

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: December 8, 2016

Time: 6:30 P.M.

COMMISSION MEMBERS

Tom Murphy, Chair

William A. Muller, Vice Chair

Jim Heywood, Commissioner

Joline Hahn, Commissioner

Cody Leis, 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.

THIS PAGE INTENTIONALLY LEFT BLANK

DECEMBER 8, 2016

**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 Tom Murphy
 - Vice Chair William Muller
 - Commissioner Jim Heywood
 - Commissioner Joline Hahn
 - Commissioner Cody Leis

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: November 10, 2016, Planning Commission Meeting Draft Minutes.

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit CUP16-00010 to allow the sale of beer for on-site consumption (Type 40 License) within a proposed billiard hall at 17352 Main Street (Applicant: Roberto Rodriguez; APN: 0410-135-56) 1-1
- 2. Consideration of Development Code Amendment DCA16-00002 to amend the City's freeway sign regulations (Applicant: City of Hesperia; APNs: Adjacent to Interstate-15 freeway) 2-1
- 3. Consideration of Development Code Amendment DCA16-00003 to permit and regulate donation bins (Applicant: City of Hesperia; APNs: Citywide) 3-1

PRINCIPAL PLANNER'S REPORT

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

E. DRC Comments

F. Major Project Update

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, Denise Bossard, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, November 30, 2016, at 5:30 p.m. pursuant to California Government Code §54954.2.



Denise Bossard
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
November 10, 2016
MINUTES**

CALL TO ORDER:

The Regular Meeting of the Planning Commission was called to order at 6:32 p.m. by Chair Tom Murphy in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Pledge of Allegiance led by Commissioner Cody Leis.

INVOCATION:

Invocation led by Vice Chair William Muller.

ROLL CALL:

**Present: Chair Tom Murphy
Vice Chair William Muller
Commissioner Jim Heywood
Commissioner Joline Hahn
Commissioner Cody Leis**

JOINT PUBLIC COMMENTS:

Chair Tom Murphy opened the Joint Public Comments at 6:35 pm.
There were no Public Comments.
Chair Tom Murphy closed the Joint Public Comments at 6:35 pm.

CONSENT CALENDAR:

Approval of Minutes: October 13, 2016, Planning Commission Meeting Draft Minutes

Motion by Vice Chair William Muller to approve the October 13, 2016, Planning Commission Meeting Draft Minutes, Seconded by Commissioner Cody Leis, passed with the following roll call vote:

**AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood and Commissioner Cody Leis
ABSTAIN: Commissioner Joline Hahn**

PUBLIC HEARING:

- 1. Consideration of Variance VAR16-00003, to reduce the street side yard setback along Poway Avenue from 10 feet to approximately 8 feet and the rear yard setback from 15 feet to approximately 11 feet at 12951 La Costa Street (Applicant: Patricia Pereira; APN: 3046-291-62)**

Principal Planner Dave Reno gave a presentation on Variance, VAR16-00003.
The Commission asked questions of staff with discussions ensuing.
Chair Tom Murphy opened the Public Hearing at 6:42 pm.
Applicant Patricia Pereira spoke on the project.
Chair Tom Murphy closed the Public Hearing at 6:43 pm.

Motion by Commissioner Joline Hahn to adopt Resolution No. PC-2016-26, approving VAR16-00003, Seconded by Vice Chair William Muller, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood, Commissioner Joline Hahn, and Commissioner Cody Leis

2. Consideration of General Plan Amendment GPA16-00001, from Limited Agricultural with a minimum parcel size of 1 acre (A1), to General Commercial (C2) and Conditional Use Permit CUP16-00005, to construct a proposed 4,500 square foot convenience store which includes the sale of beer, wine and liquor for off-site consumption, an attached 1,800 square drive-thru restaurant and a 3,744 square foot fueling station with 10 fuel dispensers, on 1.75 gross acres located at the northwest corner of Rancho Road and Seventh Avenue (Applicant: Maida Holdings LLC; APN: 0412-182-15)

Chair Tom Murphy and Commissioner Joline Hahn abstained from Item #2, General Plan Amendment, GPA16-00001.

