PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: June 12, 2014

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Jim Heywood, Commissioner

Tom Murphy, Commissioner

Tom Steeno, Commissioner

* - * - * - * - * - * - * - *

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney

CITY OF HESPERIA
9700 Seventh Avenue
Council Chambers
Hesperia, CA 92345
City Offices: (760) 947-1000

The Planning Commission, in its deliberation, may recommend actions other than those described in this agenda.

Any person affected by, or concerned regarding these proposals may submit written comments to the Planning Division before the Planning Commission hearing, or appear and be heard in support of, or in opposition to, these proposals at the time of the hearing. Any person interested in the proposal may contact the Planning Division at 9700 Seventh Avenue (City Hall), Hesperia, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday, and 7:30 a.m. to 4:30 p.m. on Fridays) or call (760) 947-1200. The pertinent documents will be available for public inspection at the above address.

If you challenge these proposals, the related Negative Declaration and/or Resolution in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the public hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact Dave Reno, Principal Planner (760) 947-1200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.10235.104 ADA Title 11]

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding any item on the Agenda will be made available in the Planning Division, located at 9700 Seventh Avenue during normal business hours or on the City's website.

JUNE 12, 2014

AGENDA
HESPERIA PLANNING COMMISSION

Prior to action of the Planning Commission, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar. PLEASE SUBMIT A COMMENT CARD TO THE COMMISSION SECRETARY WITH THE AGENDA ITEM NUMBER NOTED.

CALL TO ORDER — 6:30 p.m.

A. Pledge of Allegiance to the Flag

B. Invocation

C. Roll Call:

Chair Chris Elvert
Vice Chair William Muller
Commissioner Jim Heywood
Commissioner Tom Murphy
Commissioner Tom Steeno

JOINT PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the Commission Secretary. Comments are limited to three (3) minutes per individual. State your name and address for the record before making your presentation. This request is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, the Commission is prohibited from taking action on oral requests. However, Members may respond briefly or refer the communication to staff. The Commission may also request the Commission Secretary to calendar an item related to your communication at a future meeting.

CONSENT CALENDAR

D. Approval of Minutes: April 10, 2014 Planning Commission Meeting Draft Minutes. -1-

PUBLIC HEARINGS

1. Consideration of Conditional Use Permit CUP14-00001 and Variance VAR14-00001, to construct an 80-foot high wireless communications facility at 11505 El Centro (Applicant: Verizon Wireless; APN: 3039-441-02 & 19) 1-1

2. Consideration of Conditional Use Permit CUP14-00004 and Variance VAR14-00003, to construct a 75-foot high wireless communications facility at 13558 Palm Street (Applicant: Verizon Wireless; APN: 3046-011-11) 2-1

3. Consideration of Conditional Use Permit CUP14-00003 and Variance VAR14-00002, to construct a 75-foot high wireless communications facility at the existing Elks Lodge at 9202 E Avenue (Applicant: Verizon Wireless; APN: 0410-172-01) 3-1

4. Consideration of Conditional Use Permit CUP13-00006 and Variance VAR13-00006, to construct a 60-foot high wireless communications facility at 15545 Bear Valley Road (Applicant: Verizon Wireless; APN: 0406-061-11) 4-1

5. Consideration of possible amendments to, or repeal of, certain provisions of the City's Development Code, Chapter 16.16, Subdivision 16.16.072, relating to the residency of registered sex offenders, to align with California Penal Code Section 3003.5. (Applicant: City of Hesperia: Citywide) 5-1

PRINCIPAL PLANNER'S REPORT

The Principal Planner or staff may make announcements or reports concerning items of interest to the Commission and the public.

F. Discussion item on Retail Outdoor Display 6-1

G. DRC Comments

H. Major Project Update 7-1

PLANNING COMMISSION BUSINESS OR REPORTS

The Commission Members may make comments of general interest or report on their activities as a representative of the Planning Commission.

ADJOURNMENT

The Chair will close the meeting after all business is conducted.

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, June 5, 2014 at 5:30 p.m. pursuant to California Government Code §54954.2.

Kathy Stine
Planning Commission Secretary

HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
APRIL 10, 2014
MINUTES

DRAFT

The Regular Meeting of the Planning Commission was called to order at 6:30 p.m. by Chair Elvert in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

CALL TO ORDER 6:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

INVOCATION

ROLL CALL:

Present: Chris Elvert
James Heywood
William Muller
Tom Steeno
Tom Murphy

JOINT PUBLIC COMMENTS

Chair Elvert opened Public Comments at 6:35 p.m.

No comments.

Chair Elvert closed Public Comments at 6:35 p.m.

CONSENT CALENDAR

D. Approval of Minutes: March 13, 2014 Planning Commission Meeting Draft Minutes.
Motion by James Heywood to approve the March 13, 2014 Planning Commission Meeting Draft Minutes. Seconded by Chris Elvert and passed with the following roll call vote:

AYES: **Chris Elvert, William Muller, James Heywood, Tom Murphy, and Tom Steeno**
NOES: **None**

PUBLIC HEARING

No Public Hearings.

CAPITAL IMPROVEMENT PROGRAM REPORT BY SCOTT PRIESTER, DIRECTOR OF DEVELOPMENT SERVICES

Scott Priester, Director of Development Services gave a PowerPoint presentation for the Determination of Conformity - 2014-15 Capital Improvement Program.

Motion by Tom Murphy to adopt Resolution No. PC-2014-11, finding that the proposed 2014-15 Capital Improvement Program is in conformance with the Hesperia General Plan, and direct that this finding be reported to the City Council, Hesperia Water and Fire Protection Districts. Seconded by William Muller and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, James Heywood, Tom Murphy, and Tom Steeno
NOES: None

PRINCIPAL PLANNER'S REPORT

F. DRC Comments

Principal Planner, Dave Reno, AICP, updated the Commission on current projects, recent City Council actions and mentioned that we did not have any items scheduled for the May meeting.

G. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

ADJOURNMENT

Chair Elvert stated he would not be able to attend the June Planning Commission meeting and adjourned the meeting at 7:25 p.m. until June 12, 2014.

Chris Elvert,
Chair

By: Kathy Stine,
Commission Secretary

City of Hesperia
STAFF REPORT

DATE: June 12, 2014

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Daniel S. Alcayaga, AICP, Senior Planner

SUBJECT: Conditional Use Permit CUP14-00001 & Variance VAR14-00001; Applicant: Verizon Wireless; APNs: 3039-441-02 & 19

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2014-14 and Resolution No. PC-2014-15, approving Conditional Use Permit CUP14-00001 and Variance VAR14-00001.

BACKGROUND

Proposal: A Conditional Use Permit to construct an 80-foot high wireless communications facility, and a Variance to exceed the 45-foot height limitation.

Location: The address is 11505 El Centro Road (Attachment 1).

Current General Plan, Zoning and Land Uses: The properties are within the Auto Sales Commercial (ASC) zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is zoned as noted on Attachment 2. The proposed 80-foot high wireless communications facility will be located south of existing water tanks. The surrounding properties are vacant (Attachment 3).

ISSUES/ANALYSIS

Land Use: County Service Area 70 Zone J (Zone J) operates a water production well on the site on which the project is proposed. Verizon Wireless, the service provider, has demonstrated on a service plan that there is a service gap in the area which necessitates installation of an additional wireless communications facility (Attachment 4). The proposed facility will provide the necessary coverage to improve the network as well as provide coverage for two additional carriers. The wireless communications facility encompasses an 80-foot high faux water tank and mechanical equipment within a 900 square foot lease area (Attachment 5). Access to Verizon Wireless' equipment will be from El Centro Road through an on-site access easement.

The proposed wireless communications facility is designed as an old fashioned, rustic water tank to be consistent with the rural character of the community (Attachment 6 and 7). The proposed elevations and photosimulations illustrate its ability to blend into the neighborhood (Attachments 6 and 7). Attachment 5 also shows the facility's ground equipment surrounded by an eight-foot high split face wall. In the conditions of approval, staff requested that a Route 66 symbol be painted on the tank commemorating the historic route that existed near the project site.

The proposed antennae will be installed inside the faux water tank. The facility can accommodate a total of three different service carriers. Staff requested that the facility be designed tall enough to accommodate three carriers in order to reduce the amount of new sites proposed in the area. Carriers are expected to request new facilities in the immediate area as there is a four-mile stretch of the freeway without any wireless communications facilities. A proposal to have all carriers inside the tank made the tank look out of proportion to the overall height of the tower. Therefore, two carriers are proposed inside the tank and a third carrier under the tank. The carrier outside the tank would be partially hidden by the legs of the tower.

Drainage: A grading plan will be required to be submitted prior to building permit issuance. The proposed project will not interfere with the current drainage flows of the site.

Street Improvements: Public street improvements are not required.

Environmental: Approval of the conditional use permit and variance are exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: Staff believes this proposal balances the stealthing requirements, as well as maximizes the number of carriers that can go on a wireless communications facility. The proposed facility is consistent with the Specific Plan and zoning standards, including accessory structure height. Staff recommends approval because the project meets the standards of the Specific Plan and Development Code.

FISCAL IMPACT

None.

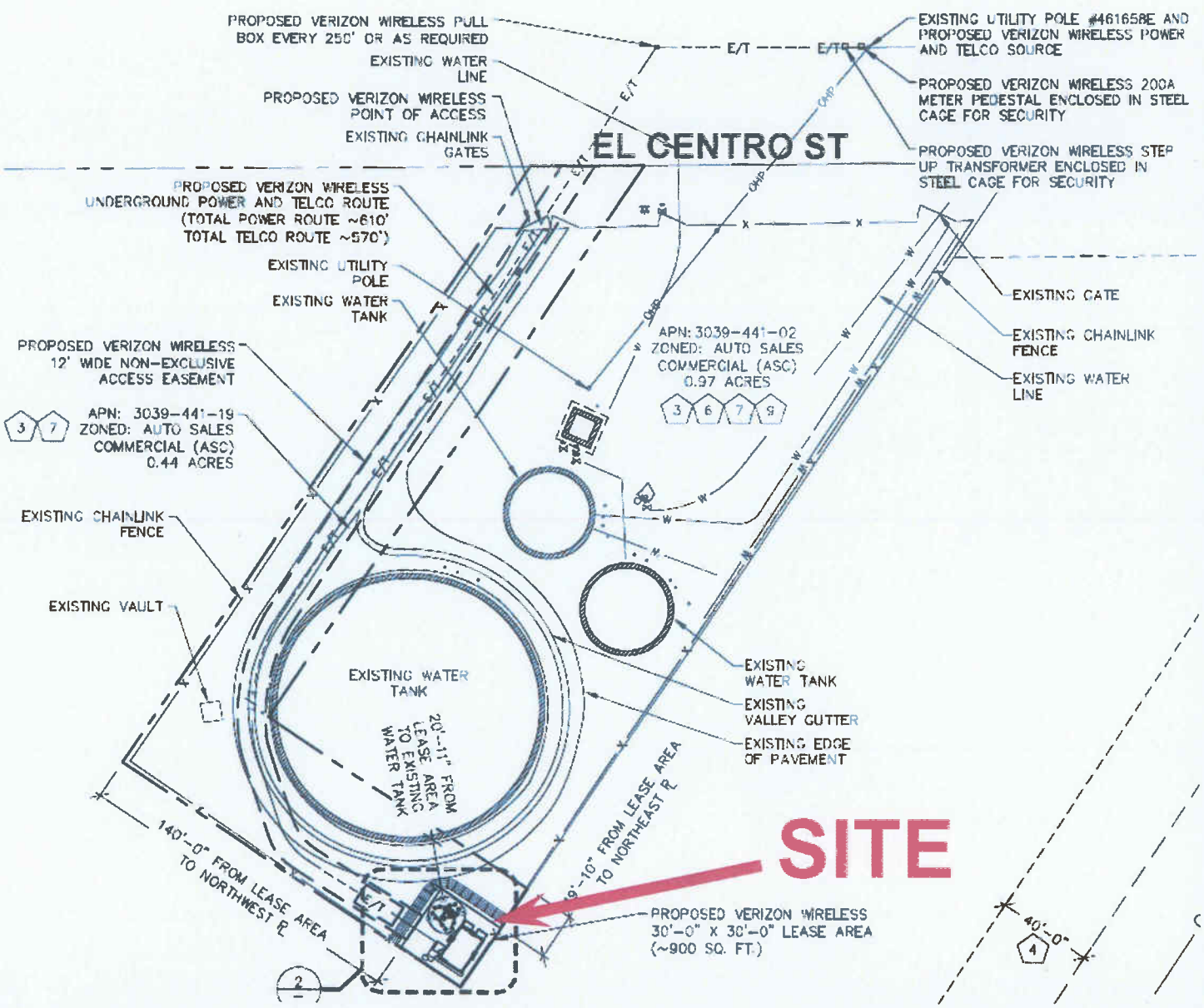
ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Location map
2. General Plan land use
3. Aerial photo
4. Service plan
5. Site Plan
6. Elevations of the faux water tank
7. Photosimulation
8. Resolution No. PC-2014-14 (CUP14-00001), with list of conditions
9. Resolution No. PC-2014-15 (VAR14-00001)

