

*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

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**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**

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 <sup>1</sup>			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 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.

<sup>1</sup> 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 .

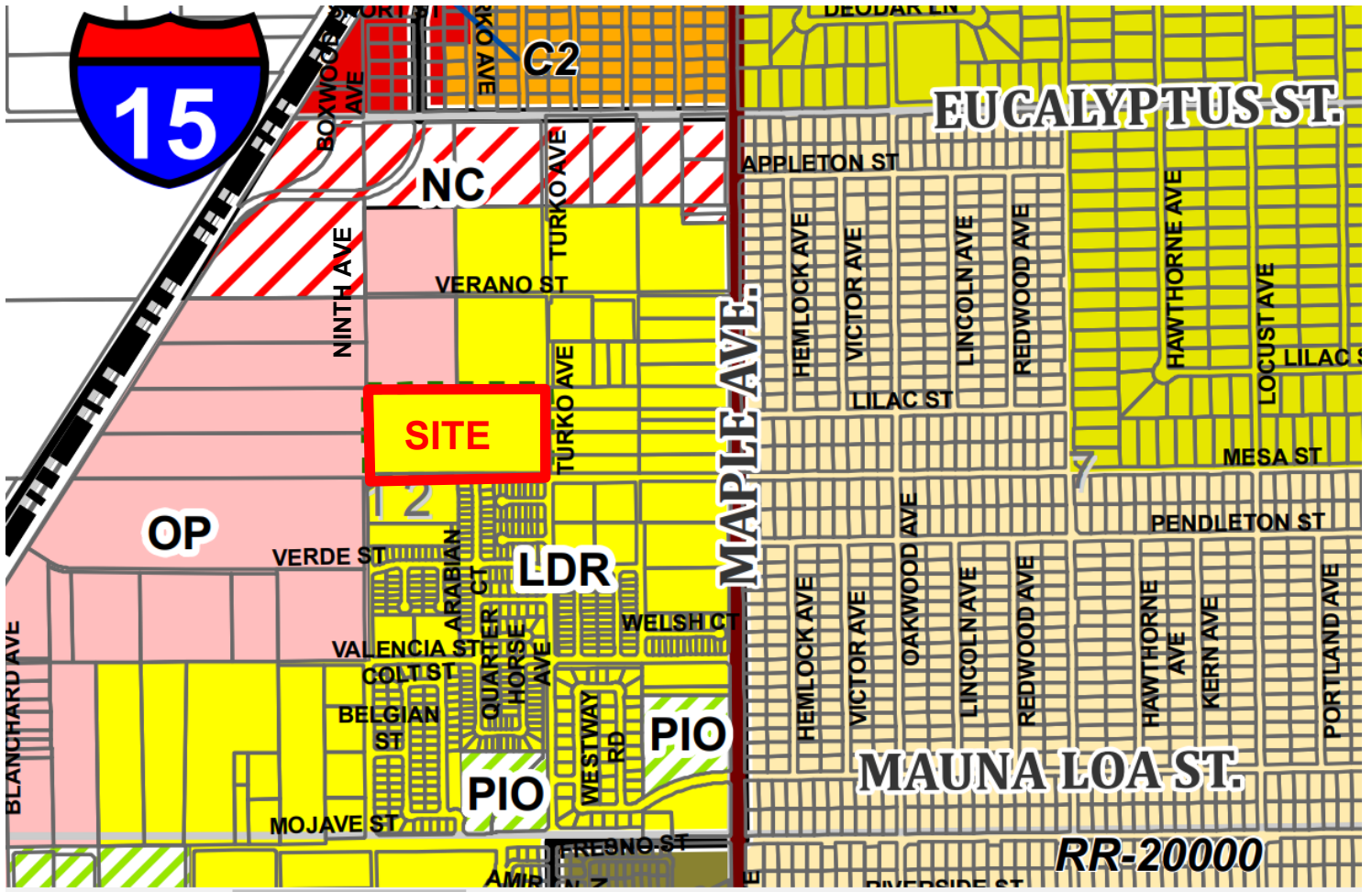
## **ALTERNATIVE(S)**

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

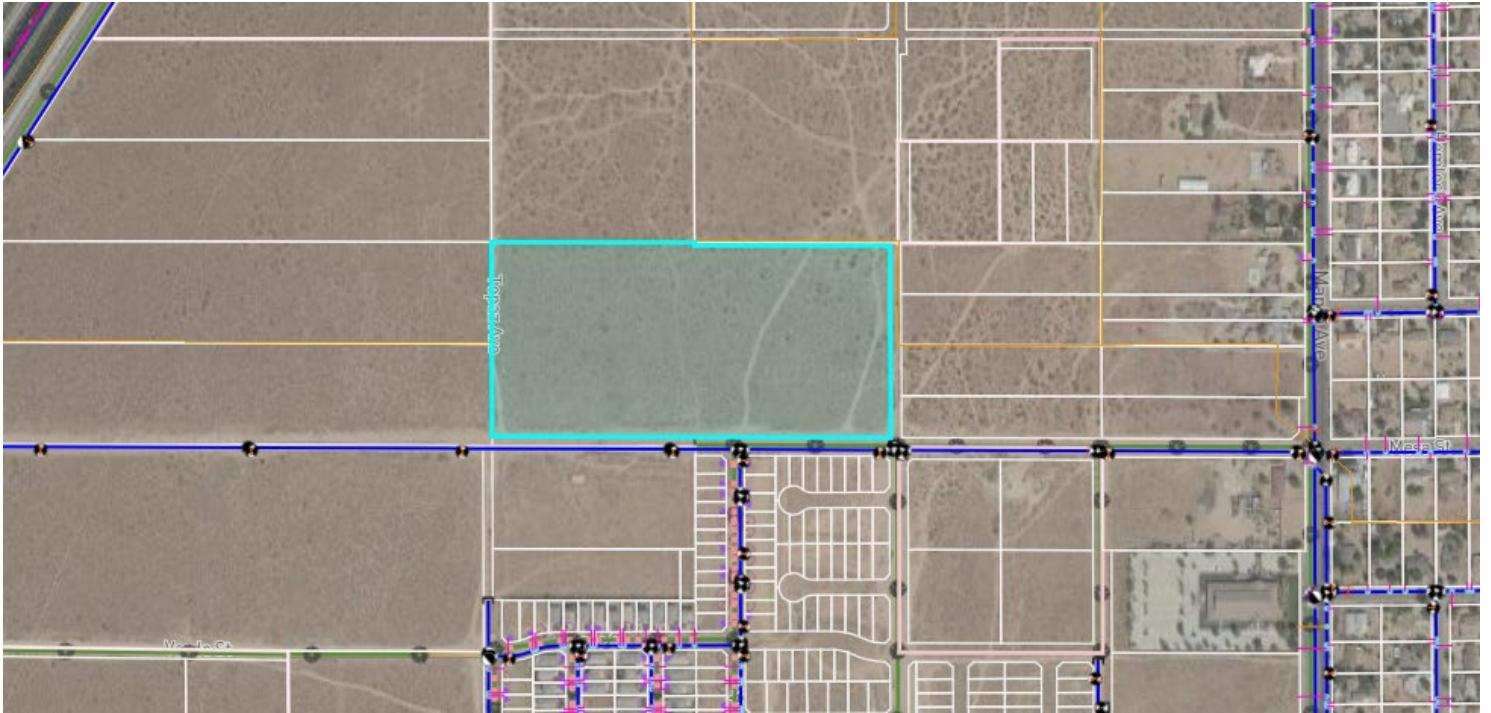
**APN(S):**  
0405-042-23

**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):**  
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**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

Nils Bentsen, City Manager

9700 Seventh Avenue  
Hesperia, CA 92345

760-947-1000  
TD 760-947-1119

[www.cityofhesperia.us](http://www.cityofhesperia.us)

# 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 14<sup>th</sup> day of July 2022.

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Roger Abreo, Chair, Planning Commission

ATTEST:

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Maricruz Montes, Secretary, Planning Commission