Associate Planner Ryan Leonard gave a presentation on General Plan Amendment, GPA16-00001.

The Commission asked questions of staff with discussions ensuing.

Tom Steno of Steno Designs spoke on the project.

The Commission asked questions of Mr. Steno with discussions ensuing.

Vice Chair Muller opened the Public Hearing at 7:24 pm.

Resident Larry Cline spoke on the project.

Vice Chair Muller closed the Public Hearing at 7:25 pm.

The Commission asked additional questions of staff with discussions ensuing.

The Commission asked additional questions of Mr. Steno with discussions ensuing.

Dino DeFazio spoke on the project.

The Commission called a recess at 7:38 pm.

Additional information was provided to the Commission for their review and consideration during the recess.

The meeting resumed at 7:45 pm.

Associate Planner Ryan Leonard and Principal Planner Dave Reno expanded on the information provided to the Commission during the recess.

The Commission asked additional questions of staff with discussion ensuing.

Sophie Steno of Steno Designs spoke on the project.

Discussions ensued amongst the Commission and staff.

Motion by Commissioner Cody Leis to adopt Resolution No. PC-2016-27, approving GPA16-00001, as amended, with additional information to the Council, Seconded by Vice Chair William Muller, passed with the following roll call vote:

AYES: Vice Chair William Muller and Commissioner Cody Leis

NOES: Commissioner Jim Heywood

ABSTAIN: Chair Tom Murphy and Commissioner Joline Hahn.

3. Consideration of Conditional Use Permit CUP16-00008, to allow the sale of beer and wine in conjunction with a restaurant (Mr. D's Pizza) at 1555 Main Street, Suite D6 (Applicant: Tony K. Dahi; APN: 0413-111-51)

Associate Planner Ryan Leonard gave a presentation on Conditional Use Permit, CUP16-00008.

The Commission asked questions of staff with discussions ensuing.

Chair Tom Murphy opened the Public Hearing at 8:04 pm.

There were no Public Comments.

Chair Tom Murphy closed the Public Hearing at 8:04 pm.

Motion by Commissioner Joline Hahn to adopt Resolution No. PC-2016-29, approving CUP16-00008, Seconded by Commissioner Jim Heywood, passed with the following roll call vote:

AYES: Chair Tom Murphy, Vice Chair William Muller, Commissioner Jim Heywood, Commissioner Joline Hahn, and Commissioner Cody Leis

PRINCIPAL PLANNER'S REPORT:

DRC Comments:

Principal Planner Dave Reno reported on the approved medical waste recycling facility.

Major Project Update:

Principal Planner Dave Reno gave a preview of the upcoming Planning Commission meeting on December 8th, where two ordinances for freeway signs and donation bins will be considered.

PLANNING COMMISSION BUSINESS OR REPORTS:

No update provided.

ADJOURNMENT:

The meeting adjourned at 8:07 pm until Thursday, December 8, 2016.

Tom Murphy,
Chair

By: Denise Bossard,
Commission Secretary

THIS PAGE INTENTIONALLY LEFT BLANK



DATE: December 8, 2016
TO: Planning Commission
FROM: ✓ Dave Reno, AICP, Principal Planner
BY: Ryan Leonard, AICP, Associate Planner *RL*
SUBJECT: Conditional Use Permit CUP16-00010; Applicant: Roberto and Lisa Rodriguez;
APN: 0410-135-56

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2016-32, approving CUP16-00010.

BACKGROUND

Proposal: A Conditional Use Permit (CUP) to allow the sale of beer for on-site consumption within a proposed billiard hall.