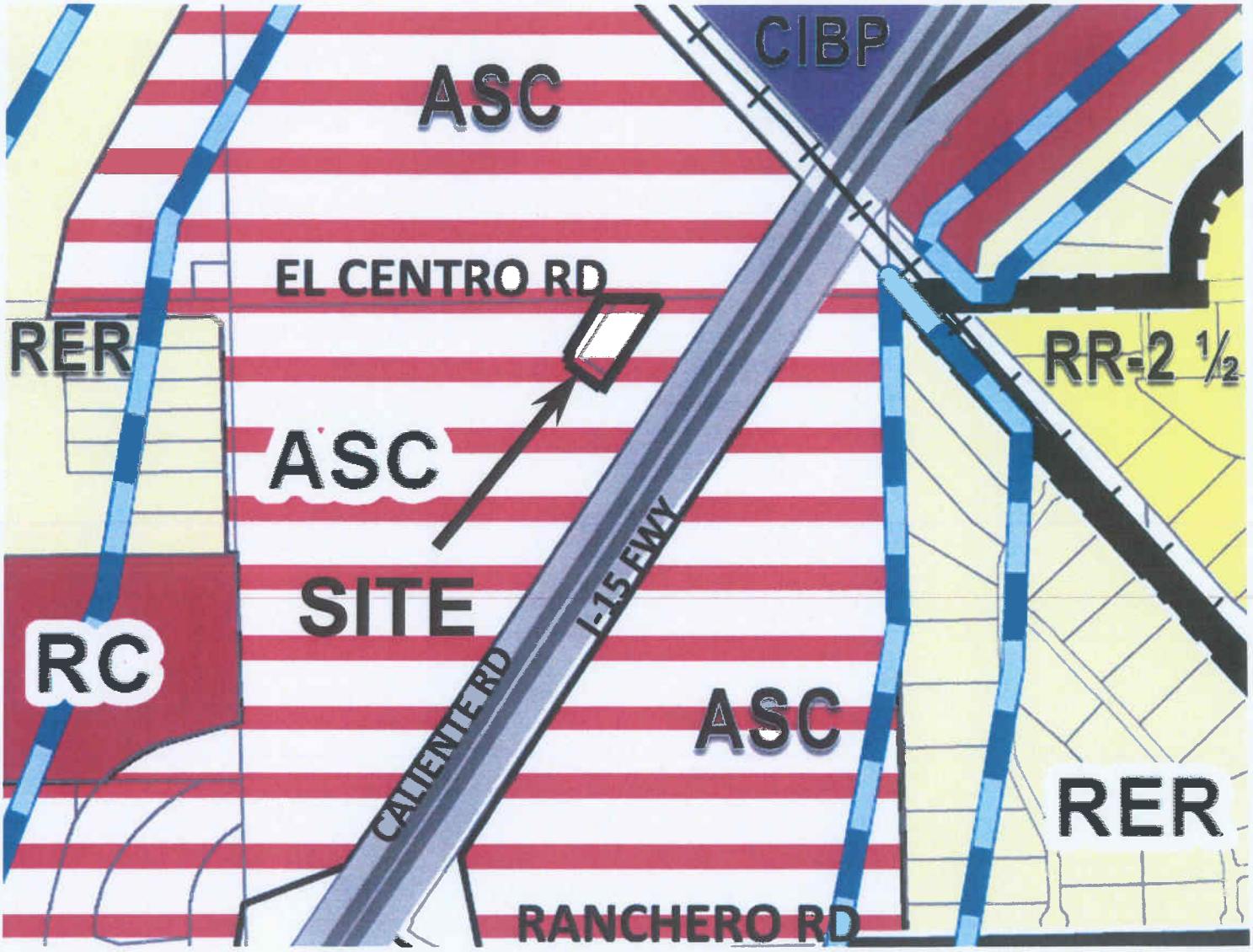
ATTACHMENT 1



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	**N** ↑

LOCATION MAP

ATTACHMENT 2



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	

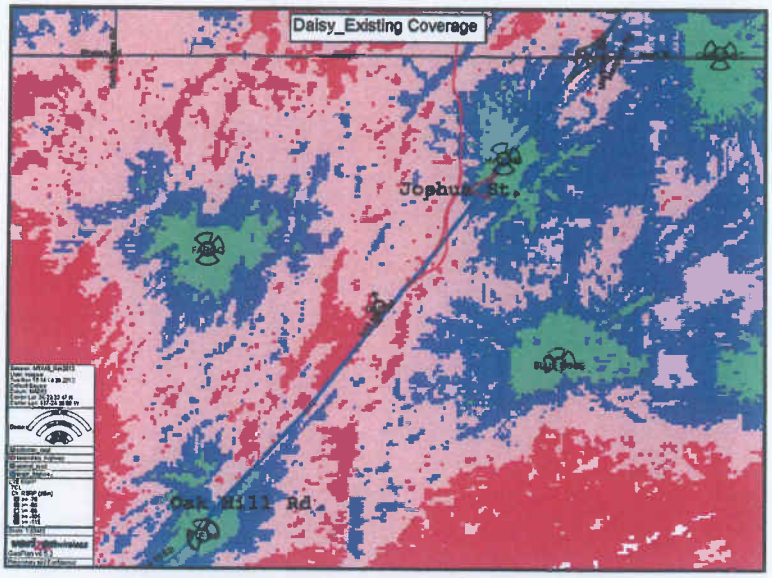
GENERAL PLAN LAND USE

ATTACHMENT 3

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	

AERIAL PHOTO

ATTACHMENT 4

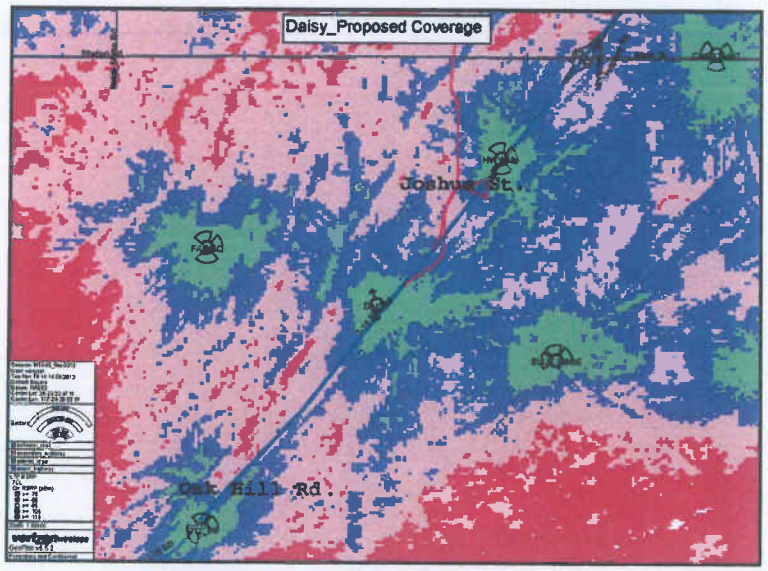


Indoors

In vehicle

Outdoors

Service without the facility

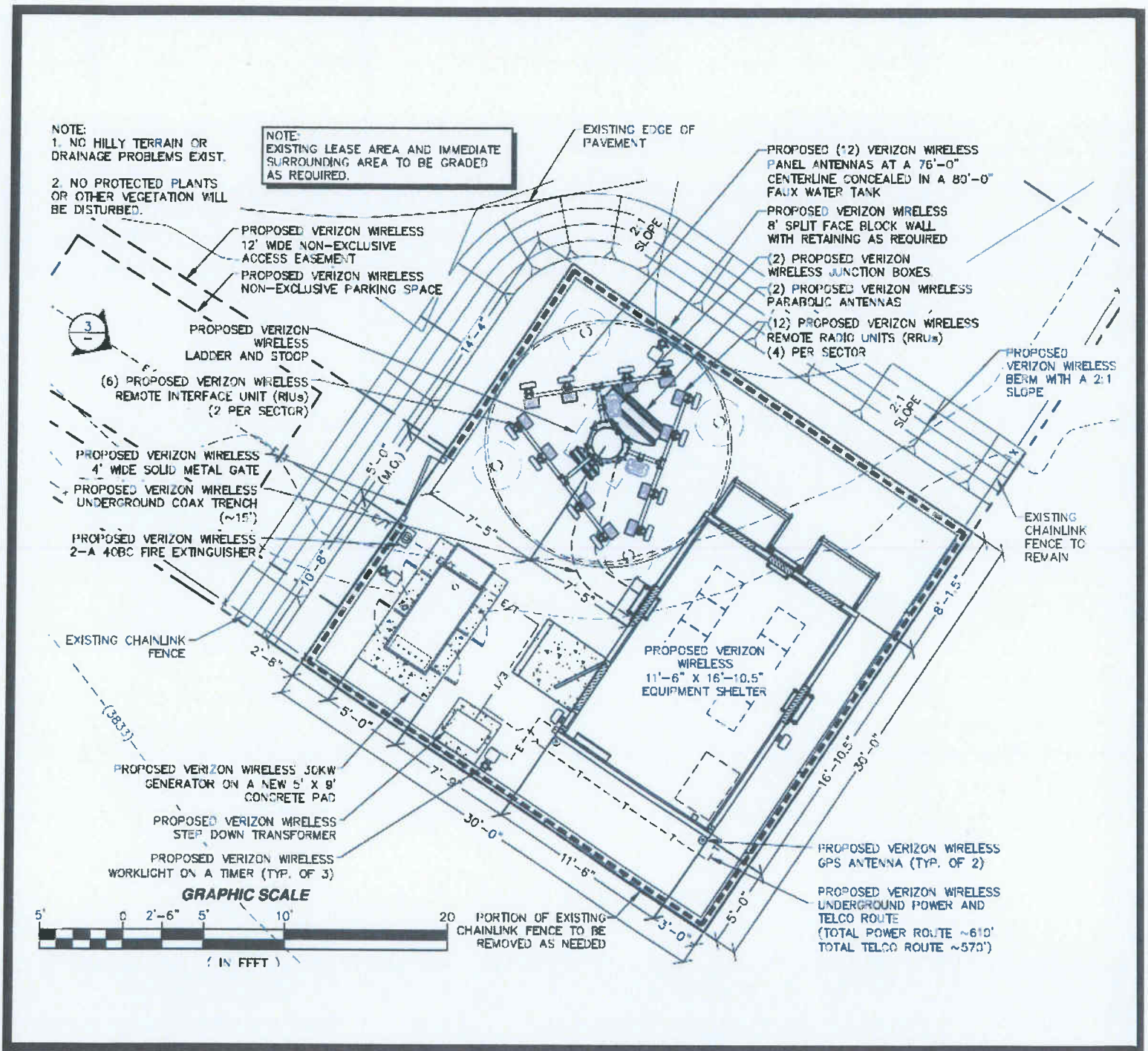


Service with the facility

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	**N** ↑

SERVICE PLAN

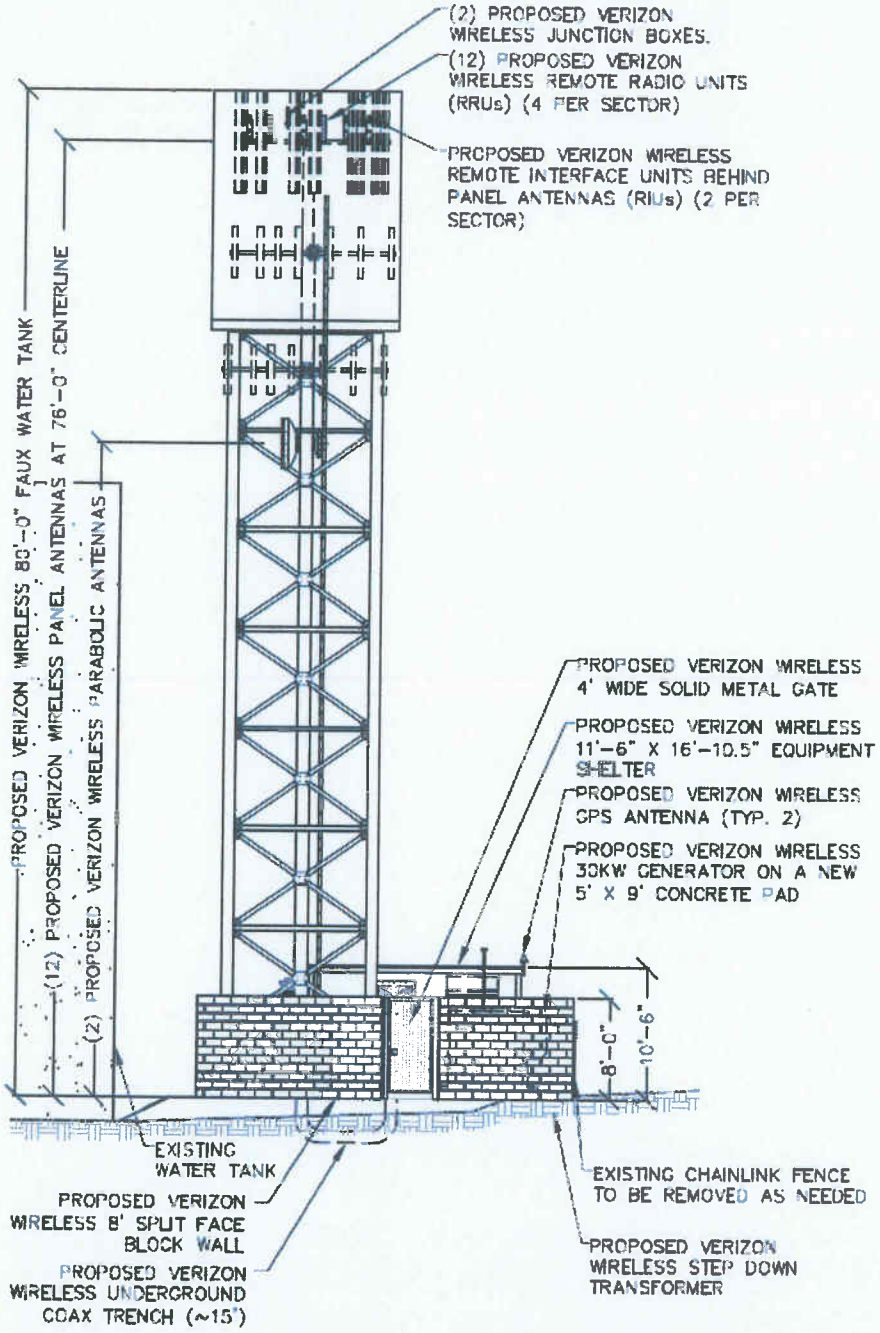
ATTACHMENT 5



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	**N** ↑

SITE PLAN

ATTACHMENT 6



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	

ELEVATION OF FAUX WATER TANK

ATTACHMENT 7.1

PROPOSED INSTALLATION OF 80' STEALTH WATER TOWER WITH ANTENNA ARRAY INSIDE, INCLUDING EQUIPMENT COMPOUND WITH SHELTER, GENERATOR, AND 8' BRICK WALL.

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	

PHOTOSIMULATION

ATTACHMENT 7.2

PROPOSED INSTALLATION OF 80' STEALTH WATER TOWER WITH ANTENNA ARRAY INSIDE, INCLUDING EQUIPMENT COMPOUND WITH SHELTER, GENERATOR, AND 8' BRICK WALL (COMPOUND NOT VISIBLE FROM THIS VIEW).

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00001 & VAR14-00001
LOCATION: 11505 EL CENTRO ROAD	**APN(S):** 3039-441-02 & 19
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 45-FOOT HEIGHT LIMITATION	

PHOTOSIMULATION

ATTACHMENT 8

RESOLUTION NO. PC-2014-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT AN 80-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT 11505 EL CENTRO ROAD (CUP14-00001)

WHEREAS, Verizon Wireless has filed an application requesting approval of Conditional Use Permit CUP14-00001 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Auto Sales Commercial (ASC) zone of the Main Street and Freeway Corridor Specific Plan at 11505 El Centro Road and includes Assessor's Parcel Numbers 3039-441-02 & 19; and

WHEREAS, the Application, as contemplated, proposes to construct an 80-foot high wireless communications facility on the subject properties; and

WHEREAS, Verizon Wireless has also filed Variance VAR14-00001 to exceed the 45-foot height limitation; and

WHEREAS, the subject site has a water production well, which is operated by County Service Area 70 Zone J. The surrounding properties are vacant; and

WHEREAS, the subject site is within the Auto Sales Commercial (ASC) zone of the Main Street and Freeway Corridor Specific Plan. Surrounding properties are also within ASC zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 this Commission during the above-referenced June 12, 2014 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.

(b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access based upon the required access easement from the site to El Centro Road.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP14-00001, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____
Chris Elvert, Chair, Planning Commission

ATTEST:

_____
Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP14-00001

Approval Date: June 12, 2014
Effective Date: June 24, 2014
Expiration Date: June 24, 2017

This list of conditions apply to a conditional use permit to construct an 80-foot high wireless communications facility at 11505 El Centro Road. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Verizon Wireless; APNs: 3039-441-02 & 19).

The use shall not be established until all conditions of this conditional use permit application have been met. This approved conditional use permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

___ _____ 1. **Variance.** These conditions are concurrent with approved Variance VAR14-00001 becoming effective. (P)

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

___ _____ 2. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)

___ _____ 3. **Grading Plan.** The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw), top of footing (tf), and the finish grade (fg) elevations. (E)

___ _____ 4. **Erosion Control.** The Developer shall provide an erosion control plan with the improvement plans submittal per City Standards. (E)

___ _____ 5. **Soils Report.** The Developer shall provide soils reports to substantiate the foundation design. (B)

___ _____ 6. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. **[F-1]**

___ _____ 7. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

___ _____ 8. **Facility Requirements.** The faux water tower shall be designed consistent with the approved photo simulations. The tower shall include the Route 66 logo in white upon the simulated water tank as approved by the Planning Division. (P)

___ _____ 9. **Consistency with Approved Graphics.** Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

___ _____ 10. **Access Easement.** An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for the benefit of each wireless communications provider using the site for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 11. **Co-location Agreement.** The applicant shall record a co-location agreement permitting at least two other wireless communications providers to place and maintain communications facilities upon the site in accordance with the approved site plan. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 12. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

___ _____ 13. **Utilities**. The wireless communications facility shall be served by independent utility connections and shall be separately metered. (B, P)

___ _____ 14. **Removal Bond.** The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 25 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

___ _____ 15. **Wall Requirements.** An eight-foot high decorative wall shall be used to screen the mechanical equipment and other appurtenant elements of the wireless communications facility. The use of barbed wire or other types of fencing is not permitted. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

___ _____ 16. **Utility Clearances.** The Building Division will provide utility clearances after completion of required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)

___ _____ 17. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. **[F88]**

___ _____ 18. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan, floor plan, and elevations shall be completed in accordance with all applicable Title 16 requirements. The wireless communications tower, equipment shelter, and fencing shall also be designed consistent with the approved site plan, elevations and photo simulations. In addition, all co-locations shall be designed consistent with and shall not detract from the aesthetic look of the monopole, including providing antennae which match the color of the tower. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

THE FOLLOWING ARE CONTINUING CONDITIONS. FAILURE TO COMPLY WITH THESE CONDITIONS MAY RESULT IN REVOCATION OF THE CONDITIONAL USE PERMIT:

___ _____ 19. **Maintenance of the Facility**. The monopole, perimeter fencing, and all related equipment shall be maintained in good condition during the 25-year life of the wireless communications facility. (P)

___ _____ 20. **Use of Generator(s).** A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 21. **Removal Bond**. The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 25-year term in which the facility is to be used. Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)

___ _____ 22. **Abandonment of the Facility.** Should the facility fail to be used as approved for more than 180 consecutive days or should its 25-year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facility's removal is verified by the Planning Division. (P)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

(P)	**Planning Division**	**947-1200**
(B)	**Building Division**	**947-1300**
(E)	**Engineering Division**	**947-1414**
(F)	**Fire Prevention Division**	**947-1012**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

ATTACHMENT 9

RESOLUTION NO. PC-2014-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW A WIRELESS COMMUNICATIONS FACILITY TO EXCEED THE 45-FOOT HEIGHT LIMITATION OF THE ASC ZONE AT 11505 EL CENTRO ROAD (VAR14-00001)

WHEREAS, Verizon Wireless has filed an application requesting approval of Variance VAR14-00001 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Auto Sales Commercial (ASC) zone of the Main Street and Freeway Corridor Specific Plan at 11505 El Centro Road and includes Assessor's Parcel Numbers 3039-441-02 & 19; and

WHEREAS, the Application, as contemplated, proposes to construct an 80-foot high wireless communications facility on the subject properties; and

WHEREAS, Verizon Wireless has also filed an application requesting approval of Conditional Use Permit CUP14-00001 to construct a wireless communications facility; and

WHEREAS, the subject site has a water production well, which is operated by County Service Area 70 Zone J. The surrounding properties are vacant; and

WHEREAS, the subject site is within the Auto Sales Commercial (ASC) zone of the Main Street and Freeway Corridor Specific Plan. Surrounding properties are also within ASC zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 on June 12, 2014, 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 height restriction would reduce the effectiveness of the wireless communications facility, which would result in the need to establish additional wireless communications facilities in the vicinity. In approving the additional height, a co-location agreement is being implemented which will allow additional wireless communications providers the ability to utilize the site, further reducing the number of wireless communications facilities necessary to serve the City of Hesperia.

(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 the site includes a water production well, and the addition of the wireless communications facility will not materially affect the character of the site or neighborhood.

(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 zone because other wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code.

(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 other similar wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code. In approving the variance, additional wireless communications will be allowed on the facility and reduce the number of wireless communications facilities throughout the City.

(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, as the facility is required to comply with the City's Development Code and the 2013 California Building Code.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR14-00001.

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____

Chris Elvert, Chair, Planning Commission

ATTEST:

_____

Kathy Stine, Secretary, Planning Commission

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City of Hesperia
STAFF REPORT

DATE: June 12, 2014

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Daniel S. Alcayaga, AICP, Senior Planner

SUBJECT: Conditional Use Permit CUP14-00004 & Variance VAR14-00003; Applicant: Verizon Wireless; APN: 3046-011-11

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2014-16 and Resolution No. PC-2014-17, approving Conditional Use Permit CUP14-00004 and Variance VAR14-00003.

BACKGROUND

Proposal: A Conditional Use Permit to construct a 75-foot high wireless communications facility, and a Variance to exceed the 35-foot height limitation.

Location: The address is 13558 Palm Street (Attachment 1).

Current General Plan, Zoning and Land Uses: The property is within the Public – Park/Recreation (P-Park/Rec) designation of the General Plan Land Use Element. The surrounding land is designated as noted on Attachment 2. The proposed 75-foot high wireless communications facility will be located within Palm Street Park. The properties are vacant to the north, east, and west. There is a developed residential subdivision to the south (Attachment 3).

ISSUES/ANALYSIS

Land Use: The wireless communications facility is proposed to be constructed within Palm Street Park. The facility will be placed immediately north of the Rick Novak Community Center. Verizon Wireless, the service provider, has demonstrated on a service plan that there is a service gap in the area which necessitates installation of an additional wireless communications facility (Attachment 4). The proposed facility will provide the necessary coverage to improve the network as well as provide coverage for two additional carriers. The wireless communications facility encompasses a 75-foot high monopine and mechanical equipment within a 900 square foot lease area (Attachment 5). Access to Verizon Wireless' equipment will be from Mesa Avenue through an on-site access easement.

Staff supports the proposed location and stealthing technique. In a residential area, any park or public facility would be the preferred location for a wireless communications facility. The facility disguised as a monopine would be the most compatible in a park setting. The proposed elevations and photosimulations illustrate its ability to blend into the neighborhood (Attachments 6 and 7). The facility in the form of stadium lights would not work at Palm Street Park because it does not have ball fields, and a water tank is better suited in historic and rural neighborhoods. Shrubs and pine trees will be planted along the perimeter of the enclosure. The facility's ground equipment will be surrounded by an eight-foot high split face wall. The proposed facility can accommodate a total of three different service carriers.

Drainage: The proposed project will not interfere with the current drainage flows of the site. The area on which the facility is proposed has been previously graded, and is surrounded by an existing road, a parking lot, and a building. The facility will include construction of a wall enclosure, a 194 square foot equipment shelter, and a monopine, as well as installation of underground utilities. Such improvements will have little to no impact on drainage flows.

Street Improvements: Public street improvements are not required.

Environmental: Approval of the conditional use permit and variance are exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: Staff believes this proposal balances the stealthing requirements, as well as maximizes the number of carriers that can go on a wireless communications facility. The proposed facility is consistent with the General Plan and zoning standards, including accessory structure height. Staff recommends approval because the project meets the standards of the Development Code.

FISCAL IMPACT

None.

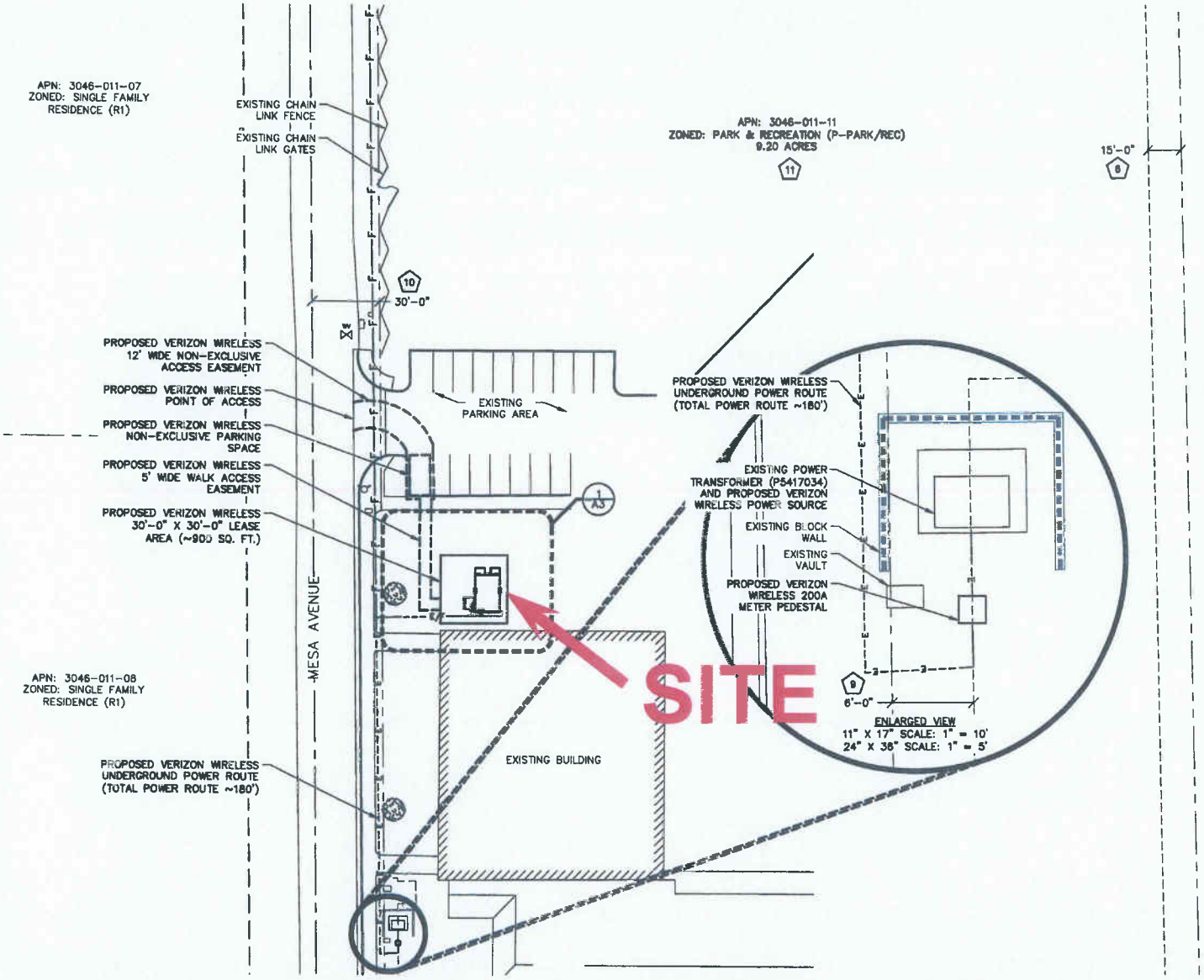
ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Location map
2. General Plan land use
3. Aerial photo
4. Service plan
5. Site Plan
6. Elevations of the monopine
7. Photosimulation
8. Resolution No. PC-2014-16 (CUP14-00004), with list of conditions
9. Resolution No. PC-2014-17 (VAR14-00003)

