

RESOLUTION NO. 2021-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A GAS STATION WITH 7 FUEL DISPENSERS, A 2,040 SQUARE FOOT DRIVE-THRU RESTAURANT, AND A 4,464 SQUARE FOOT CONVENIENCE STORE THAT WILL INCLUDE THE SALE OF BEER, WINE AND LIQUOR FOR OFF-SITE CONSUMPTION, IN CONJUNCTION WITH A MINOR EXCEPTION TO ALLOW A REDUCTION OF ONE PARKING SPACE ON APPROXIMATELY 1.4 GROSS ACRES WITHIN THE REGIONAL COMMERCIAL (RC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN (CUP20-00003)

WHEREAS, George Mikhail has filed an application requesting approval of CUP20-00003 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to approximately 1.4 gross acres located on the southwest corner of Mariposa Road and Oak Hill Road and consists of Assessor's Parcel Numbers 0357-304-01 & 02; and

WHEREAS, the Application, as contemplated, proposes to construct a 4,464 square foot convenience store that includes the sale of beer, wine and liquor for off-site consumption, a 2,040 square foot drive-thru restaurant attached to the convenience store, a 4,620 square foot fueling station with 6 fuel islands and a 960 square foot diesel fueling station with 1 fuel island; and

WHEREAS, the applicant has also filed an application requesting approval of a Minor Exception (ME20-00003) to allow a reduction of one parking space; and

WHEREAS, the 1.4 gross acre site is currently vacant with a billboard; the property to the north consists of vacant right-of-way for Interstate-15. The property to the east also consists of vacant right-of-way that is owned by the City. The property to the south is vacant. The property to the west consists of an abandoned gas station; adjacent to the abandoned gas station site is a Chevron gas station; and

WHEREAS, the subject property as well as the surrounding properties are currently within the Regional Commercial (RC) zone of the Main Street and Freeway Corridor 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 9, 2021, 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, on October 5, 2021, the City Council of the City of Hesperia conducted a duly noticed 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 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 October 5, 2021 hearing, including public testimony and written and oral staff reports, this Council specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use. The site is approximately 1.4 gross acres and can accommodate a 4,464 square foot convenience store, 2,040 square foot drive-thru restaurant, a 4,620 square foot fueling station with 6 fuel islands, and a 960 square foot diesel fueling station within 1 fuel island and 37 parking spaces. The development 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 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.
- (b) The granting of the minor exception would not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zone because the 1.4 gross acre parcel is irregularly shaped and restricted from meeting certain development standards. In addition, the areas adjacent to the fuel pumps may be used as temporary parking spaces, but they are not counted towards meeting the minimum parking requirements. The project proposes 7 fuel islands resulting in 14 locations that could serve as temporary parking.
- (c) The proposed use will not have a substantial adverse effect on abutting properties or the permitted use thereof because the proposed project is consistent with the Regional Commercial (RC) zone of the Specific Plan with approval of this Conditional Use Permit. With the exception of required parking spaces, the project meets all of the development standards of the RC zone. Furthermore, the sale of alcoholic beverages (beer, wine and liquor) as part of the convenience store will not have a detrimental impact on adjacent properties.
- (d) The proposed sale of beer, wine and liquor for off-site consumption is consistent with the objectives, policies, general land uses and programs of the General Plan and Development Code. The sale of alcoholic beverages at this location supports the public convenience and necessity and is consistent with the allowable uses within the RC zone with approval of a Conditional Use Permit.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia. The project site is within the RC zone of the Specific Plan. A convenience store and drive-thru restaurant are allowable uses, and the fueling station and sale of alcoholic beverages are allowed with approval of a Conditional Use permit.

- (f) The site for the proposed use will have adequate access based upon its frontage along Mariposa Road. There are also general services for sanitation, water and public utilities to ensure the public convenience, health, safety and general welfare. Additionally, the building will have adequate infrastructure to operate without a major extension of infrastructure.
- (g) The overconcentration of the census tract is not a negative factor because there are three establishments (Walmart, Target, and Marriott Hotel) that are not similar in size or scale to the proposed project.
- (h) The proximity of other similar establishments within the same census tract is not heavily concentrated with alcohol establishments. The Oak Hills Market is located approximately 400 feet to the south of the proposed project and the next closest establishment is located approximately 3 miles to the north in the unincorporated area of Oak Hills.
- (i) When comparing the proximity of similar establishments that have comparable freeway frontages there are two establishments located along Fashion Court that have similar freeway frontages east of the Interstate 15 freeway that currently serve motorists traveling along the freeway.

Section 3. Based on the findings and conclusions set forth in this Resolution, the City Council hereby approves Conditional Use Permit CUP20-00003, subject to the conditions of approval as shown in Attachment "A", which is attached to the staff report for this item.

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 5th day of October 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre, City Clerk