHEREAS, with the primary concern seeming to be the drive-through line blocking parking spaces, Westland revised the parking closest to Jack in the Box by moving the landscape planter from the west side of the spaces to the east side, eliminating the stacking issue; and

WHEREAS, the appellant did not seem to like the revision, and the property owner of the Jack in the Box site also became involved and was looking into the Covenant's, Creeds & Restrictions (CC&R's) regarding the construction of new buildings; and

WHEREAS, CC&R's are not enforced by the City, therefore approval of the project was issued and the applicant filed the appeal within the 10 day appeal period; and

WHEREAS, the project was exempt from the California Environmental Quality Act requirements through an In-Fill Development ProjectExemp; and

WHEREAS, on January 13, 2022, the Planning Commission of the City of Hesperia conducted a public hearing pertaining to the proposed Appeal, 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 December 9, 2021 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon the project being proposed in an existing shopping center, the Planning Commission finds that the project complies with the conditions of an In-Fill Development Project and is not subject to CEQA.
- (b) The proposed development of a 3,469 square foot commercial building within the Neighborhood Commercial (NC) zone of the Specific Plan is a permitted use and the proposed project complies with all applicable provisions of the Specific Plan and Development Code.
- (c) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public convenience, health, safety or general welfare.
- (d) The proposed project is consistent with the goals, policies, standards and maps of the adopted zoning, Specific Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the project is consistent with the regulations allowing nonresidential uses within the NC zone of the Specific Plan. The development is subject to conditions of approval and complies with the standards for landscaping, driveway aisles, parking stall dimensions, building heights, trash enclosure, loading areas, and all other applicable development standards. The project also complies with the Americans with Disabilities Act (ADA), as the required accessible parking spaces and paths of travel will meet the standards within the ADA as well as state and federal handicapped accessible regulations. The development will be constructed pursuant to the California Building and Fire Codes and subsequent adopted amendments.
- (e) The site for the proposed use will have adequate access based upon its frontage along Main Street and I Avenue and the driveways are existing. There are also general services for sanitation, water and public utilities to ensure the public convenience, health, safety and general welfare. Additionally, the site is currently served with adequate infrastructure to operate without a major extension of infrastructure.
- (f) The proposed project is consistent with the adopted General Plan of the City of Hesperia. The project site is within the NC zone of the Main Street and Freeway Corridor Specific Plan. The proposed development of a commercial building is an allowable use with approval of a revised site plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Appeal APP21-00001.

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

ADOPTED AND APPROVED on this 27th day of January 2022.

Cody Leis, Chair, Planning Commission

ATTEST:

Maricruz Montes, Secretary, Planning Commission