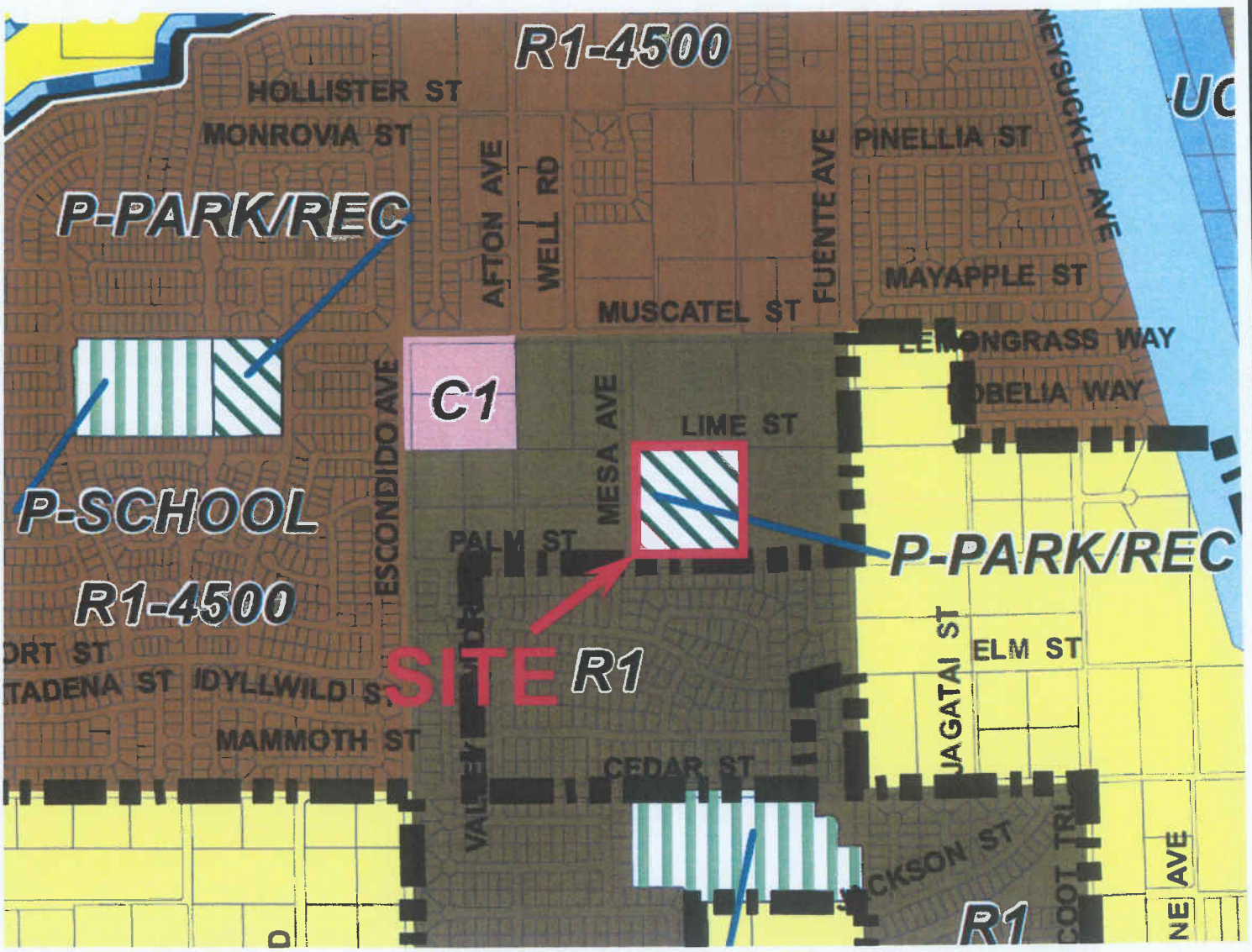
ATTACHMENT 1



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

LOCATION MAP

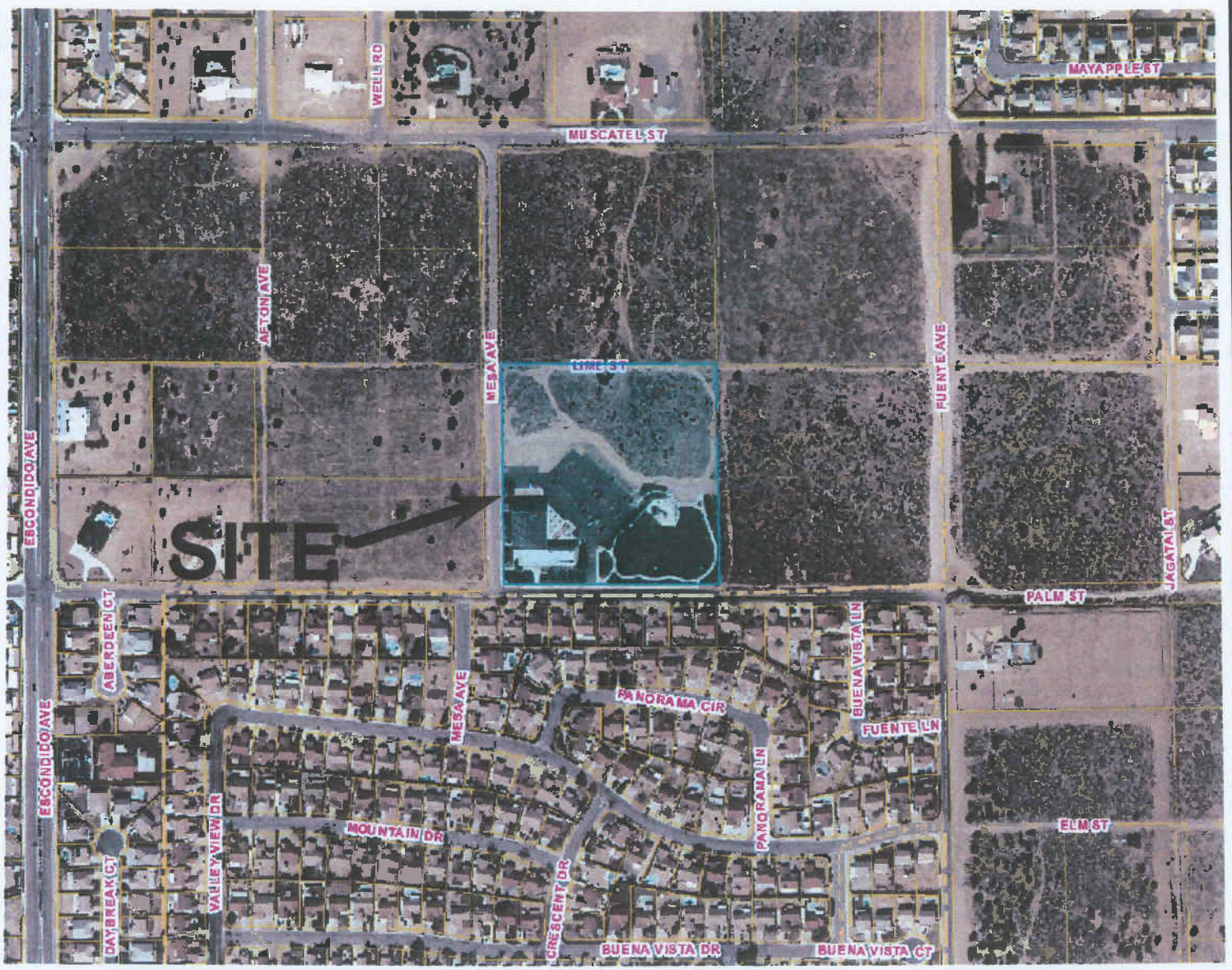
ATTACHMENT 2



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

GENERAL PLAN LAND USE

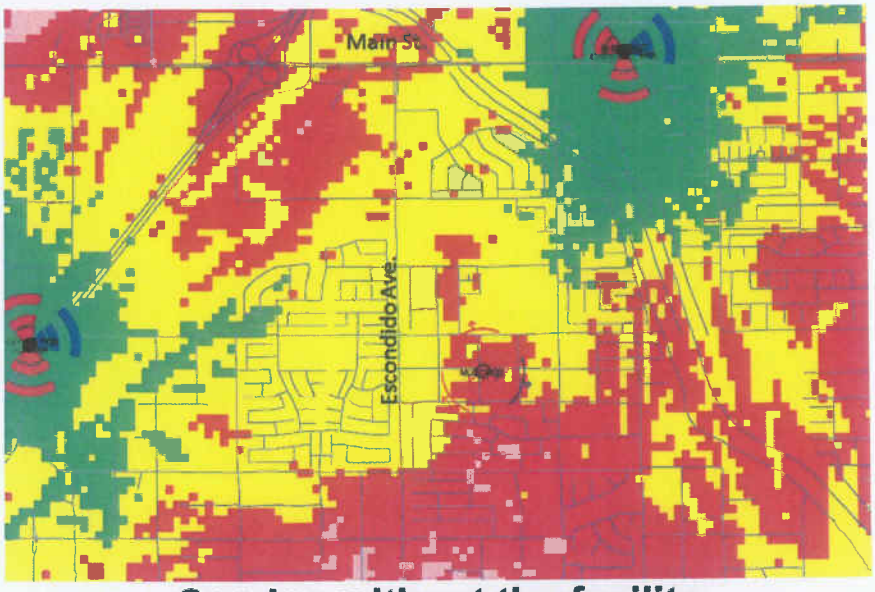
ATTACHMENT 3



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

AERIAL PHOTO

ATTACHMENT 4

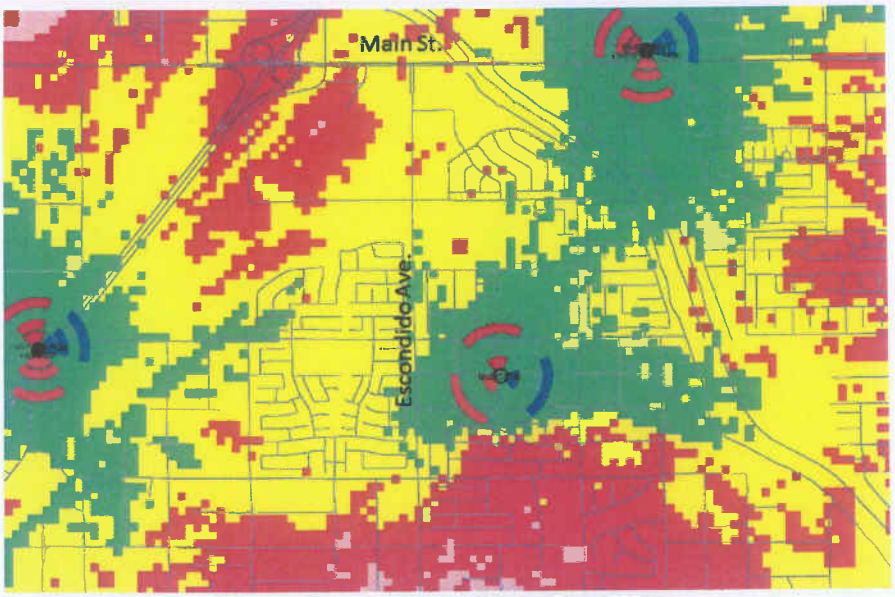


Indoors

In vehicle

Outdoors

Service without the facility

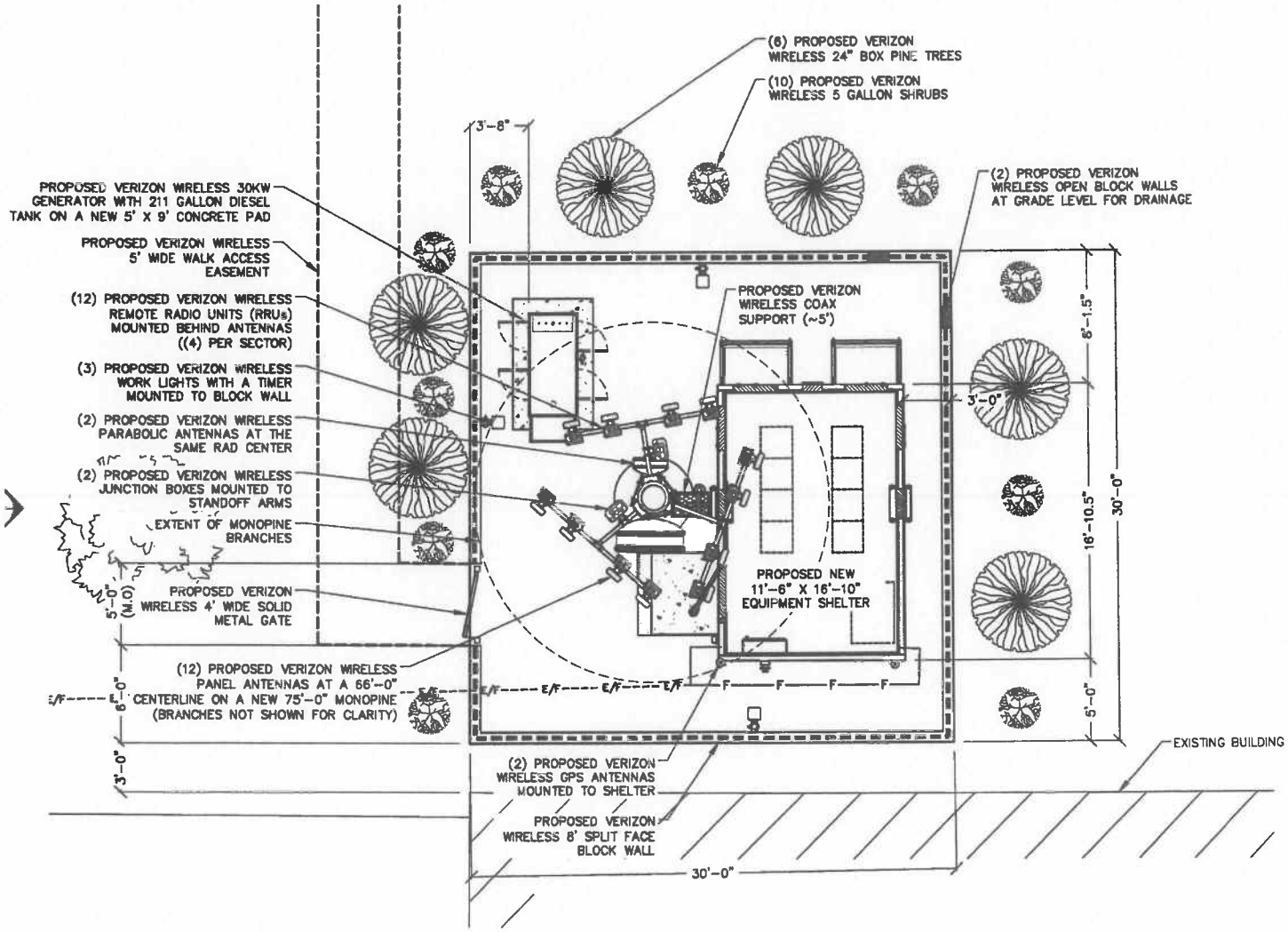


Service with the facility

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

SERVICE PLAN

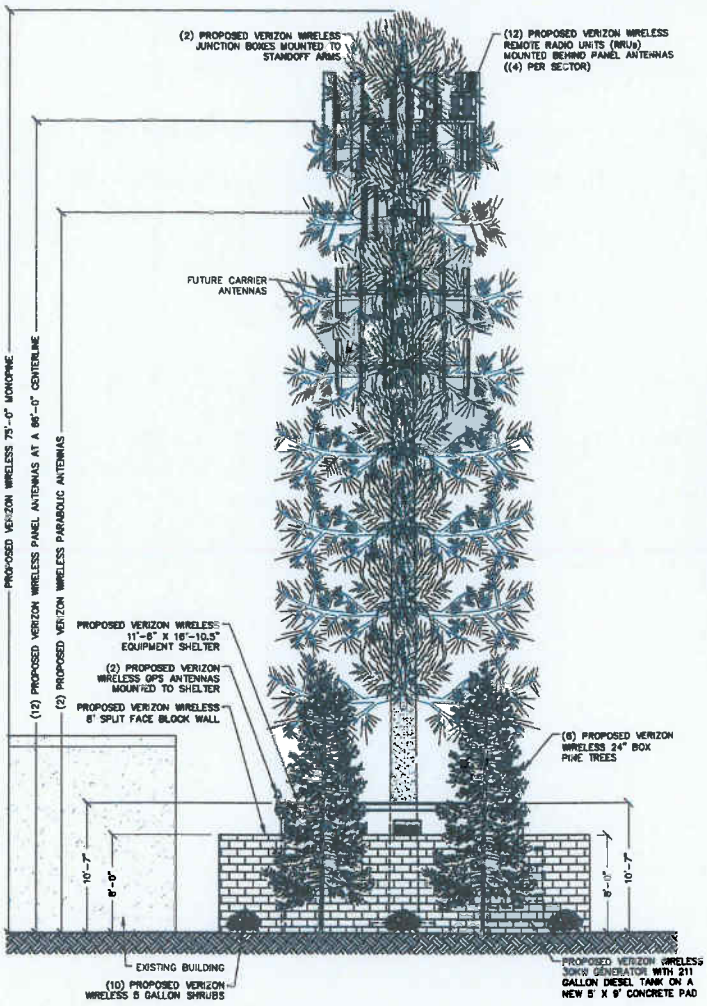
ATTACHMENT 5

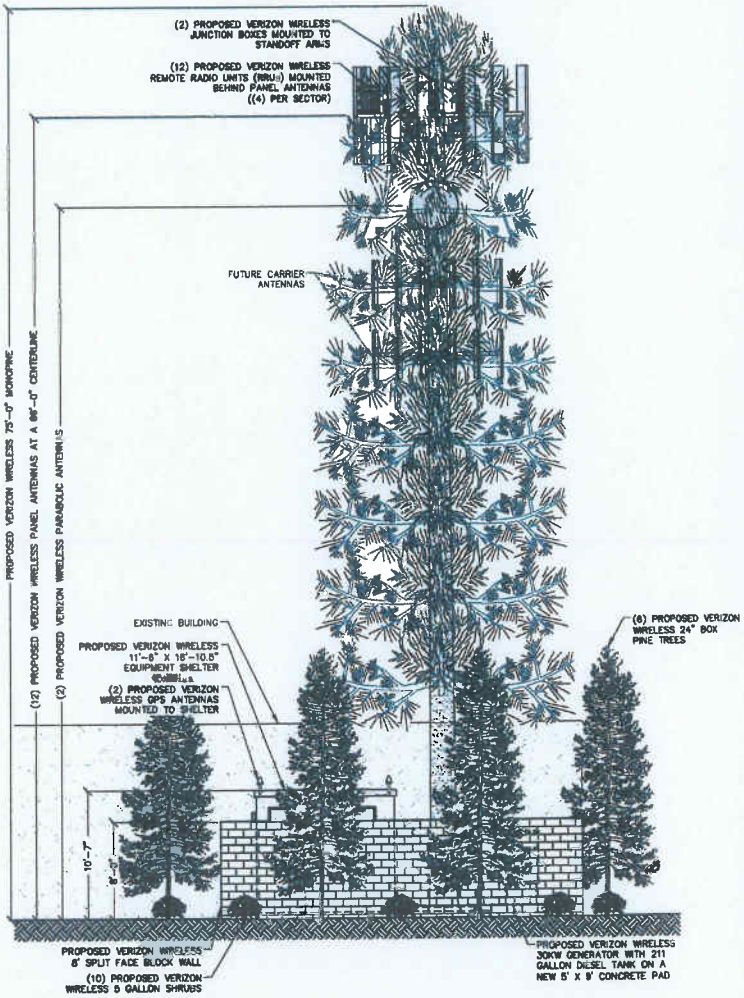


APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

SITE PLAN

ATTACHMENT 6





APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION

ELEVATION OF MONOPINE

ATTACHMENT 7.1

PROPOSED INSTALLATION OF 75' MONOPINE WITH ANTENNA ARRAY AND EQUIPMENT COMPOUND, INCLUDING LANDSCAPING.

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	**N** ↑

PHOTOSIMULATION

ATTACHMENT 7.2

PROPOSED INSTALLATION OF 75' MONOPINE WITH ANTENNA ARRAY AND EQUIPMENT COMPOUND, INCLUDING LANDSCAPING.