Location: 17352 Main Street (Attachment 1)

Current General, Plan, Zoning and Land Uses:

The site is within the Neighborhood Commercial (NC) Zone of the Main Street and Freeway Corridor Specific Plan (Attachment 2). The surrounding land is designated as noted on Attachment 3. The proposed billiard hall will occupy a suite on the west end of the Hesperia Square Shopping Center. The anchor tenant in this center is Vallarta Supermarket. Properties to the east, west and south along Main Street are built with a variety of commercial uses. The property to the north is occupied with a self-storage facility (Attachment 3).

ISSUES/ANALYSIS:

The Main Street and Freeway Corridor Specific Plan requires approval of a CUP for the establishment of a new billiard hall as well as the proposed sale of beer for onsite consumption. Located within the Hesperia Square Shopping Center, the proposed billiard hall will occupy an approximately 1,700 square foot tenant space that will include a main billiard area with 8 pool tables, a VIP room with one pool table, a bar, two restrooms, an office, kitchen and storage area. Approximately 13 tables are proposed for people to eat, sit and set drinks on; the bar tables are not for assigned seating. Patrons will order food from the bar. There are no waiters or waitresses proposed at this time. The applicant has indicated that they intend to serve hotdogs, hamburgers, burritos and other prepacked food as part of their dining service. The proposed hours of operation will be from 11:00 a.m. to 1:00 a.m. Children will be allowed in the billiard hall until 9:00 p.m. during weeknights and 10:00 p.m. during weekends (Attachment 4).

The applicant has applied for a Type 40 license with the California Department of Alcoholic Beverage Control (ABC), which allows for the sale of beer for on-site consumption. This will prohibit wine or distilled spirits to be served. The Type 40 license does not require a complete

menu to be served; however ABC does require the sale of sandwiches or snacks. Although minors are allowed on the premises, they shall not be able to serve or be served beer.

The use is situated within Census Tract 100.13, which is roughly bounded by Lemon Street to the north, Main Street to the south, the BNSF Railroad to the west and the Mojave River to the east (Attachment 5).

ABC allows a maximum of six on-sale licenses within Census Tract 100.13 before the census tract is considered to be over concentrated. However as shown in Table 1 below, there are currently six active on-sale licenses within this census tract. Therefore approval of CUP16-00010 will exceed the limitation of six licenses and requires that the City make a finding of public convenience and necessity (Attachment 6). In addition, the applicant will be required to comply with all state beverage control regulations.

Table 1: Existing On-Sale Licenses in Census Tract 100.13

| Status | Business Name | Business Address | Type of License |
|--------|-------------------------------|-------------------|------------------------|
| Active | Pasco's Pizza | 17348 Main Street | 41-Beer & Wine |
| Active | Percy Bakker Community Center | 9333 E Avenue | 47-Beer, Wine & Liquor |
| Active | Moose Lodge | 10230 E Avenue | 51-Club |
| Active | El Charro Mexican Restauant | 16922 Main Street | 41-Beer & Wine |
| Active | Sizzler Restaurant | 16988 Main Street | 41-Beer & Wine |
| Active | Wendy's Place | 9297 G Avenue | 48-Bar, Night Club |

Staff believes that a finding of public convenience and necessity can be made to obtain an additional license in this over-concentrated tract. Specifically, Main Street is a major commercial corridor that provides convenient shopping and dining services. The use will be located within the Neighborhood Commercial Zone of the Main Street and Freeway Corridor Specific Plan, which is intended to be a center of activity in the downtown portion of Hesperia. This zone is intended to encourage a mix of uses that generate activity during daytime, evening and weekend hours and that create a vibrant atmosphere and convenient location for residents. It is the City's intent to continue to attract commercial developments in this area, which will necessitate exceedence of ABC's standards for on-sale licenses.

Schools and Parks: Juniper Elementary School is located approximately 750 feet to the northeast and Live Oak Park is located approximately 1,700 feet to the north.

Environmental: This project is exempt from the California Environmental Quality Act (CEQA) per Section 15301, Existing Facilities.

