

# **ATTACHMENT 8**

## **RESOLUTION NO. PC-2019-22**

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

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

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

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

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

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

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

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

**WHEREAS**, on September 12, 2019, the Planning Commission of the City of Hesperia conducted a public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 12, 2019 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

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

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

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

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

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Cody Leis, Chair, Planning Commission

ATTEST:

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Erin Baum, Secretary, Planning Commission