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00004 & VAR14-00003
LOCATION: 13558 PALM STREET	**APN(S):** 3046-011-11
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION	

PHOTOSIMULATION

ATTACHMENT 8

RESOLUTION NO. PC-2014-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT 13558 PALM STREET (CUP14-00004)

WHEREAS, Verizon Wireless has filed an application requesting approval of Conditional Use Permit CUP14-00004 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Public – Park/Recreation (P-Park/Rec) designation of the General Plan Land Use Element at 13558 Palm Street and includes Assessor's Parcel Number 3046-011-11; and

WHEREAS, the Application, as contemplated, proposes to construct a 75-foot high wireless communications facility on the subject property; and

WHEREAS, Verizon Wireless has also filed Variance VAR14-00003 to exceed the 35-foot height limitation; and

WHEREAS, the wireless communications facility is proposed to be constructed within Palm Street Park and will be placed immediately north of the Rick Novak Community Center; and

WHEREAS, the subject site is within the P-Park/Rec designation. Surrounding properties are within Single-family Residence (R1) designation; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 this Commission during the above-referenced June 12, 2014 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.

(b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access based upon the required access easement from the site to Mesa Avenue.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP14-00004, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____
Chris Elvert, Chair, Planning Commission

ATTEST:

_____
Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP14-00004

Approval Date: June 12, 2014
Effective Date: June 24, 2014
Expiration Date: June 24, 2017

This list of conditions apply to a conditional use permit to construct a 75-foot high wireless communications facility at 13558 Palm Street. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Verizon Wireless; APN: 3046-011-11).

The use shall not be established until all conditions of this conditional use permit application have been met. This approved conditional use permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

___ _____ 1. **Variance.** These conditions are concurrent with approved Variance VAR14-00003 becoming effective. (P)

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

___ _____ 2. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)

___ _____ 3. **Erosion Control.** The Developer shall provide an erosion control plan with the improvement plans submittal per City Standards. (E)

___ _____ 4. **Soils Report.** The Developer shall provide soils reports to substantiate the foundation design. (B)

___ _____ 5. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. **[F-1]**

___ _____ 6. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs),

which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

___ _____ 7. **Consistency with Approved Graphics.** Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

___ _____ 8. **Access Easement.** An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for the benefit of each wireless communications provider using the site for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 9. **Co-location Agreement.** The applicant shall record a co-location agreement permitting at least two other wireless communications providers to place and maintain communications facilities upon the site in accordance with the approved site plan. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 10. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

___ _____ 11. **Utilities**. The wireless communications facility shall be served by independent utility connections and shall be separately metered. (B, P)

___ _____ 12. **Removal Bond.** The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 25 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

___ _____ 13. **Wall Requirements.** An eight-foot high decorative wall shall be used to screen the mechanical equipment and other appurtenant elements of the wireless communications facility. The use of barbed wire or other types of fencing is not permitted. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

___ _____ 14. **Utility Clearances.** The Building Division will provide utility clearances after completion of required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)

___ _____ 15. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. **[F88]**

___ _____ 16. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan, floor plan, and elevations shall be completed in accordance with all applicable Title 16 requirements. The wireless communications tower, equipment shelter, and fencing shall also be designed consistent with the approved site plan, elevations and photo simulations. In addition, all co-locations shall be designed consistent with and shall not detract from the aesthetic look of the monopole, including providing antennae which match the color of the tower. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

THE FOLLOWING ARE CONTINUING CONDITIONS. FAILURE TO COMPLY WITH THESE CONDITIONS MAY RESULT IN REVOCATION OF THE CONDITIONAL USE PERMIT:

___ _____ 17. **Maintenance of the Facility**. The monopole, perimeter fencing, and all related equipment shall be maintained in good condition during the 25-year life of the wireless communications facility. (P)

___ _____ 18. **Use of Generator(s).** A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 19. **Removal Bond**. The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 25-year term in which the facility is to be used. Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)

___ _____ 20. **Abandonment of the Facility.** Should the facility fail to be used as approved for more than 180 consecutive days or should its 25-year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and related equipment shall be removed no later than 30 days after the facility has been

abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facility's removal is verified by the Planning Division. (P)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

(P)	**Planning Division**	**947-1200**
(B)	**Building Division**	**947-1300**
(E)	**Engineering Division**	**947-1414**
(F)	**Fire Prevention Division**	**947-1012**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

ATTACHMENT 9

RESOLUTION NO. PC-2014-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW A WIRELESS COMMUNICATIONS FACILITY TO EXCEED THE 35-FOOT HEIGHT LIMITATION OF THE P-PARK/REC DESIGNATION AT 13558 PALM STREET (VAR14-00003)

WHEREAS, Verizon Wireless has filed an application requesting approval of Variance VAR14-00003 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Public – Park/Recreation (P-Park/Rec) designation of General Plan Land Use Element at 13558 Palm Street and includes Assessor's Parcel Number 3046-011-11; and

WHEREAS, the Application, as contemplated, proposes to construct a 75-foot high wireless communications facility on the subject properties; and

WHEREAS, Verizon Wireless has also filed an application requesting approval of Conditional Use Permit CUP14-00004 to construct a wireless communications facility; and

WHEREAS, the wireless communications facility is proposed to be constructed within Palm Street Park and will be placed immediately north of the Rick Novak Community Center; and

WHEREAS, the subject site is within the P-Park/Rec designation. Surrounding properties are within Single-family Residence (R1) designation; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 on June 12, 2014, 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 height restriction would reduce the effectiveness of the wireless communications facility, which would result in the need to establish additional wireless communications facilities in the vicinity. In approving the additional height, a co-location agreement is being implemented which will allow additional wireless communications providers the ability to utilize the site, further reducing the number of wireless communications facilities necessary to serve the City of Hesperia.

(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 the site is a park, and the addition of the wireless communications facility will not materially affect the character of the site or neighborhood.

(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 zone because other wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code.

(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 other similar wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code. In approving the variance, additional wireless communications will be allowed on the facility and reduce the number of wireless communications facilities throughout the City.

(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, as the facility is required to comply with the City's Development Code and the 2013 California Building Code.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR14-00003.

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____

Chris Elvert, Chair, Planning Commission

ATTEST:

_____

Kathy Stine, Secretary, Planning Commission

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City of Hesperia
STAFF REPORT

DATE: June 12, 2014

TO: Planning Commission

FROM: Dave Reno, Principal Planner

BY: SL Stan Liudahl, Senior Planner

SUBJECT: Conditional Use Permit CUP14-00003 and VAR14-00002; Applicant: Verizon Wireless; APN: 0410-172-01

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2014-12 and PC-2014-13, approving Conditional Use Permit CUP14-00003 and Variance VAR14-00002.

BACKGROUND

Proposal: A Conditional Use Permit and Variance to construct a 75-foot high wireless communications facility at the existing Elks Lodge. Approval of a Variance is needed to allow the tower to exceed the 35-foot height limitation.

Location: The property address is 9202 E Avenue (Attachment 1).

Current General Plan, Zoning and Land Uses: The site is within the Medium Density Residential (MDR) Zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated and zoned as noted on Attachment 2. This facility will be adjacent to the existing campsites, northwest of the existing Elks Lodge building. The lodge is a legally nonconforming use. All surrounding properties are developed, except for the one-acre parcel to the north. The properties to the north contain automotive repair facilities. Apartments and single-family residences exist to the south, east, and west (Attachment 3).

ISSUES/ANALYSIS

Land Use: Verizon Wireless, the service provider, has demonstrated on a service plan that there is a service gap which necessitates installation of an additional wireless communications facility in the area (Attachment 4). This proposed facility will provide the necessary coverage to improve the network in this area and will provide coverage for two additional carriers. The proposed wireless communications facility consists of a 75-foot high faux water tank and a 194 square foot mechanical equipment building within the proposed 900 square foot lease area (Attachment 5). The tower meets the minimum 10-foot interior side and 15-foot rear yard regulations. An eight-foot high block wall is proposed along the perimeter of the lease area in order to secure the facility and to provide adequate screening of equipment. The wall shall be constructed with split-face block and a decorative cap, pursuant to the Specific Plan.

The elevations and photosimulations of the proposed faux water tank illustrate its ability to blend into the neighborhood (Attachments 6 and 7). Staff believes that a water tower is superior to a monopine or other stealth design at this location, given its proximity to commercial development. The tank will include the symbol and lodge number of the Elks Lodge.

The proposed wireless communications facility is consistent with the General Plan and all zoning standards, except the 35-foot structure height limitation of the MDR District. The Wireless Communications Ordinance provides justification for exceeding this height limitation, based upon its providing space for future co-locations. The proposed 75-foot tower will allow up to three carriers. The antennae for two carriers will be hidden within the faux water tank. The carrier that is lowest on the tower will be below the water tank. A proposal to have all the carriers inside the tank makes the tank look out of proportion to the overall height of the tower. Therefore, staff supports the third antennae being below the tank, as it will be partially hidden by the legs of the tower.

Drainage: The site is not impacted by drainage from upstream properties and its impact upon properties downstream is negligible, as its 194 square foot equipment shelter will pose a less than significant increase in surface runoff.

Street Improvements: Public street improvements are not required.

Environmental: Approval of the conditional use permit and variance is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The project is consistent with the City's intent to locate new wireless communications facilities on existing buildings and structures, or to conceal their appearance through other means (i.e. use of a monopine, monoelm, or other stealth technology). The project meets the standards of the Specific Plan and the Development Code with approval of the variance. Consequently, staff recommends approval.

FISCAL IMPACT

None.

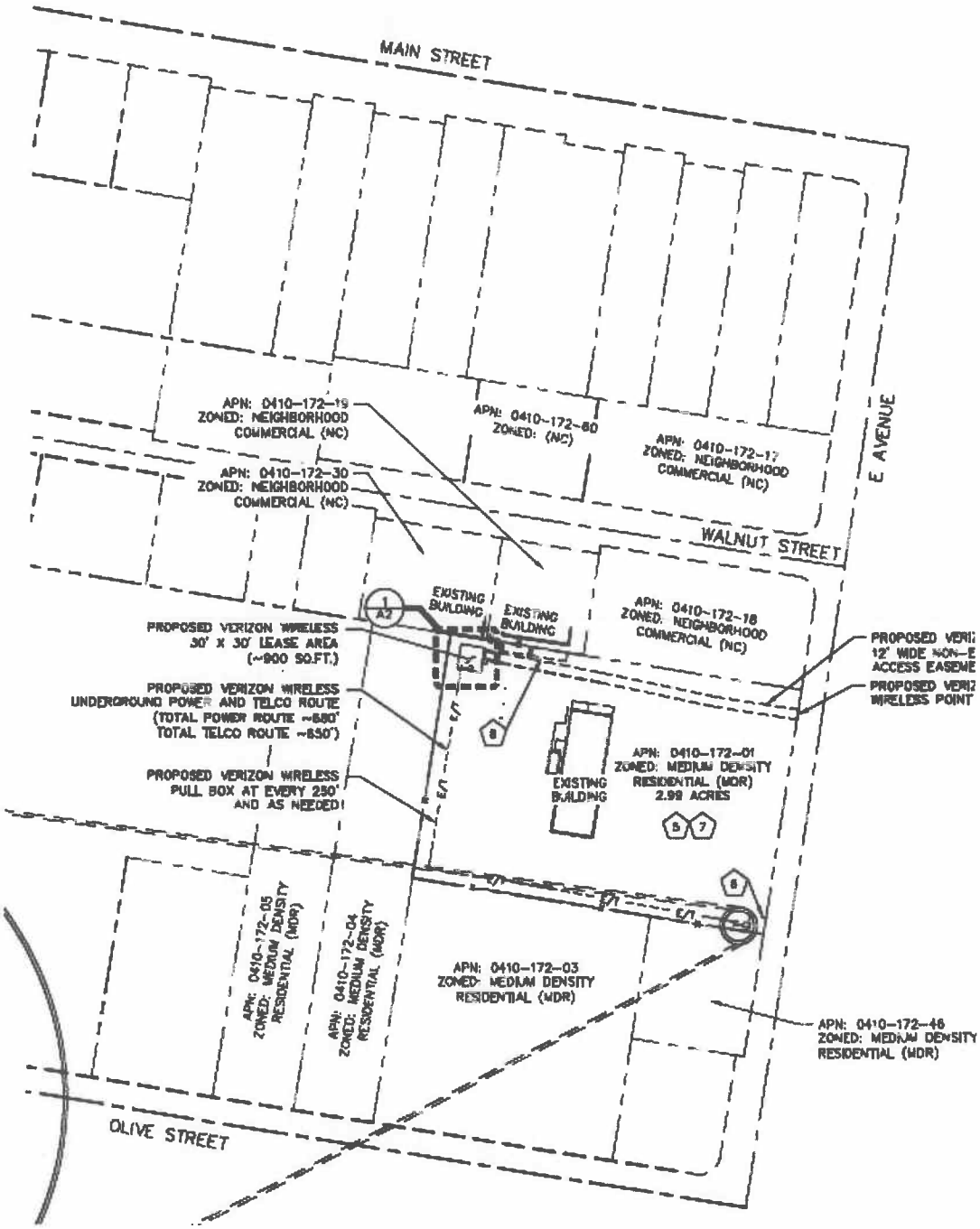
ALTERNATIVES

1. The Planning Commission may consider redesigning the facility using a different stealth scheme. Inasmuch the site is close to downtown, staff believes the faux water tank will blend into the neighborhood better than a simulated tree. Therefore, this alternative is not recommended.
2. Provide alternative direction to staff.

ATTACHMENTS

1. Location map
2. General Plan land use and zoning map
3. Aerial photo
4. Service plan
5. Site Plan
6. Elevations of the faux water tank
7. Photosimulations of the faux water tank
8. Resolution No. PC-2014-12, with list of conditions (CUP14-00003)
9. Resolution No. PC-2014-13 (VAR14-00002)