Conclusion: The over-concentration of alcohol sales along Main Street is based on ABC's criteria. However, when determining over-concentration within the City, staff's recommendation is based on the City's concentration of commercial land uses primarily along Main Street, Bear Valley Road, and Hesperia Road. It is a public convenience and necessity to have a mix of different restaurants and entertainment uses within the Neighborhood Commercial Zone, serving City residents within the downtown area. Approval of alcoholic beverage licenses is supportive of the land uses intended within the Neighbhoord Commercial Zone.

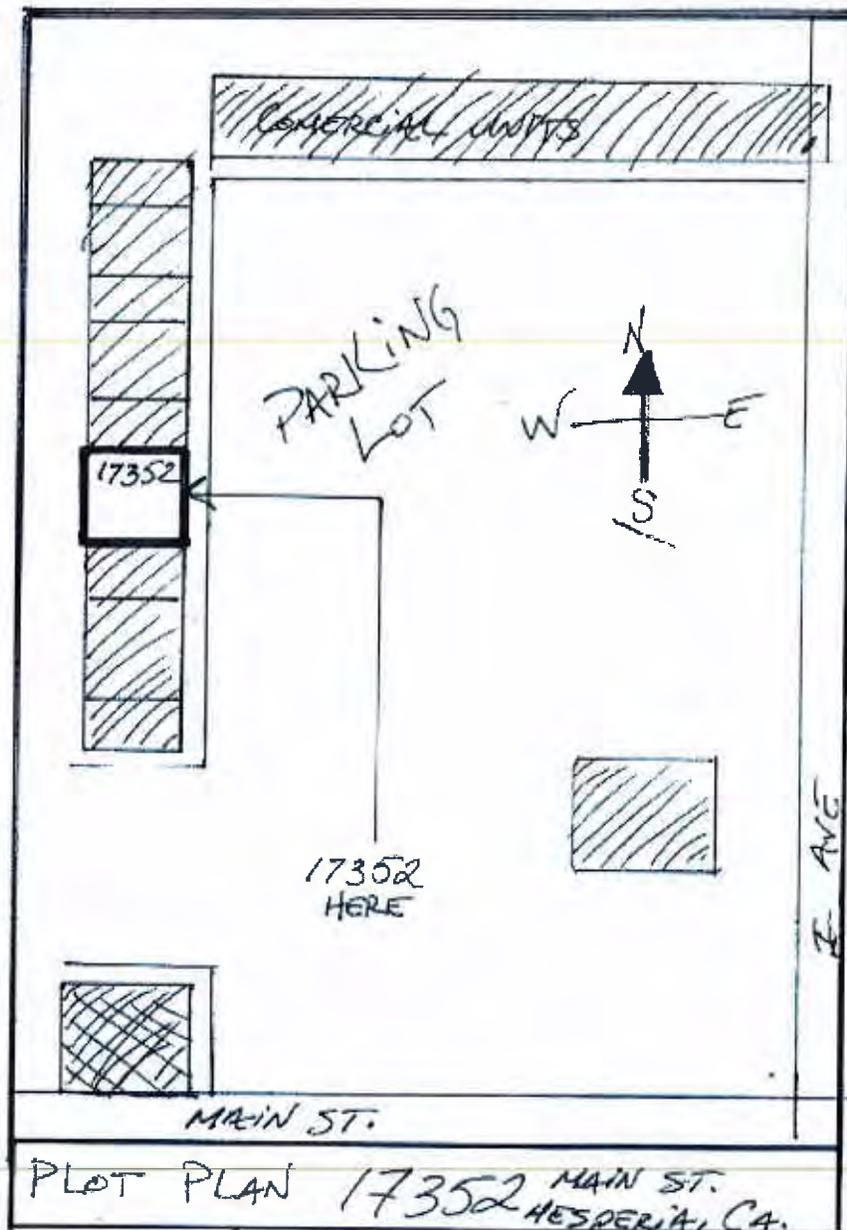
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. General Plan
3. Aerial photo
4. Floor Plan
5. Census Tract Map
6. Resolution No. PC-2016-32, with list of conditions