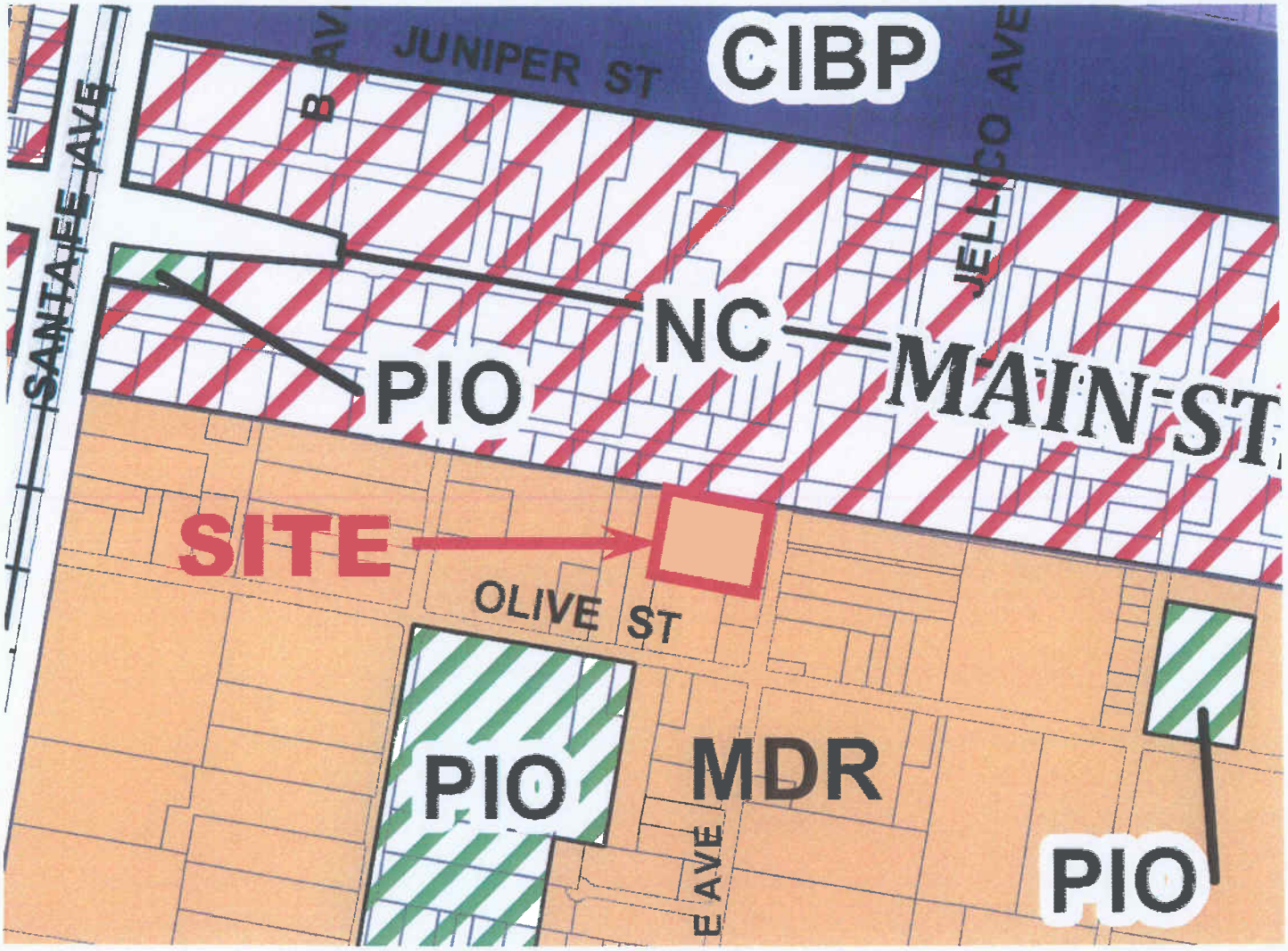
ATTACHMENT 1



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

LOCATION MAP

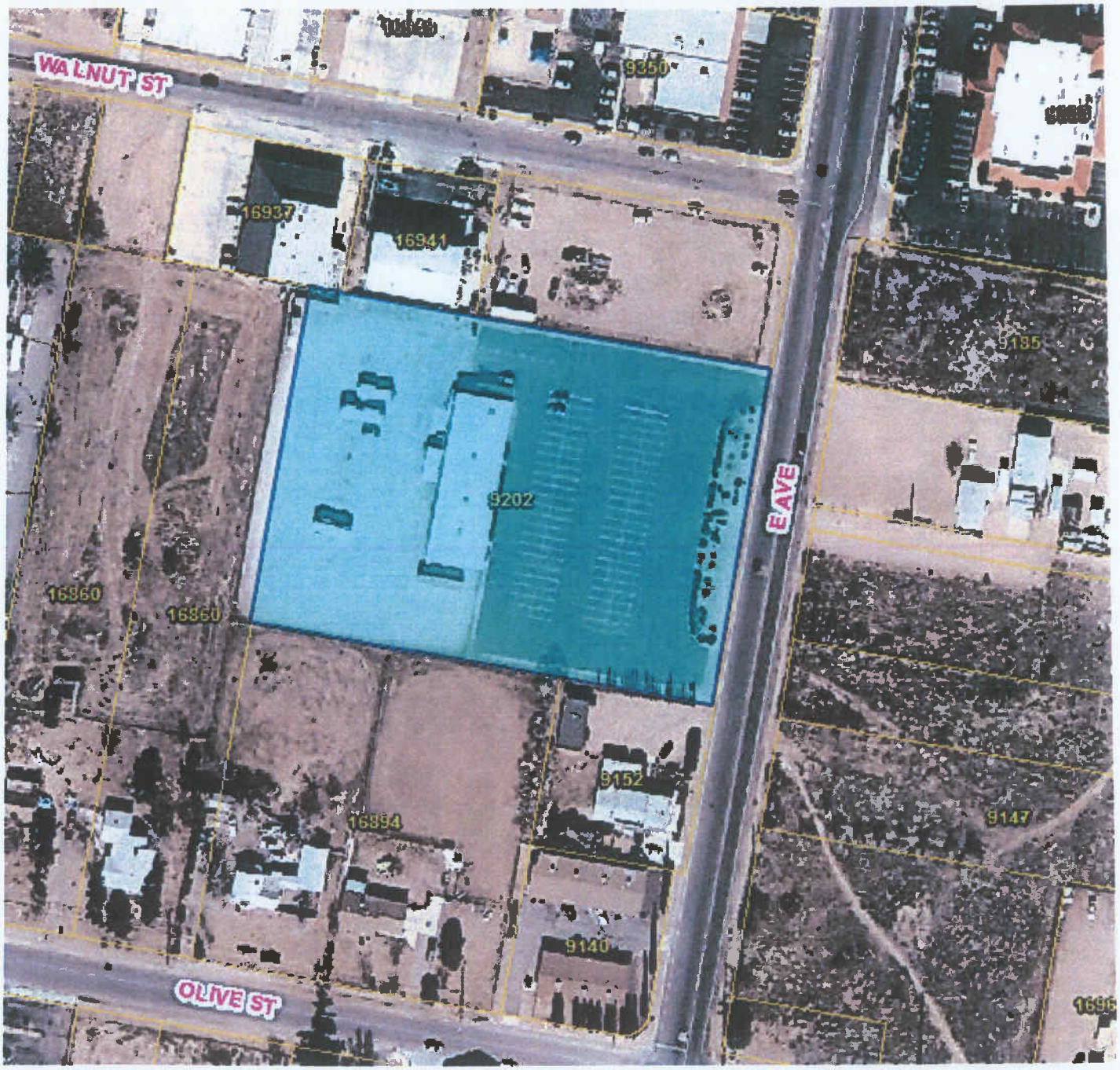
ATTACHMENT 2



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

GENERAL PLAN LAND USE AND ZONING MAP

ATTACHMENT 3

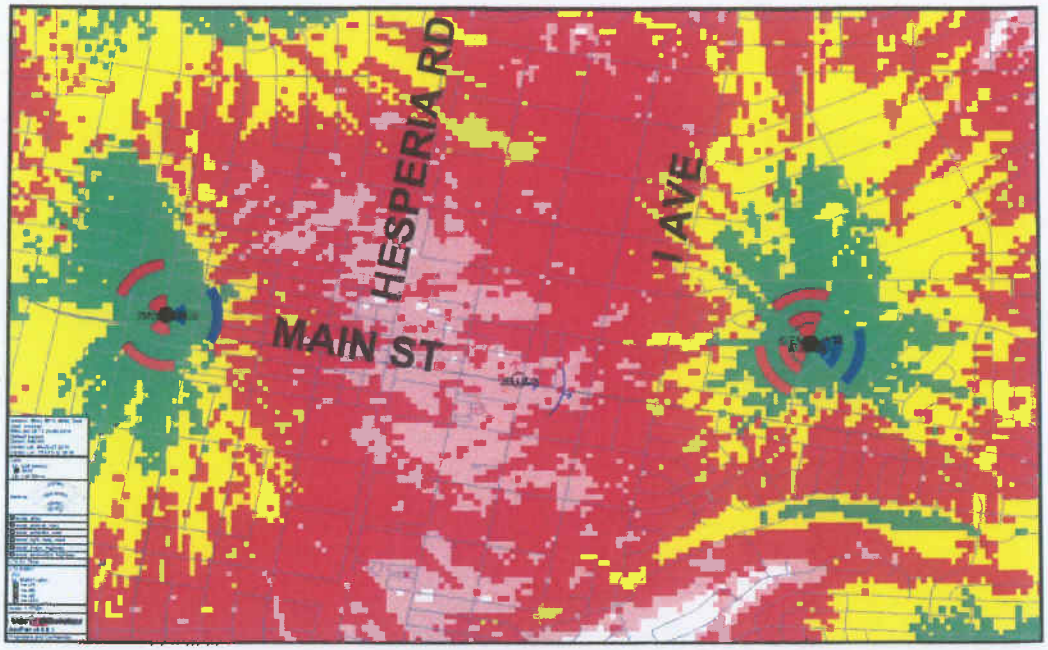


APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

AERIAL PHOTO

ATTACHMENT 4

Service without the facility

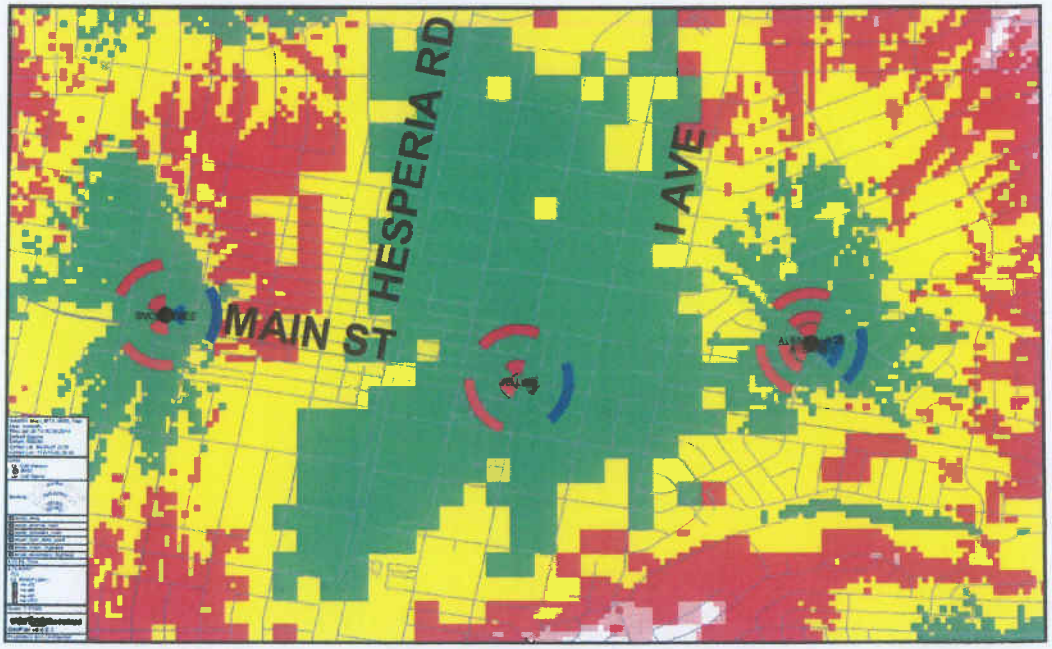


Indoors

In vehicle

Outdoors

Service with the facility



Indoors

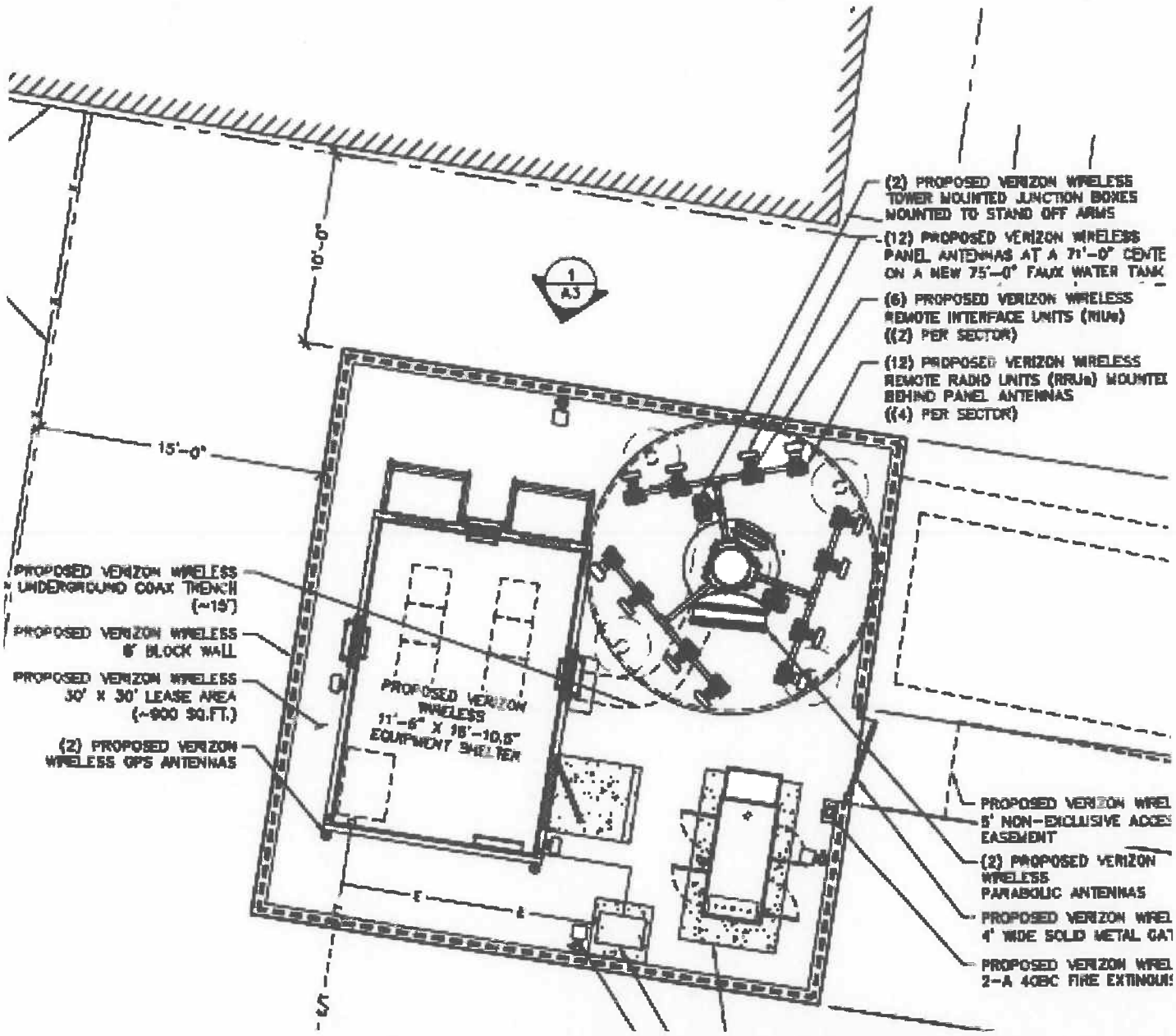
In vehicle

Outdoors

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

SERVICE PLAN

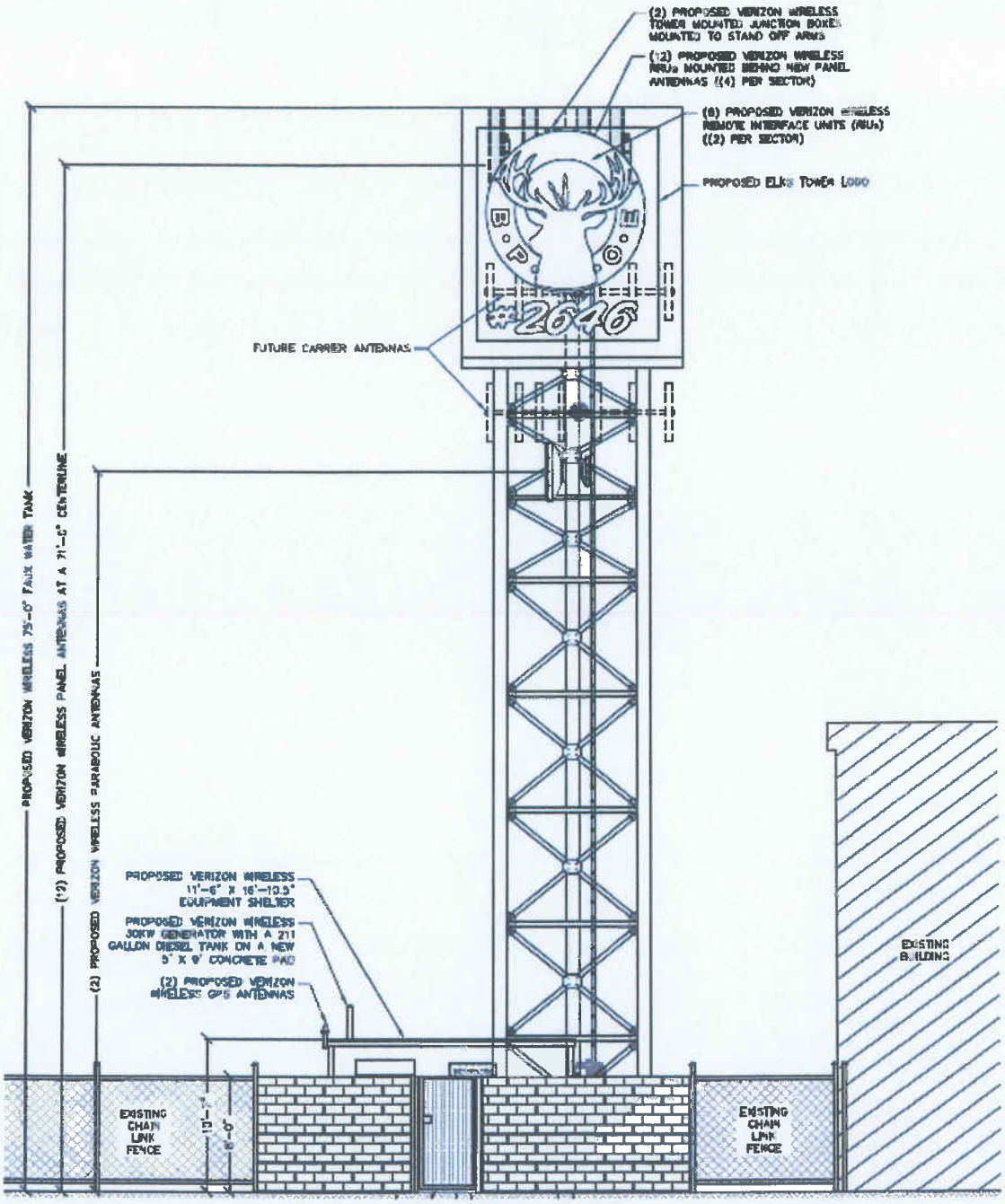
ATTACHMENT 5



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

SITE PLAN

ATTACHMENT 6



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

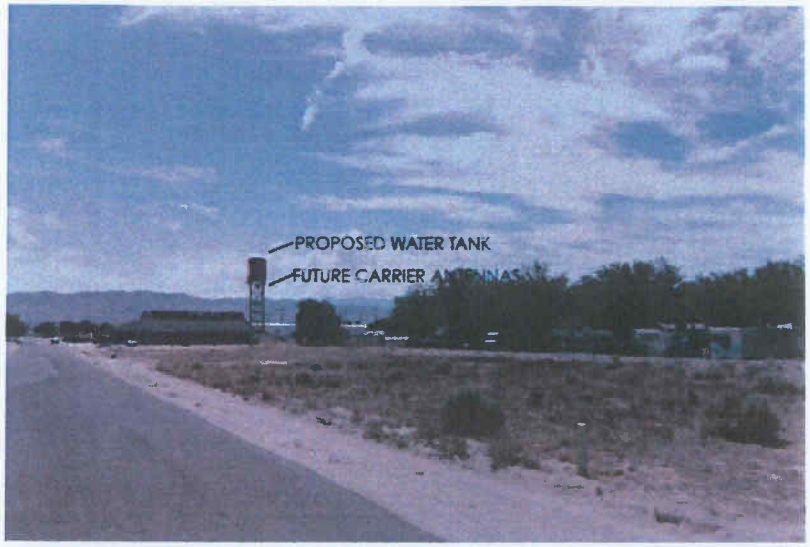
ELEVATION OF THE FAUX WATER TANK

ATTACHMENT 7

PHOTOGRAPHIC SIMULATION -
VIEW 1: LOOKING SOUTHWEST

PROPOSED INSTALLATION OF 75' STEALTH WATER TANK WITH ANTENNA ARRAY AND EQUIPMENT COMPOUND. FUTURE COLLOCATION ANTENNAS SHOWN.

PHOTOGRAPHIC SIMULATION -
VIEW 2: LOOKING SOUTHEAST



PROPOSED INSTALLATION OF 75' STEALTH WATER TANK WITH ANTENNA ARRAY AND EQUIPMENT COMPOUND. FUTURE COLLOCATION ANTENNAS SHOWN.

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP14-00003 & VAR14-00002
LOCATION: 9202 E AVENUE	**APN(S):** 0410-172-01
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARAINCE TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT THE EXISTING ELKS LODGE	**N** ↑

PHOTOSIMULATIONS OF THE FAUX WATER TANK

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ATTACHMENT 8

RESOLUTION NO. PC-2014-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT 9202 E AVENUE (CUP14-00003)

WHEREAS, Verizon Wireless has filed an application requesting approval of Conditional Use Permit CUP14-00003 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Medium Density Residential (MDR) zone of the Main Street and Freeway Corridor Specific Plan at 9202 E Avenue and includes Assessor's Parcel Number 0410-172-01; and

WHEREAS, the Application, as contemplated, proposes to construct a 75-foot high wireless communications facility on the subject property; and

WHEREAS, Verizon Wireless has also filed Variance VAR14-00002, to exceed the 35-foot structure height limitation; and

WHEREAS, the proposed wireless communications facility is proposed at the existing Elks Lodge. This facility will be adjacent to the existing campsites, northwest of the building. All surrounding properties are developed, except for a one-acre parcel to the north. Properties to the northwest contain automotive repair facilities. Apartments and single-family residences exist to the south, east, and west; and

WHEREAS, the subject property is within the Medium Density Residential (MDR) Zone of the Specific Plan. All surrounding properties are also within MDR Zone, except for those to the north, which are within the Neighborhood Commercial (NC) Zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 this Commission during the above-referenced June 12, 2014 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.

(b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access based upon the required access easement from the site to E Avenue.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP14-00003, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____
Chris Elvert, Chair, Planning Commission

ATTEST:

_____
Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP14-00003

Approval Date: June 12, 2014
Effective Date: June 24, 2014
Expiration Date: June 24, 2017

This list of conditions apply to a conditional use permit to construct a 75-foot high wireless communications facility at the existing Elks Lodge at 9202 E Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Verizon Wireless; APN: 0410-172-01).

The use shall not be established until all conditions of this conditional use permit application have been met. This approved conditional use permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

Variance. These conditions are concurrent with approved Variance VAR14-00002 becoming effective. (P)

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

___ _____ 1. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)

___ _____ 2. **Soils Report.** The Developer shall provide soils reports to substantiate the foundation design. (B)

___ _____ 3. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own

cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

___ _____ 4. **Facility Requirements.** The faux water tower shall be designed consistent with the approved photo simulations. The tower can include the Elk's Lodge logo and club number in white upon the simulated water tank as approved by the Planning Division. (P)

___ _____ 5. **Consistency with Approved Graphics.** Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

___ _____ 6. **Access Easement.** An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for the benefit of each wireless communications provider using the site for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 7. **Co-location Agreement.** The applicant shall record a co-location agreement permitting at least two other wireless communications providers to place and maintain communications facilities upon the site in accordance with the approved site plan. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 8. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

___ _____ 9. **Utilities.** The wireless communications facility shall be served by independent utility connections and shall be separately metered. (B, P)

___ _____ 10. **Removal Bond.** The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 25 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

___ _____ 11. **Fencing Requirements.** An eight-foot high decorative wall shall be used to screen the mechanical equipment and other appurtenant elements of the wireless communications facility. The use of barbed wire or other types of fencing is not permitted. (P)

___ _____ 12. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. **[F-1]**

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

___ _____ 13. **Utility Clearances.** The Building Division will provide utility clearances after completion of required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)

___ _____ 14. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan, floor plan, and elevations shall be completed in accordance with all applicable Title 16 requirements. The wireless communications tower, equipment shelter, and fencing shall also be designed consistent with the approved site plan, elevations and photo simulations. In addition, all co-locations shall be designed consistent with and shall not detract from the aesthetic look of the monopole, including providing antennae which match the color of the tower. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 15. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. **[F88]**

THE FOLLOWING ARE CONTINUING CONDITIONS. FAILURE TO COMPLY WITH THESE CONDITIONS MAY RESULT IN REVOCATION OF THE CONDITIONAL USE PERMIT:

___ _____ 16. **Maintenance of the Facility.** The monopole, perimeter fencing, and all related equipment shall be maintained in good condition during the 25-year life of the wireless communications facility. (P)

___ _____ 17. **Use of Generator(s).** A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 18. **Removal Bond.** The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 25-year term in which the facility is to be used.

Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)

___ _____ 19. **Abandonment of the Facility.** Should the facility fail to be used as approved for more than 180 consecutive days or should its 25-year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facility's removal is verified by the Planning Division. (P)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

(P)	**Planning Division**	**947-1200**
(B)	**Building Division**	**947-1300**
(E)	**Engineering Division**	**947-1414**
(F)	**Fire Prevention Division**	**947-1012**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

ATTACHMENT 9

RESOLUTION NO. PC-2014-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW A WIRELESS COMMUNICATIONS FACILITY TO EXCEED THE 35-FOOT HEIGHT LIMITATION OF THE MEDIUM DENSITY RESIDENTIAL (MDR) ZONE AT 9202 E AVENUE (VAR14-00002)

WHEREAS, Verizon Wireless has filed an application requesting approval of Variance VAR14-00002 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Medium Density Residential (MDR) Zone of the Main Street and Freeway Corridor Specific Plan (Specific Plan) at 9202 E Avenue and includes Assessor's Parcel Number 0410-172-01; and

WHEREAS, the Application, as contemplated, proposes to exceed the 35-foot structure height limitation; and

WHEREAS, Verizon Wireless has also filed an application requesting approval of Conditional Use Permit CUP14-00003, to construct the wireless communications facility on this site; and

WHEREAS, the proposed wireless communications facility is proposed at the existing Elks Lodge. This facility will be adjacent to the existing campsites, northwest of the building. All surrounding properties are developed, except for a one-acre parcel to the north. Properties to the northwest contain automotive repair facilities. Apartments and single-family residences exist to the south, east, and west; and

WHEREAS, the subject property is within the Medium Density Residential (MDR) Zone of the Specific Plan. All surrounding properties are also within MDR Zone, except for those to the north, which are within the Neighborhood Commercial (NC) Zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 on June 12, 2014, 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 height restriction would reduce the effectiveness of the wireless communications facility, which would result in the need to establish additional wireless communications facilities in the vicinity. In approving the additional height, a co-location agreement is being implemented which will allow additional wireless communications providers the ability to utilize the site, further reducing the number of wireless communications facilities necessary to serve the City of Hesperia.

(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 the site is partially developed, and the addition of the wireless communications facility will not materially affect the character of the site or neighborhood.

(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 zone because other wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code.

(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 other similar wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code. In approving the variance, up to three wireless communications carriers will be allowed on the facility. This will ultimately reduce the number of wireless communications facilities throughout the City.

(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, as the facility is required to comply with the City's Development Code and the 2013 California Building Code.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR14-00002.

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

ADOPTED AND APPROVED this 12th day of June 2014.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

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City of Hesperia
STAFF REPORT

DATE: June 12, 2014

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Lisette Sánchez-Mendoza, Assitant Planner

SUBJECT: Conditional Use Permit CUP13-00006 and VAR13-00006; Applicant: Verizon Wireless C/O Spectrum Services.; APN: 0406-061-11.

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2014-18 and PC-2014-19, approving Conditional Use Permit CUP13-00006 and Variance VAR13-00006.

BACKGROUND

Proposal: A Conditional Use Permit to construct a 60-foot high wireless communications facility within a commercially developed lot.

Location: The property address is 15545 Bear Valley Road (Attachment 4).

Current General Plan, Zoning and Land Uses: The site is within the General Commercial (C-2) General Plan Land Use Designation and zone district. The surrounding land is designated and zoned as noted on Attachment 2. Properties to the north and west contain commercial development, a vacant lot exists to the east, and properties to the south contain residential development (Attachment 4).

ISSUES/ANALYSIS

Land Use:

Verizon, the service provider, has demonstrated on a service plan that there is a service gap which necessitates installation of an additional wireless communications facility in the area (Attachment 3). The proposed facility will provide the necessary coverage to improve the network in these residential/commercial areas as well as provide coverage for one additional carrier. The 60-foot high wireless communications facility designed as a monopine will be located within the southeast corner of the commercially developed lot. The proposed facility will include a 900 square-foot lease area. The lease area will take up three parking spaces within the rear parking lot. In order to avoid a parking deficiency, three new parking spaces will be provided along the east side of the drive aisle between the buildings. A decorative block wall will be constructed along the perimeter of the lease area which contains the equipment shelter as well as the monopine.

The elevations and photosimulation of the proposed monopine illustrates its ability to blend into the neighborhood (Attachments 5 and 6). The proposed wireless communications facility requires a Variance for the increase in height. The maximum height allowed in this area is 35 feet in height. This height increase is necessary in order to accommodate a future carrier on the

same wireless facility. As a condition of approval, a co-location agreement will be recorded allowing for an additional carrier to utilize the site. The project is consistent with the General Plan land use and zoning standards, including accessory structure height.

Street Improvements: Public street improvements are not required. Recordation of an irrevocable access easement will be required from the lease area to Bear Valley Road in accordance with Condition 6 (Attachment 7).

Environmental: Approval of the conditional use permit is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The project is consistent with the City's intent to locate new wireless facilities on existing buildings and structures, or to conceal their appearance through other means (i.e. use of monopines and other stealth technologies). The project meets the standards of the Development Code and staff recommends approval.

FISCAL IMPACT

None.

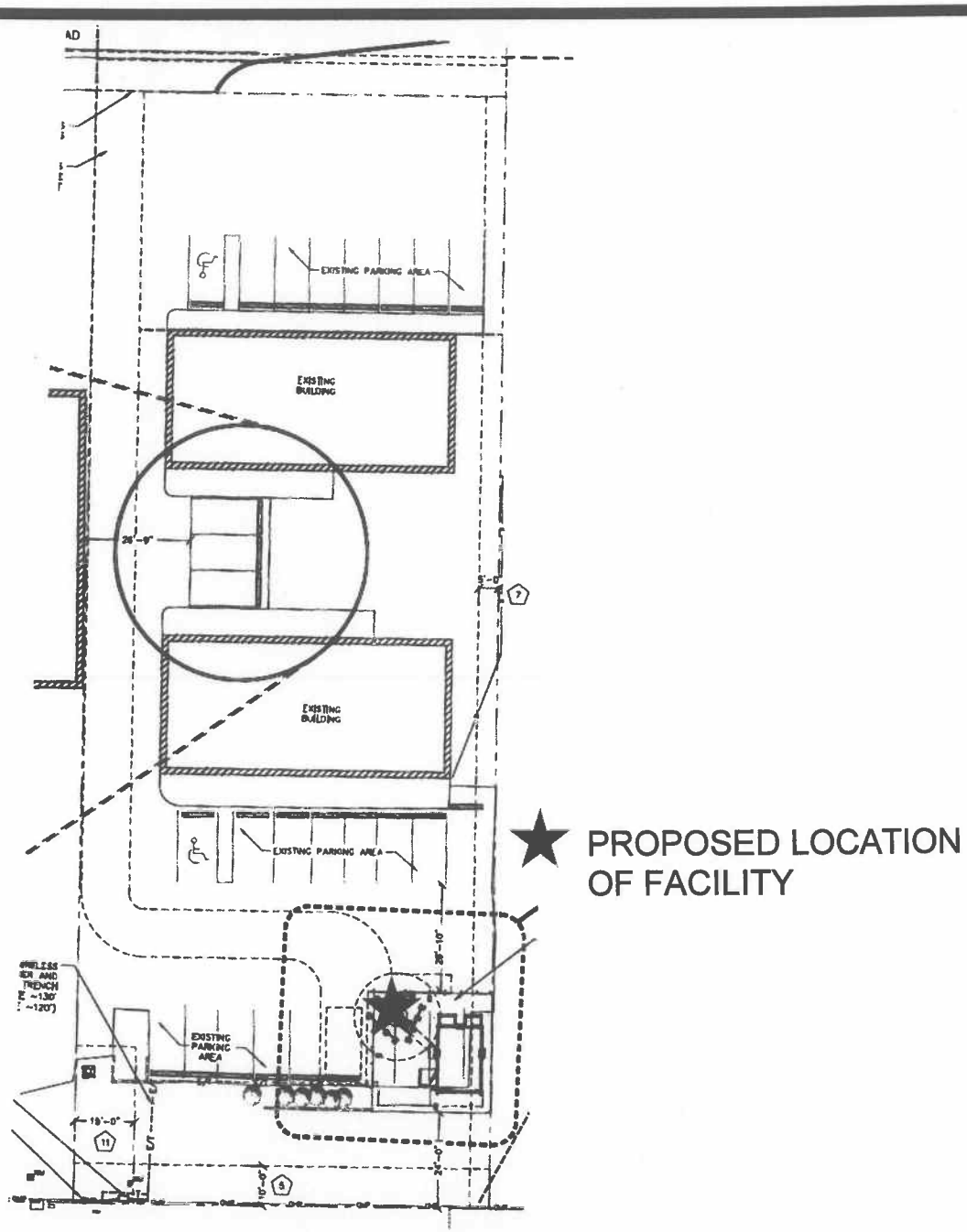
ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. General Plan land use and zoning map
3. Service plan
4. Aerial Photo
5. Elevations of the monopine
6. Photo simulation of the monopine
7. Resolution No. PC-2014-18, with list of conditions (CUP13-00006)
8. Resolution No. PC-2014-19 (VAR13-00006)

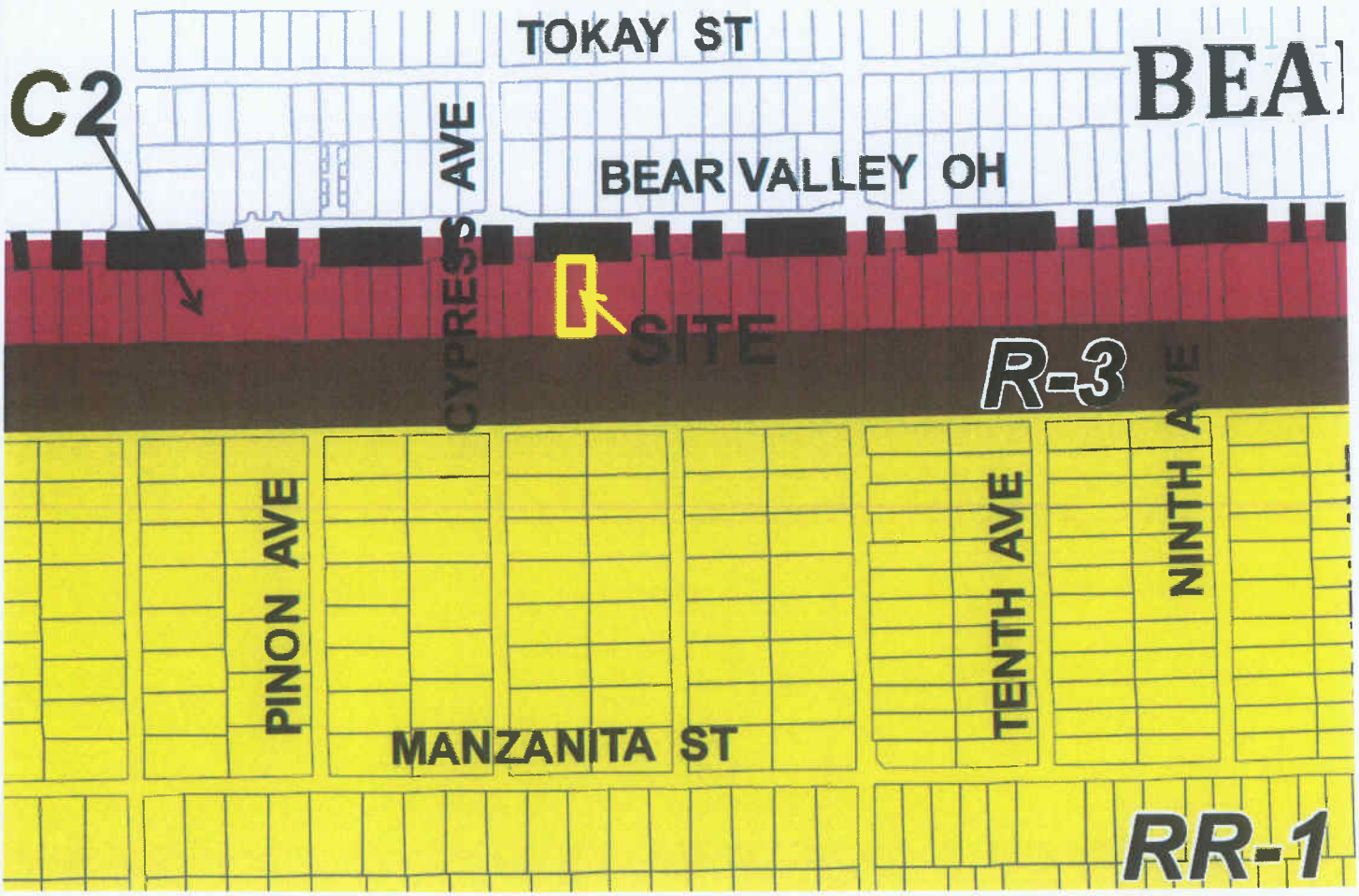
ATTACHMENT 1



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP13-00006 AND VAR13-00006
LOCATION: 15545 BEAR VALLEY ROAD	**APN(S):** 0406-061-11
PROPOSAL: TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.	**N** ↑

SITE PLAN

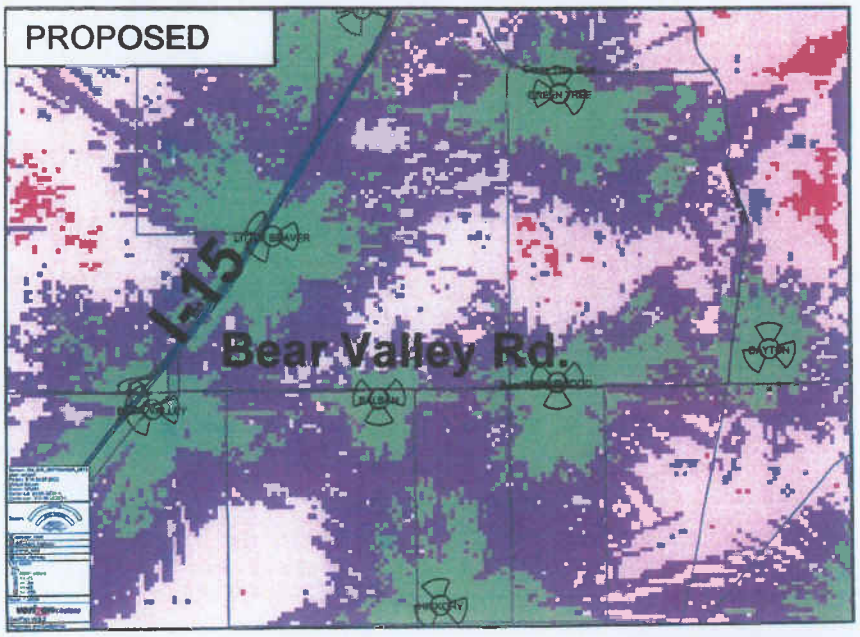
ATTACHMENT 2

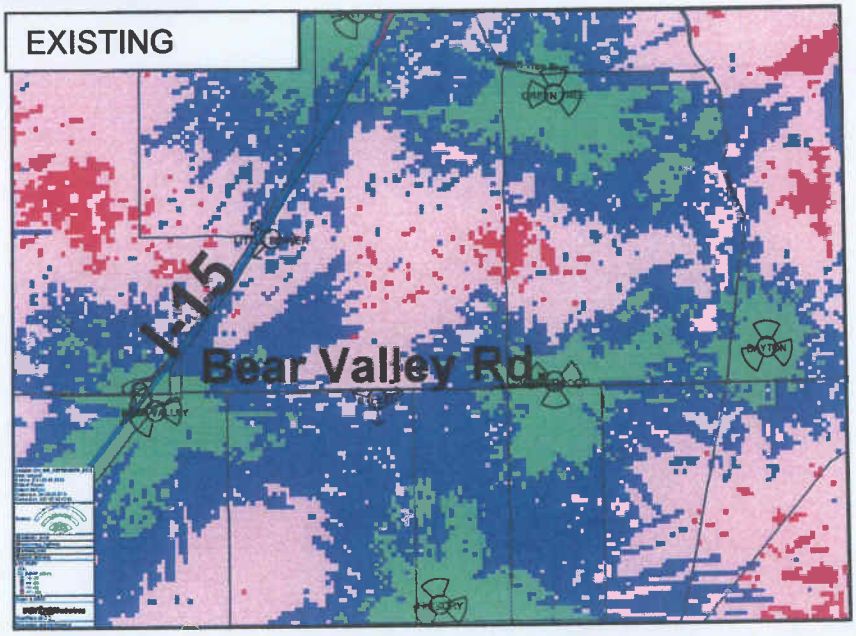


APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP13-00006 AND VAR13-00006
LOCATION: 15545 BEAR VALLEY ROAD	**APN(S):** 0406-061-11
PROPOSAL: TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.	**N** ↑

GENERAL PLAN/ZONING

ATTACHMENT 3

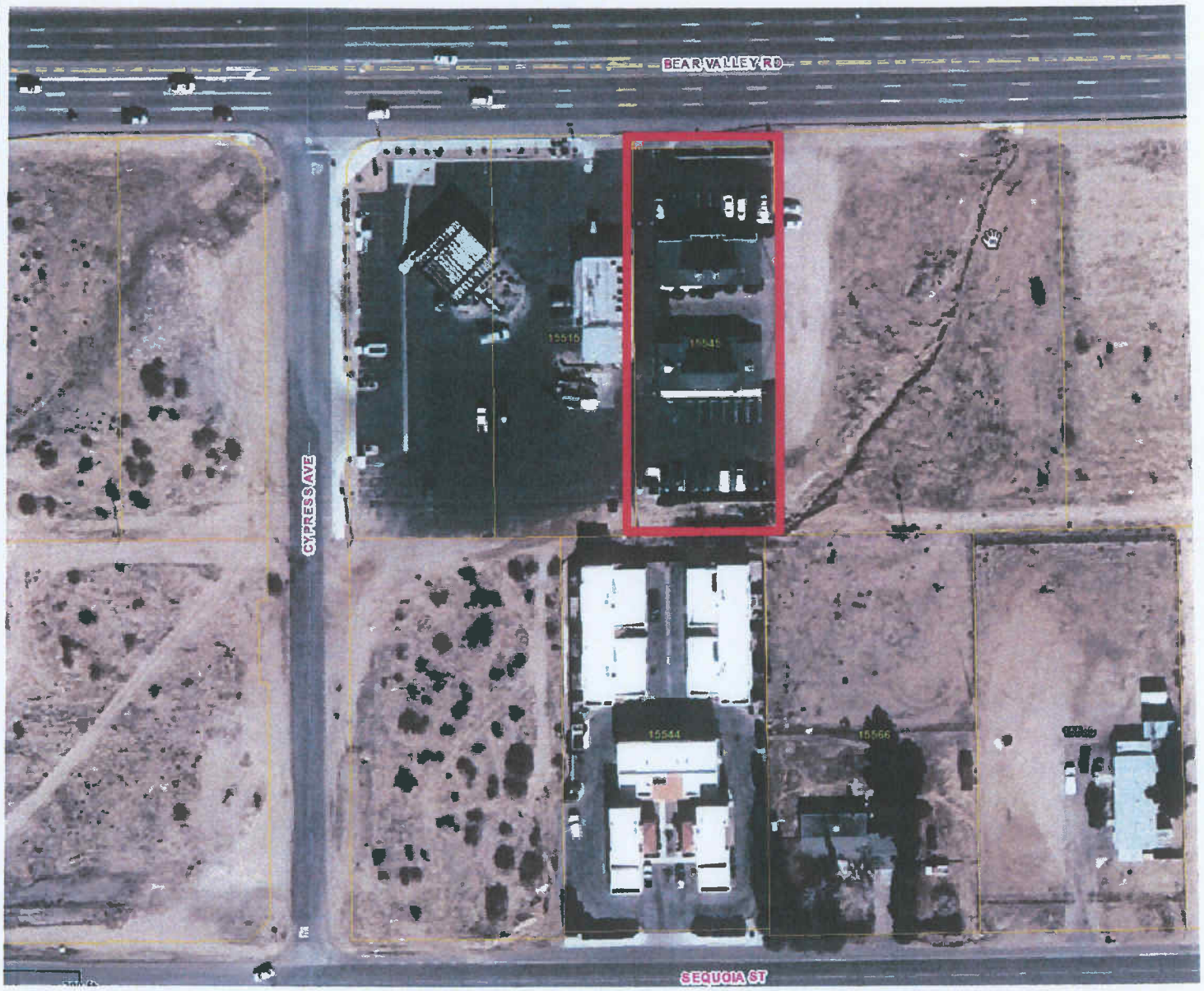




APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP13-00006 AND VAR13-00006
LOCATION: 15545 BEAR VALLEY ROAD	**APN(S):** 0406-061-11
PROPOSAL: TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.	**N** ↑

SERVICE PLANS

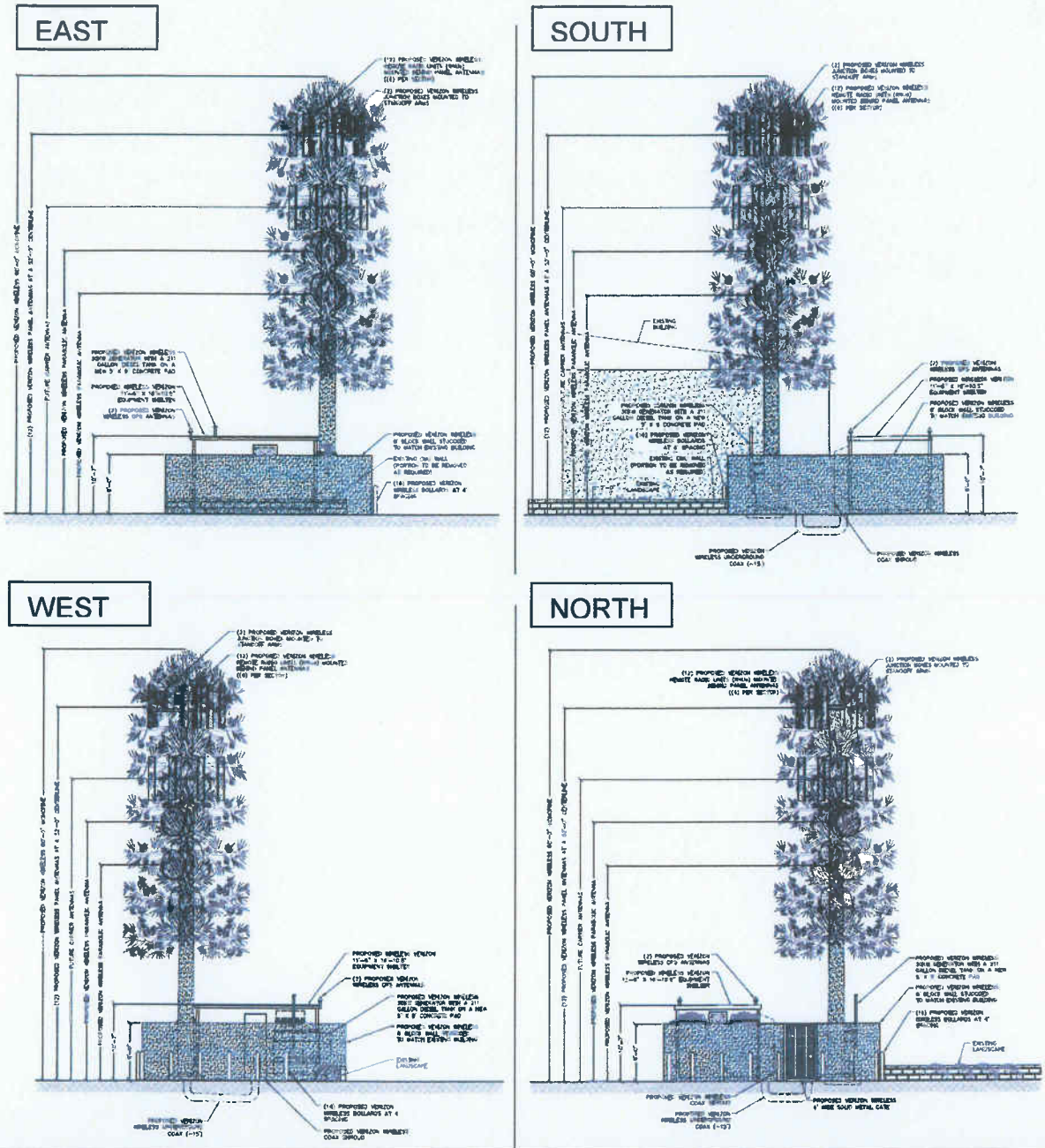
ATTACHMENT 4



APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP13-00006 AND VAR13-00006
LOCATION: 15545 BEAR VALLEY ROAD	**APN(S):** 0406-061-11
PROPOSAL: TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.	**N** ↑

AERIAL PHOTO

ATTACHMENT 5



APPLICANT(S):
VERIZON WIRELESS

FILE NO(S):
CUP13-00006 AND VAR13-00006

LOCATION:
15545 BEAR VALLEY ROAD

APN(S):
0406-061-11

PROPOSAL:
TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.