ATTACHMENT 1



APPLICANT(S):
ROBERTO AND LISA RODRIGUEZ

FILE NO(S):
CUP16-00010

LOCATION:
17352 MAIN STREET

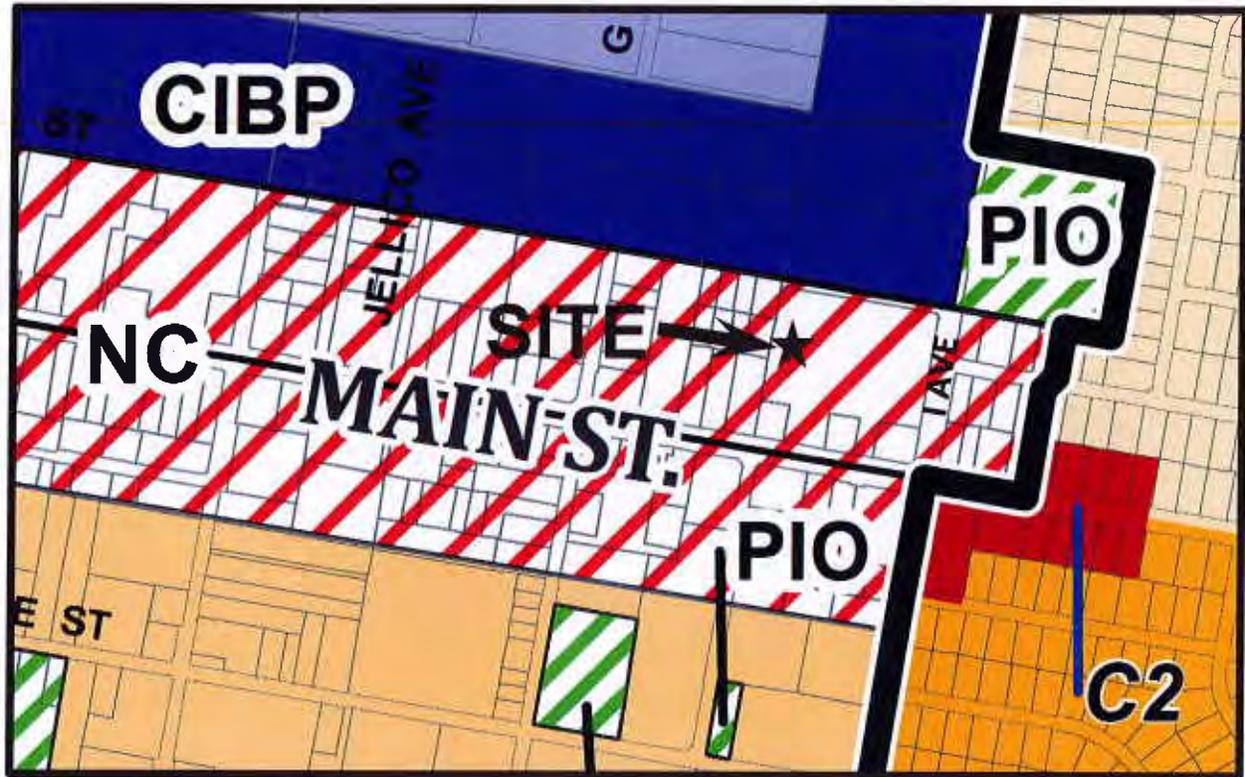
APNs:
0410-135-56

PROPOSAL:
CONSIDERATION OF CONDITIONAL USE PERMIT CUP16-00010, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL



SITE PLAN

ATTACHMENT 2



APPLICANT(S):
ROBERTO AND LISA RODRIGUEZ

FILE NO(S):
CUP16-00010

LOCATION:
17352 MAIN STREET

APNs:
0410-135-56

PROPOSAL:
CONSIDERATION OF CONDITIONAL USE PERMIT CUP16-00010, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL



GENERAL PLAN MAP

ATTACHMENT 3



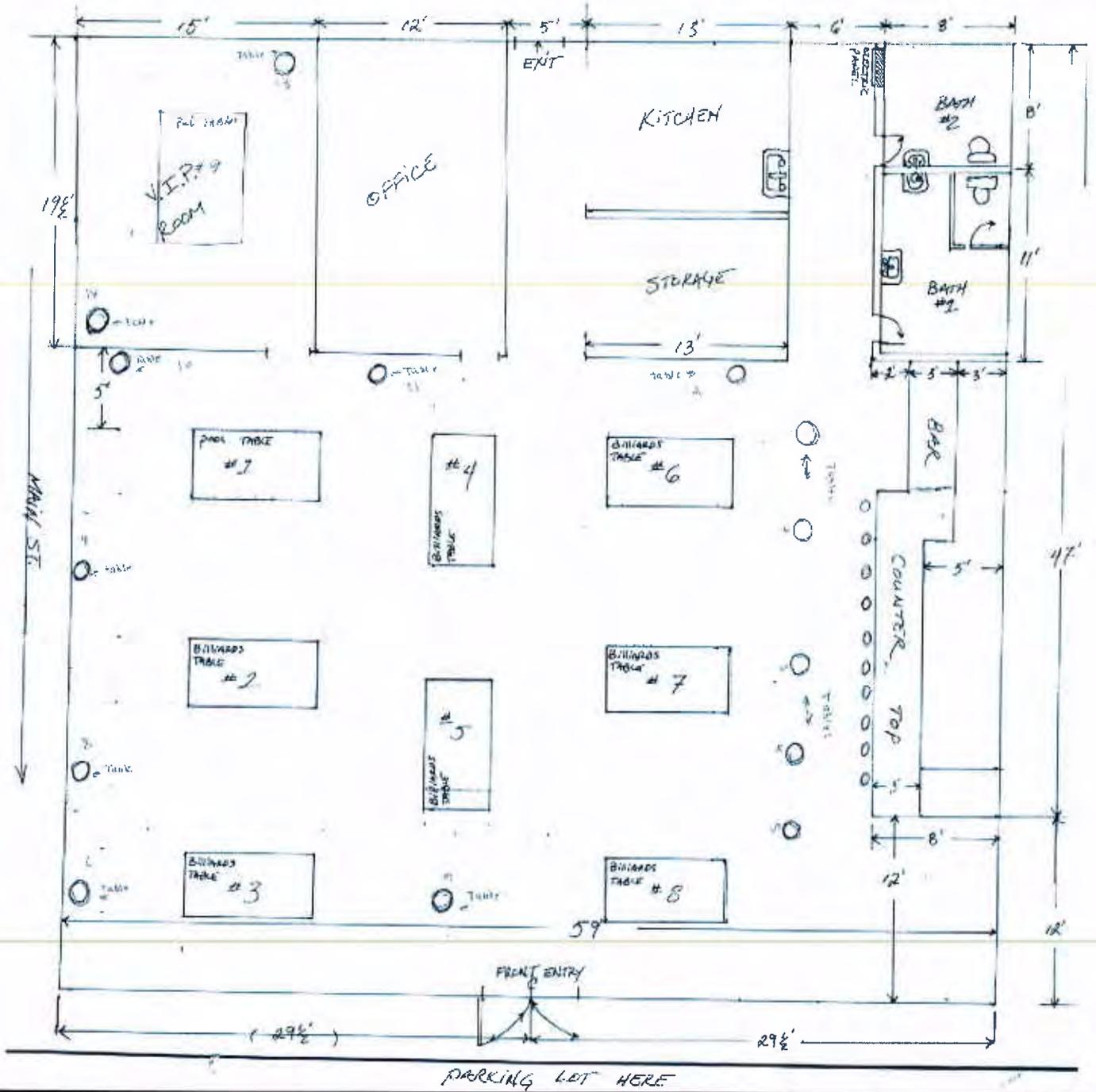
| | |
|--|-----------------------------------|
| APPLICANT(S):
ROBERTO AND LISA RODRIGUEZ | FILE NO(S):
CUP16-00010 |
| LOCATION:
17352 MAIN STREET | APNs:
0410-135-56 |