ELEVATIONS

ATTACHMENT 6

SOUTHEAST OF THE SITE

NORTH OF THE SITE

APPLICANT(S): VERIZON WIRELESS	**FILE NO(S):** CUP13-00006 AND VAR13-00006
LOCATION: 15545 BEAR VALLEY ROAD	**APN(S):** 0406-061-11
PROPOSAL: TO CONSTRUCT A 60-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY, DESIGNED AS A MONOPINE SIGN, AND A VARIANCE TO EXCEED THE 35-FOOT HEIGHT LIMITATION.	

PHOTO SIMULATIONS

ATTACHMENT 7

RESOLUTION NO. PC-2014-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, TO CONSTRUCT A 35-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY AT 15545 BEAR VALLEY ROAD (CUP13-00006)

WHEREAS, Verizon Wireless has filed an application requesting approval of Conditional Use Permit CUP13-00006 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the General Commercial (C-2) Land Use Designation at 15545 Bear Valley Road and includes Assessor's Parcel Number 0406-061-11; and

WHEREAS, the Application, as contemplated, proposes to construct a 60-foot high wireless communications facility on the subject property; and

WHEREAS, Verizon Wireless has also filed Variance VAR13-00006, to exceed the 35-foot structure height limitation; and

WHEREAS, the proposed wireless communications facility is proposed at 15545 Bear Valley Road. All surrounding properties are developed, except for the property to the east. Apartments and single-family residences exist to the south; and

WHEREAS, the subject property is within the General Commercial (C-2) Land Use Designation. All surrounding properties are also within C-2 Zone, except for those to the south, which are within the Multiple-Family Residence (R3) Zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 this Commission during the above-referenced June 12, 2014 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.

(b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access based upon the required access easement from the site to Bear Valley Road.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP13-00006, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 12th day of June 2014.

_____
Chris Elvert, Chair, Planning Commission

ATTEST:

_____
Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP13-00006

Approval Date: June 12, 2014
Effective Date: June 24, 2014
Expiration Date: June 24, 2017

This list of conditions apply to a conditional use permit to construct a 60-foot high wireless communications facility at 15545 Bear Valley Road. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Verizon Wireless; APN: 0406-061-11).

The use shall not be established until all conditions of this conditional use permit application have been met. This approved conditional use permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: The "Init" and "Date" spaces are for internal city use only).
Init Date

Variance. These conditions are concurrent with approved Variance VAR13-00006 becoming effective. (P)

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

___ _____ 1. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)

___ _____ 2. **Soils Report.** The Developer shall provide soils reports to substantiate the foundation design. (B)

___ _____ 3. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own

cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

___ _____ 4. **Facility Requirements.** The faux water tower shall be designed consistent with the approved photo simulations. The tower can include the Elk's Lodge logo and club number in white upon the simulated water tank as approved by the Planning Division. (P)

___ _____ 5. **Consistency with Approved Graphics.** Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

___ _____ 6. **Access Easement.** An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for the benefit of each wireless communications provider using the site for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 7. **Co-location Agreement.** The applicant shall record a co-location agreement permitting at least two other wireless communications providers to place and maintain communications facilities upon the site in accordance with the approved site plan. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

___ _____ 8. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

___ _____ 9. **Utilities.** The wireless communications facility shall be served by independent utility connections and shall be separately metered. (B, P)

___ _____ 10. **Removal Bond.** The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 25 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

___ _____ 11. **Fencing Requirements.** An eight-foot high split face decorative block wall shall be used to screen the mechanical equipment and other appurtenant elements of the wireless communications facility. The use of barbed wire or other types of fencing is not permitted. (P)

___ _____ 12. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. **[F-1]**

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

___ _____ 13. **Utility Clearances.** The Building Division will provide utility clearances after completion of required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)

___ _____ 14. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan, floor plan, and elevations shall be completed in accordance with all applicable Title 16 requirements. The wireless communications tower, equipment shelter, and fencing shall also be designed consistent with the approved site plan, elevations and photo simulations. In addition, all co-locations shall be designed consistent with and shall not detract from the aesthetic look of the monopine, including providing antennae which match the color of the tower. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 15. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. **[F88]**

THE FOLLOWING ARE CONTINUING CONDITIONS. FAILURE TO COMPLY WITH THESE CONDITIONS MAY RESULT IN REVOCATION OF THE CONDITIONAL USE PERMIT:

___ _____ 16. **Maintenance of the Facility.** The monopole, perimeter fencing, and all related equipment shall be maintained in good condition during the 25-year life of the wireless communications facility. (P)

___ _____ 17. **Use of Generator(s).** A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Deputy Director of Development Services / Community Development. (P)

___ _____ 18. **Removal Bond.** The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 25-year term in which the facility is to be used.

Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)

___ _____ 19. **Abandonment of the Facility.** Should the facility fail to be used as approved for more than 180 consecutive days or should its 25-year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facility's removal is verified by the Planning Division. (P)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CALL THE APPROPRIATE DIVISION LISTED BELOW:

(P)	**Planning Division**	**947-1200**
(B)	**Building Division**	**947-1300**
(E)	**Engineering Division**	**947-1414**
(F)	**Fire Prevention Division**	**947-1012**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

ATTACHMENT 8

RESOLUTION NO. PC-2014-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW A WIRELESS COMMUNICATIONS FACILITY TO EXCEED THE 35-FOOT HEIGHT LIMITATION OF THE GENERAL COMMERCIAL (C-2) ZONE AT 15545 BEAR VALLEY ROAD (VAR13-00006)

WHEREAS, Verizon Wireless has filed an application requesting approval of Variance VAR13-00006 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the General Commercial (C-2) Land Use Designation at 15545 Bear Valley Road and includes Assessor's Parcel Number 0406-061-11; and

WHEREAS, the Application, as contemplated, proposes to exceed the 35-foot structure height limitation; and

WHEREAS, Verizon Wireless has also filed an application requesting approval of Conditional Use Permit CUP13-00006, to construct the wireless communications facility on this site; and

WHEREAS, the proposed wireless communications facility is proposed at 15545 Bear Valley Road. All surrounding properties are developed, except for the property to the east. Apartments and single-family residences exist to the south; and

WHEREAS, the subject property is within the General Commercial (C-2) Land Use Designation. All surrounding properties are also within C-2 Zone, except for those to the south, which are within the Multiple-Family Residence (R3) Zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 12, 2014, the Planning Commission 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 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 on June 12, 2014, 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 height restriction would reduce the effectiveness of the wireless communications facility, which would result in the need to establish additional wireless communications facilities in the vicinity. In approving the additional height, a co-location agreement is being implemented which will allow an additional wireless communications provider the ability to utilize the site, further reducing the number of wireless communications facilities necessary to serve the City of Hesperia.

(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 the site is partially developed, and the addition of the wireless communications facility will not materially affect the character of the site or neighborhood.

(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 zone because other wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code.

(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 other similar wireless communications facilities have previously been constructed in the City that exceed the height limitations within the Development Code. In approving the variance, up to two wireless communications carriers will be allowed on the facility. This will ultimately reduce the number of wireless communications facilities throughout the City.

(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, as the facility is required to comply with the City's Development Code and the 2013 California Building Code.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR13-00006.

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

ADOPTED AND APPROVED this 12th day of June 2014.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

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ALESHIRE &
WYNDER, LLP
ATTORNEYS AT LAW
www.awattorneys.com

MEMORANDUM

TO: PLANNING COMMISSION

CC: MIKE PODEGRACZ, CITY MANAGER
DAVE RENO, PRINCIPAL PLANNER

FROM: ERIC DUNN, CITY ATTORNEY
LINDSAY TABAIAN, SPECIAL LITIGATION COUNSEL

DATE: JUNE 12, 2014

RE: PROPOSED AMENDMENTS TO REGULATIONS RE: RESIDENCY OF REGISTERED SEX OFFENDERS

RECOMMENDED ACTION

The City Attorney's office recommends that the Planning Commission adopt Resolution No. PC-2014-20, requesting that the City Council introduce for first reading an Ordinance approving amendments to certain provisions of the City's Development Code, Chapter 16.16, Subdivision 16.16.072, relating to the residency of registered sex offenders, to align the same with California Penal Code § 3003.5.

BACKGROUND

In the 1990s, federal and state legislatures enacted various laws intended to protect minors from registered sex offenders. At the federal level, this legislation includes Megan's Law, which was adopted in 1996 and created a nation-wide sex offender registry. At the state level, the California legislature adopted a series of regulations on the day-to-day lives of registered sex offenders, codified at California Penal Code §§ 290 *et seq.*, as well as a voter-approved measure known as "Jessica's Law," codified at California Penal Code § 3003.5 ("Section 3003.5").

Section 3003.5 regulates the ***residency*** of registered sex offenders. It specifically prohibits registered sex offenders from residing within ***two thousand feet of a school or park*** (Section 3003.5(b)), and expressly permits supplemental local regulation of sex offender residency (Section 3003.5(c).)

After the adoption of these state laws, concerns arose among numerous California cities regarding how local agencies could enforce Megan's Law and Jessica's Law. Due to these concerns, over seventy-five (75) California municipalities, including the City of Hesperia, enacted local ordinances further regulating the residency and activities of registered sex offenders in their communities.

The Hesperia regulations include a provision of the City's Development Code which prohibits registered sex offenders from residing within ***four thousand feet of a "sensitive use site"*** (full definition set forth below, *see* Hesperia Municipal Code § 16.16.072). As you might imagine, these laws (state and local) have prompted a series of lawsuits up and down the State of California.

As these legal challenges to have made their way through the court system, California courts have begun to limit the independent regulatory authority of municipalities. Those Supreme Court and appellate decisions, described herein, now call into question the continuing efficacy and enforceability of certain portions of Hesperia's Code regulating registered sex offenders. In light of these recent opinions by our state's high courts, it is recommended that the City amend its regulations on sex offender residency to align with state law (*i.e.* Section 3003.5).

Notably, the City's Municipal Code includes other regulations on the activities of registered sex offenders which are not in the Development Code and will need to be independently reviewed by the City Council. Accordingly, even though this staff report references these other regulations (which share some definitional provisions), only proposed amendments to the *residency regulations* of the Code are within the purview of this Planning Commission and are before this body for consideration.

LEGAL ISSUES/ANALYSIS

Summary of City's Ordinance

In 2007, the City of Hesperia acted proactively to further the protections provided by state law by adopting Hesperia Municipal Code ("HMC") sections 5.48.050, 16.16.072 and 19.16.010-020 (the "Ordinance"). The Ordinance codifies the following restrictions upon registered sex offenders within the City of Hesperia:

1. ***Loitering Restrictions*** (HMC §§ 16.16.072, 9.16.010-020): Registered sex offenders may not loiter in any "public place" that is within five hundred (500) feet of a "sensitive use."

    a. "Public place" is defined as a place including but not limited to "any street, park, sidewalk, alley, theater, restaurant, store, building playground, school ground, recreational area or other place to which the public is invited or has access or any place open to the public view." (HMC § 9.16.010)

    b. "Sensitive use" is defined as "schools (public and private, not including home schools); school bus stops, parks and park facilities (public and private, not including pools, equipment or buildings in private yards); libraries; licensed day care facilities (including family home day care); foster or juvenile residential care facilities or group homes; video arcades; movie theaters; religious institutions with site plan approval; museums; hospitals; private and public clubs and lodges;

youth centers; youth dance/martial art studios; amusement parks; and educational/tutorial learning centers. Distances from sensitive uses shall be measured from property lines. (HMC § 16.16.072)

2. ***Residency Restrictions*** (HMC § 16.16.072(C)): Registered sex offenders may not live "within four thousand (4,000) feet of a "sensitive use" (see definition above).

3. ***Business License Restrictions*** (HMC § 5.48.050): This provision of the Hesperia Municipal Code limits the ability of registered sex offenders to obtain a business license.

As noted above, the agenda item before the Planning Commission addresses, and seeks recommendations to the City Council on, the proposed amendments to the above-stated provisions located ***only*** within HMC § 16.16.072, which is a part of the Development Code.

Recent Court Cases & Legal Challenges Re: Residency Restrictions

Recently, the California Supreme Court has accepted a case which reviews -- and could potentially change -- the current status of the law regarding residency restrictions like those in the Ordinance and Section 3003.5. Specifically, our highest court accepted a petition for review the matter of *In re Taylor*, Supreme Court Case No. S206143, regarding the constitutionality of residency restrictions at the ***both*** the state and local level.

Prior to that grant of review, the controlling case on the constitutionality of Section 3003.5 was a Supreme Court decision issued in the matter of *In re E.J.* (2010) 47 Cal.4th 1258 ("*E.J.*"), which affirmed that Jessica's Law *was* constitutional and *was not* an *ex post facto law*. (*Id.* at 1264).

Subsequently, in 2012, a registered sex offender residing in San Diego County initiated the matter of *In re William Taylor* (2012) 209 Cal.App.4th 210 ("*Taylor*"). The offender sought a court order enjoining the California Department of Corrections and Rehabilitation ("CDCR") from enforcing the residency restrictions set forth in Jessica's Law/Section 3003.5, on the grounds the blanket restriction was unconstitutional. ***The trial court agreed with the sex offender, and granted the relief sought.***

The CDCR appealed, and ***the Court of Appeals, Fourth Appellate District, affirmed the trial court's order in favor of the registered sex offender.***

The California Supreme Court has granted the CDCR's petition for review of that appellate court decision. Given its prior decision in *E.J.*, it is possible the Supreme Court will reverse the lower courts and issue a decision which will be favorable to the continued enforceability of the Ordinance. However, we cannot be certain of that outcome. It is likely that a decision from the California Supreme Court will be issued later this year.

In addition, the Court of Appeals' Fourth Appellate District (the District in which Hesperia sits) has issued, and the California Supreme Court has declined to review, two related opinions

regarding the permissible scope of local enforcement of registered sex offenders in the matters of: *Hugo Godinez v. People of the State of California*, Court of Appeals Case No. G047657 ("*Godinez*") and *People v. Nguyen,* Court of Appeals Case No. G048228 ("*Nguyen*"). These ***published*** decisions determined that state law preempted municipalities from adopting ordinances prohibiting sex offenders from entering local parks.

Notably, in reaching this conclusion, the Court of Appeals determined that in enacting the restrictions set forth at California Penal Code §§ 290 *et seq*., the state of California "created a ***standardized, statewide system*** to identify, assess, monitor and contain known sex offenders for the purpose of reducing the risk of recidivism posed by these offenders, thereby protecting victims and potential victims from future harm" (emphasis original by the court).

After the Supreme Court's April 28, 2014 decision *not* to review the Court of Appeals' rulings in *Godinez* and *Nguyen*, the City received communication from "The California Reform Sex Offender Laws" ("RSOL") group. Counsel for RSOL stated that, in light of these recent decisions, she would consider litigation if Hesperia's current Ordinance remains in place.

The RSOL organization has recently sued five (5) California cities regarding their sex offender ordinances, including the City of Pomona (on March 24, 2014), City of South Lake Tahoe (on April 1, 2014), National City (on April 4, 2014), the City of Lompoc (on April 21, 2014) and the City of Carson (on May 2, 2014).

In response to the court opinions in *Godinez* and *Nguyen,* and the initiation of the *In re Taylor* case, in the last year approximately 28 cities have either suspended all sex offender regulation enforcement or repealed their local regulations outright. Approximately 18 separate lawsuits have been filed against cities which did not suspend or repeal to conform with the new appellate decisions. The City Attorney has had discussions with counsel for RSOL to forestall any similar litigation against Hesperia until the Planning Commission and Council could have the opportunity to review the City's Ordinance and make determinations concerning the City's future actions with respect thereto.

Summary of Recommended Amendments to Residency Restrictions in Development Code

In light of these recent court decisions, and the threat of litigation that the City has received, the City Attorney's office has prepared for the Planning Commission's consideration Resolution No. PC-2014-20, which recommends that that City Council ***amend*** the provisions of Hesperia Municipal Code § 16.16.072 concerning the residency of registered sex offenders so that the City's local regulations align with the state regulations set forth at Section 3003.5.

Effectively, the proposed amendment would:

1. Reduce the residency "zone" from 4,000 feet (the current Hesperia standard, set forth at HMC § 16.16.072(C)) to 2,000 feet (the state law standard, set forth at Section 3003.5(b)); and

2. Amend the locations which "trigger" the residency zone from "sensitive use sites" (the current Hesperia standard, set forth at HMC § 16.16.072(B)) to 2,000 feet (the state law standard, set forth at Section 3003.5(b)).

FISCAL IMPACT

None.

ALTERNATIVES

1. Decline to adopt Resolution No. PC-2014-20. However, in light of the above-described court decisions and recent threat of litigation received by the City, staff does not recommend that the Planning Commission take this action.