PROPOSAL:
CONSIDERATION OF CONDITIONAL USE PERMIT CUP16-00010, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL



AERIAL PHOTO

ATTACHMENT 4



| | |
|--|-----------------------------------|
| APPLICANT(S):
ROBERTO AND LISA RODRIGUEZ | FILE NO(S):
CUP16-00010 |
| LOCATION:
17352 MAIN STREET | APNs:
0410-135-56 |
| PROPOSAL:
CONSIDERATION OF CONDITIONAL USE PERMIT CUP16-00010, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL | N
↑ |

FLOOR PLAN

ATTACHMENT 5



APPLICANT(S):
ROBERTO AND LISA RODRIGUEZ

FILE NO(S):
CUP16-00010

LOCATION:
17352 MAIN STREET

APNs:
0410-135-56

PROPOSAL:
CONSIDERATION OF CONDITIONAL USE PERMIT CUP16-00010, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL



CENSUS TRACT MAP

ATTACHMENT 6

RESOLUTION NO. PC-2016-32

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, TO ALLOW THE SALE OF BEER FOR ON-SITE CONSUMPTION WITHIN A PROPOSED BILLIARD HALL AT 17352 MAIN STREET (CUP16-00010)

WHEREAS, Roberto and Lisa Rodriguez have filed an application requesting approval of Conditional Use Permit CUP16-00010 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a proposed billiard hall at 17352 Main Street and consists of Assessor's Parcel Number 0410-135-56; and

WHEREAS, the Application, as contemplated, proposes to establish a billiard hall and the sale of beer as part of the operations of the billiard hall; and

WHEREAS, the subject site is presently developed with an existing shopping center as a part of the Hesperia Square Shopping Center. Adjacent properties to the east, west and south along Main Street are built with a variety of commercial uses and the property to the north is occupied with a self-storage facility; and

WHEREAS, the subject property is within the Neighborhood Commercial Zone of the Main Street and Freeway Corridor Specific Plan. The land to the east, west and south are also within the Neighborhood Commercial Zone. The properties to the north are within the Commercial Industrial Business Park Zone; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15301, Existing Facilities; and

WHEREAS, on December 8, 2016, the Planning Commission of the City of Hesperia conducted a hearing on the 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 December 8, 2016 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed on-site sale of alcohol in conjunction with a billiard hall is a conditionally allowed use within the Neighborhood Commercial Zone of the Main Street and Freeway Corridor Specific Plan and complies with all applicable provisions of the Development Code with approval of this CUP. The proposed use would not impair the integrity and character of the surrounding neighborhood. The site is suitable for the type and intensity of the use that is proposed.

- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public convenience, health, safety or general welfare. Serving beer as part of the proposed billiard hall operations will not have a detrimental impact on adjacent properties.
- (c) The proposed use is consistent with the objectives, policies, land uses and programs of the General Plan, Specific Plan and Development Code. The proposed use will take place within a proposed billiard hall within an existing development. The sale of beer at this location supports the public convenience and necessity and is consistent with the conditionally permitted uses within the Neighborhood Commercial Zone.
- (d) There are adequate provisions for sanitation, public utilities and general services to ensure the public convenience, health, safety and general welfare. The proposed use will occur within an existing building with adequate infrastructure. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP16-00010, 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 8th day of December 2016.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP16-00010

Approval Date: December 8, 2016
Effective Date: December 20, 2016
Expiration Date: December 20, 2019

This list of conditions apply to a Conditional Use Permit to allow the sale of beer for on-site consumption within a proposed billiard hall at 17352 Main Street. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Roberto and Lisa Rodriguez; APN: 0410-135-56).