2. Provide alternative direction to staff.

ATTACHMENT

1. Resolution PC-2014-20

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RESOLUTION NO. PC-2014-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING CERTAIN PROVISIONS OF THE CITY'S DEVELOPMENT CODE, CHAPTER, 16.16, SUBDIVISION 16.16.072, RELATING TO THE RESIDENCY OF REGISTERED SEX OFFENDERS, TO ALIGN WITH CALIFORNIA PENAL CODE SECTION 3003.5 (DCA14-00002)

WHEREAS, on June 6, 2007, the City Council of the City of Hesperia adopted Ordinance No. 2007-07, approving regulations on the residency and activities of registered sex offenders in the City of Hesperia; and

WHEREAS, among other restrictions, a portion of Ordinance No. 2007-07, now codified as Hesperia Municipal Code ("HMC") section 16.16.072(C), prohibits registered sex offenders from residing within four thousand (4,000) feet of a "sensitive use site";

WHEREAS, HMC section 16.16.072(B) defines "sensitive uses" as "schools (public and private, not including home schools); school bus stops, parks and park facilities (public and private, not including pools, equipment or buildings in private yards); libraries; licensed day care facilities (including family home day care); foster or juvenile residential care facilities or group homes; video arcades; movie theaters; religious institutions with site plan approval; museums; hospitals; private and public clubs and lodges; youth centers; youth dance/martial art studios; amusement parks; and educational/tutorial learning centers";

WHEREAS, at the state level, the California legislature has enacted numerous regulations on the residency and activities of registered sex offenders, including but not limited to the California Penal Code section 3003.5, which prohibits registered sex offenders from residing within two thousand feet of a school or park (Section 3003.5(b)), and permits local regulation of sex offender residency (Section 3003.5(c));

WHEREAS, on January 10, 2014, the Fourth Appellate District of the California Court of Appeal, in *People v. Nguyen* (2014) 222 Cal. App. 4th 1168, (1) determined that the state of California had "created a standardized, statewide system" to regulate sex offenders and to "protect victims and potential victims from future harm", and (2) held that a local ordinance which exceeded the state law standard and made it a misdemeanor for registered sex offenders to enter a city park is preempted by California law; and

WHEREAS, the California Supreme Court declined to review the *Nguyen* decision on April 28, 2014, making this opinion binding law in the Fourth Appellate District, where the City of Hespera sits;

WHEREAS, the California Supreme Court has accepted review of a case entitled *In re Taylor*, Supreme Court Case No. S206143, which will adjudicate the constitutionality of residency restrictions at the both the state and local level;

WHEREAS, in light of these recent court decisions, and the Court of Appeals' binding determination that the California legislature has established a "statewide system" for regulating sex offenders, it is recommended that the City of Hesperia amend the provisions of its

Development Code which regulate the residency of registered sex offenders to align with the state law standards for sex offender residency, set forth at California Penal Code section 3003.5(b);

NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HESPERIA DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

Section 1. The forgoing recitials are true and correct and incorporated herein by this reference.

Section 2. Recent decisions of the courts of appeal have called into question the continued efficacy and enforceability of Hesperia Municipal Code ("HMC") section 16.16.072(C), which prohibits registered sex offenders from residing within four thousand (4,000) feet of a "sensitive use site."

Section 3. In order to avoid costly litigation, and in light of these recent court of appeals decisions, it is prudent to amend HMC sections 16.16.072(B) (definition of "sensitive uses") and 16.16.072(C) to bring the same into conformity with California Penal Code section 3003.5(b).

Section 4. The Planning Commission hereby recommends that the City Council of the City of Hesperia direct its staff and the Office of the City Attorney to prepare, introduce, and ultimately adopt amendments to HMC sections 16.16.072(B) (definition of "sensitive uses") and 16.16.072(C) to bring the same into conformity with California Penal Code section 3003.5(b) by:

(a) Reducing the residency "zone" from 4,000 feet (the current Hesperia standard, set forth at HMC § 16.16.072(C)) to 2,000 feet (the state law standard, set forth at California Penal Code section 3003.5(b)); and

(b) Amending the locations which "trigger" the residency zone from "sensitive uses" (the current Hesperia standard, set forth at HMC § 16.16.072(B) (definition of "sensitive uses") to 2,000 feet (the state law standard, set forth at California Penal Code section 3003.5(b)).

Section 5. That City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 12th day of June 2014.

_____
, Chairman

ATTEST:

_____
Kathy Stine, Secretary, Planning Commision

Outdoor Display of Merchandise

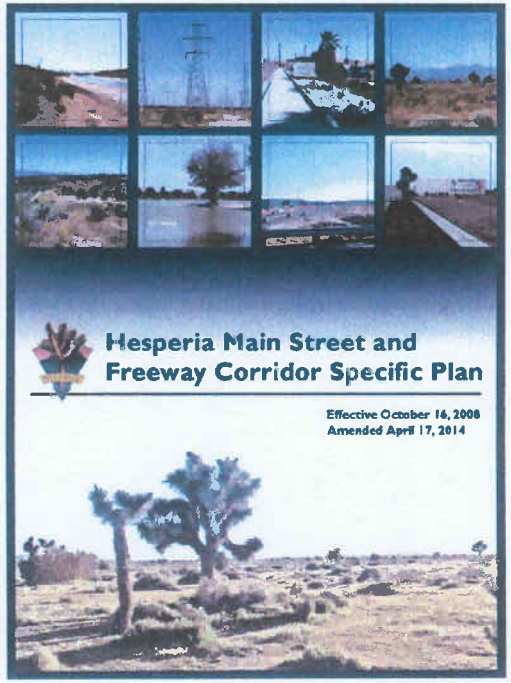
Overview of Presentation

- Relevant codes
- Issues with outdoor display
- Examples of code violations
- Policy alternatives

Previous Regulations

- County and City Codes:
- "All stores, shops or businesses shall be operated wholly within an enclosed building"
- Exceptions may be granted for specific businesses, based on County or City land use approval
  - Car and trailer sales, furniture, antiques, feed stores, amusement enterprises, etc.

Main Street and Freeway Corridor Specific Plan (MSFCSP)



- Adopted in Sept. 2008
- In commercial zones, the following was added to the list of permitted uses:

  "Outdoor sales and display, incidental to primary use"

- No merchandise or work areas shall be displayed outdoors, except with a Site Plan Review (SPR), a Conditional Use Permit (CUP) or a Temporary Special Event (TSE) permit [1]
- Intent was to create a vibrant downtown atmosphere with sidewalk dining and to enhance storefronts with display of merchandise

1. Section 16.16.360 (4)(a) of the Development Code & Chapter 9 (B)(4.10)/(C)(4.7) of the MSFCSP. This language does not apply to the Pedestrian Commercial zone.

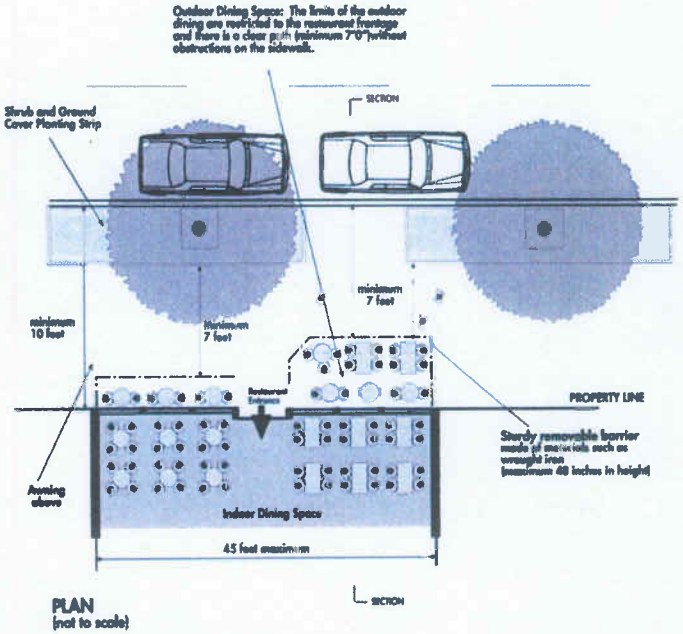
Outdoor Dining Specifications

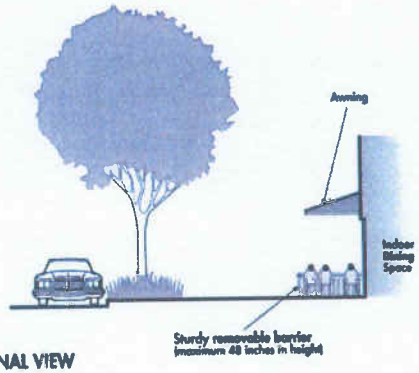
Removable bollards demarcate the dining space. Potted plants and temporary sun-umbrellas are used to create a pleasant ambience.

Removable metal fencing is used to demarcate the dining space. Planters and temporary sun umbrellas create an attractive environment.

Removable bollards demarcate the dining space. Shade is provided by the retractable canopy overhead.

A dining patio on private property adjacent to the sidewalk is demarcated with metal fencing. Plantings and temporary sun umbrellas are used.





SECTIONAL VIEW

Other Limitations

- In the MSFCSP and Development Code (DC), limitations include:
  - Outdoor activities permitted with a Temporary Special Event Permit (TSE), for a duration of 4 times a year, in any 90 day period, for either 4 weekends or 21 consecutive days [1]
  - Storage and service areas are required to be located to the rear of the property and not within view of the freeway or street [2]
  - "There shall be no storage of vehicles (except display areas for sale or rent of motor vehicles), trailers, airplanes, boats, recreational vehicles, or their composite parts, loose rubbish, garbage, junk, or their receptacles; tents, equipment or building materials in any portion of the lots." [3]

1. Section 16.12.380 of the DC
2. Chapter 10 (B)(9)(b) of the MSFCSP
3. Section 16.16.360 (4)(a) of the DC & Chapter 9 (B)(4.10)/(C)(4.7) of the MSFCSP

Issues with Outdoor Display

- Shops are using outdoor merchandise to help attract customers
- Many claim that their business appears closed unless merchandise is outdoors.
- However, outdoor display presents other concerns:
  - **Safety:** Possible interference with fire lanes, fire turn around, and accessible (handicap) path of travel or parking
  - **Site requirements:** Possible interference with required parking, access, clear sight triangle, etc.
  - **Visual:** Disorderly display of merchandise

Examples of Code Violations

Examples of Code Violations

Examples of Code Violations

Examples of Code Violations

Examples of Code Violations

Examples of Code Violations

Outline of Alternatives

These include:

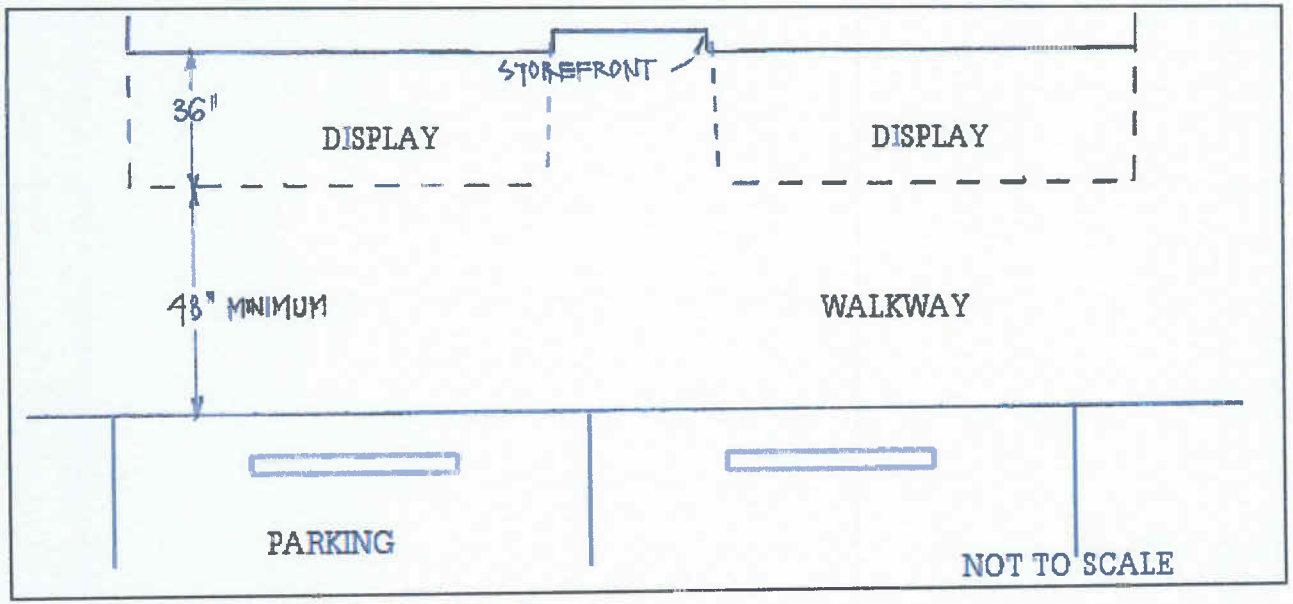
1. Make no changes to the regulations
2. Prohibit outdoor display
3. Adopt policies and regulations
   a. Possible new regulations listed on the following slides

Possible Regulations

- **In order to display outdoor merchandise, a business must:**
  - Have 1 acre minimum lot size
  - Have items displayed on a table, a rack, or a shelf
  - Not stack items higher than 7 feet
  - Site must not be constrained by deficient parking or access
  - Remove articles by the end of the day
  - Display on hardscape, and cannot display on vacant property or within the right of way
  - Possess an active business license
  - Have property owner permission

Outdoor Display Area Limit

- **Proposed Criteria:** Display must be within 36-inches of a building storefront not exceeding 30% of store frontage; or a standard area (i.e. 40 s f) can be adopted. Cannot block path of travel.



Possible Regulations (cont.)

- **Type of businesses and merchandise that can be displayed:**
  - Prohibit used or damaged merchandise
  - Limit certain uses from having outdoor display (i.e. pawn shops and thrift stores)
- **What must a business do to display outdoors?**
  - Obtain a land use approval (SPR or CUP)
  - Maintain display in an orderly, safe and clean manner
  - Similar to outdoor dining standards, area must be demarcated with a combination of wrought iron fences, bollards or potted plants

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City of Hesperia

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, APRIL 9, 2014

A. PROPOSALS:

1. GAIL HASTY (SPRE14-00001)

Proposal: Consideration of an extension of time for site plan review SPR09-10210 to establish an event center on 103 acres zoned A-2.

Location: 10209 Choiceana (APN: 0411-191-69)

Planner: Daniel Alcayaga

Action: Administrative Approval

2. ARMANDO PUENTES (SPRR14-00005)

Proposal: Consideration to establish a 3,486 square foot banquet hall within an existing 6,680 square foot industrial building.

Location: 17520 Mesa Street (APN: 0415-221-15)

Planner: Stan Liudahl

Action: Administrative Approval

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, MAY 7, 2014

A. PROPOSALS:

1. JR'S TIRE SHOP #7 (CUPR14-00003)

Proposal: Consideration to establish a tire installation and minor vehicle repair business within two existing buildings.

Location: 6694 Caliente Road, Unit C (APN: 0357-601-03)

Planner: Lisette Sanchez-Mendoza

Action: Administrative Approval

2. WILLIAM BRUGMAN (SPRE14-00004)

Proposal: Consideration of an extension of time for SPR-2008-49 to construct a 41,688 square foot multi-tenant industrial complex on 2.6 acres zoned I-2.

Location: North side of Alder Street approximately 177 feet west of I Avenue (APN: 0415-263-09)

Planner: Stan Liudahl

Action: Administrative Approval

3. JOHN DODSON (SPRR14-00006)

Proposal: Consideration of a revised Site Plan Review to convert a play area for an existing fast-food restaurant (Burger King) into a second restaurant tenant.

Location: 9640 Mariposa Road (APN: 3057-011-16)

Planner: Daniel Alcayaga

Action: Administrative Approva

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, APRIL 23, 2014

A. PROPOSALS:

1. MAIN PLACE LP (SPRE14-00002)

Proposal: Consideration for a fourth extension of time for approved site plan review SPR-2008-02, to construct a 21,400 square foot retail center on 2.5 gross acres within the Office Commercial Zone of the Main Street and Freeway Corridor Specific Plan.

Location: North side of Main Street, 350 feet west of Eleventh Avenue (APN: 0408-181-32)

Planner: Stan Liudahl

Action: Administrative Approval

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, MAY 21, 2014

A. PROPOSALS:

1. HIGHRIDGE COSTA HOUSING PARTNERS, LLC (SPRE14-00005)

Proposal: Consideration of an extension of time for approved Site Plan Review SPR-2006-22, to construct a two-story, 67-unit affordable housing development on 5.2 gross acres within the Medium Density Residential District of the Main Street and Freeway Corridor Specific Plan.

Location: Northwest corner of Olive Street and H Avenue (APN: 0410-182-10)

Planner: Lisette Sanchez-Mendoza

Action: Administrative Approval

2. LEMA, INC (CUPR14-00004)

Proposal: Consideration of a revised Conditional Use Permit to convert an existing 2,600 square foot building into a 2-bay repair facility.

Location: 16653 Yucca Street (APN: 0410-141-16)

Planner: Daniel Alcayaga

Action: Administrative Approval

3. WENDY HERNANDEZ (SPRR14-00007)

Proposal: Consideration of a revised Site Plan Review to establish a 2,250 square foot fitness club.

Location: 12221 Poplar Street, Unit B14 (APN: 3064-641-21)

Planner: Stan Liudahl

Action: Administrative Approval

4. **REDEEMED CHRISTIAN CHURCH OF GOD, KINGS ASSEMBLY (SPRR13-00007)**

Proposal: Consideration of a revised Site Plan Review to establish a church.

Location: 10232 I Avenue, Units 15, 16 and 21 (APN: 0410-032-23)

Planner: Stan Liudahl

Action: Administrative Approval

5. **PATRICIA GREENWELL (SPRR14-00008)**

Proposal: Consideration of a revised Site Plan Review for outdoor display.

Location: 16298 Main Street (APN: 0413-053-11)

Planner: Daniel Alcayaga

Action: Administrative Approval

6. **VERIZON WIRELESS C/O SPECTRUM SERVICES (CUP13-00006/VAR13-00006)**

Proposal: Consideration of a Conditional Use Permit for a 60-foot high wireless communications facility and a Variance to allow a monopole to exceed the 35-foot height restriction within the C-2 Zone and to allow a 3-parking space deficiency.

Location: 15545 Bear Valley Road (APN: 0406-061-11)

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to June 12, 2014 Planning Commission meeting

7. **VERIZON WIRELESS C/O SPECTRUM SERVICES (CUP14-00001/VAR14-00001)**

Proposal: Consideration of a Conditional Use Permit to construct a wireless communications facility, camouflaged as a 80-foot high water tank, and a Variance to exceed the 45-foot height limitation in the Auto Sales Commercial (ASC) designation of the Main Street and Freeway Corridor Specific Plan.

Location: 11505 El Centro Road (APN: 3039-441-02 & 19)

Planner: Daniel Alcayaga

Action: Forwarded to June 12, 2014 Planning Commission meeting

8. **VERIZON WIRELESS (CUP14-00003/VAR14-00002)**

Proposal: Consideration of a Conditional Use Permit to construct a 75-foot high wireless communications facility at the existing Elks Lodge and a Variance to allow a wireless communications facility to exceed the 35-foot height limitation.

Location: 9202 E Avenue (APN: 0410-172-01)

Planner: Stan Liudahl

Action: Forwarded to June 12, 2014 Planning Commission meeting

9. **LOS ANGELES SMSA LP DBA VERIZON WIRELESS (CUP14-00004/VAR14-00003)**

Proposal: Consideration of a conditional use permit for a 75-foot high wireless communications facility at Palm Street Park and a variance to allow a wireless communications facility to exceed the 35-foot height limitation.

Location: Northeast corner of Mesa Ave and Palm Street (APN: 3046-011-11)

Planner: Daniel Alcayaga

Action: Forwarded to June 12, 2014 Planning Commission meeting

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, JUNE 4, 2014

A. PROPOSALS:

1. ANGELICA PADILLA (CUPR14-00005)

Proposal: Consideration of a revised conditional use permit to establish a make-up school.

Location: 14423 Main Street (APN: 3057-131-14)

Planner: Lisette Sanchez-Mendoza

Action: Administrative Approval

2. JOSE MORAN (ME14-00003)

Proposal: Consideration of a Minor Exception to allow a 1,450 square foot garage which exceeds the 5% accessory building limitation.

Location: 15392 Mojave Street (APN: 0408-229-19)

Planner: Stan Liudahl

Action: Administrative Approval

3. DANIEL JOHNSON (ME14-00002)

Proposal: To construct a 1,120 square foot garage while retaining an existing 300 square foot shed which exceeds the 5% maximum accessory building area limitation.

Location: 7562 Jenkins Avenue (APN: 0398-054-01)

Planner: Daniel Alcayaga

Action: Administrative Approval

4. AT&T MOBILITY (CUP14-00005)

Proposal: Consideration of a Conditional Use Permit to construct a wireless communications facility with antennae installed 81 feet on an existing 142-foot Southern California Edison tower.

Location: West of the Hesperia Community Park, south of Avenal Street and north of Live Oak Street (APN: 0405-072-44)

Planner: Daniel Alcayaga

Action: Forwarded to July 10, 2014 Planning Commission meeting

5. DEAL TIME FURNITURE (SPRR14-00009)

Proposal: Consideration of a revised Site Plan Review to establish outdoor display.

Location: 16303 Main Street (APN: 0413-081-07)

Planner: Daniel Alcayaga

Action: Administrative Approval

6. MAGED YOUSSEF (SPR09-10119)

Proposal: Consideration of an extension request for an approved site plan review to construct a two-story, 19-unit townhome development on 1.6 gross acres zoned (3000)-R3 (SPR-2006-43-E).

Location: Southeast corner of Sequoia St and A Avenue (APN: 0415-036-08)

Planner: Stan Liudahl

Action: Administrative Approval