Establishment of the use including the sale of beer shall not occur 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

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

- _____ 1. **Valid License.** At all times during the conduct of the use allowed by this permit, the use shall obey all laws and shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void. (P)
- _____ 2. **Permit Revocation.** In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; ~~(b) found to have been obtained by fraud or perjured testimony;~~ or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; the Planning Commission may hold a hearing and determine if the CUP may be continued, revised, or revoked, based on such factors as excessive calls for service, public intoxication, littering or other circumstances that are detrimental to the operation of the site and surrounding area. Should the Commission decide to revoke the CUP, this permit shall become null and void. (P)
- _____ 3. **Employee Age.** All employees selling alcohol must be at least 21 years of age. (P)
- _____ 4. **ABC Requirements.** The use must comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P)
- _____ 5. **Alcohol Consumption.** Alcoholic beverages shall not be consumed

outside the billiard hall nor on any property adjacent to the licensed premises under the control of the licensee. This includes all sidewalks and the parking lot. (P)

- _____ 6. **Change in Use.** The facility shall remain a billiard hall and maintain a Type 40 License. Any change in use or change in alcohol license type shall require review and approval of a revised Conditional Use Permit (P)
- _____ 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)

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 |



DATE: December 8, 2016
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
SUBJECT: Freeway Signs

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No PC-2016-30, recommending that the City Council adopt an ordinance revising the City's freeway sign regulations.

BACKGROUND

Chapter 16.36 of the City's Development Code establishes sign regulations for a variety of uses in the City, including freestanding signs for commercial and industrial developments. Currently, the largest signs permitted for development within 660 feet of the freeway right-of-way is 60 feet high, 450 square feet in area. This is permitted provided that at least three uses are to be displayed on the sign.

In 2013, the City established new regulations for freeway pylon signs. These signs were to be located along the freeway and intended to permit any business within the City (not just those on the same site) to advertise. The intent was to permit businesses that would otherwise not have any exposure to benefit from visibility along the freeway.

These signs were to be privately owned and operated, but would have to do so in accordance with the City's freeway pylon sign regulations. An agreement with the City would be required to sign's owner to allow any business in the City to advertise. In 2014, the City granted a conditional use permit for a sign to be located adjacent to the Main Street freeway interchange. In accordance with City's ordinance, the sign was to be 85 feet high and 750 square foot in area. The sign also featured a 364 square foot digital display.

Signs adjacent to freeways are subject to the Outdoor Advertising Act, and may require a permit from the California Department of Transportation (Caltrans). Because of the City's requirement to permit any business to advertise, Caltrans determined that the sign is an off premise sign (similar to a billboard). Therefore, it was subject to Caltrans' permitting requirements. The Outdoor Advertising Act prohibits off premise signs from being taller than 25 feet high. As this is not consistent with the City's design requirements, the City's freeway pylon sign program cannot be implemented as intended and be consistent with the Outdoor Advertising Act.

ISSUES/ANALYSIS

On premise signs (advertising businesses on the same site) are permitted in the City's code and do not require a permit from Caltrans. The proposed ordinance will delete the adopted freeway pylon sign program and permits signs taller than 60 feet under limited circumstances. Freeway signs between 60 and 100 feet in height and up to 1000 square feet in area may be permitted,

subject to a study to determine the optimal location in relation to freeway off-ramps, overpasses, existing development, and topography. Such signs must be located on the premises of a development project consisting of at least 35 contiguous acres. No more than two signs may be permitted per development. Signs incorporating digital displays may not be closer than 1000 feet from another digital display on the same side of the freeway. Such displays are subject to current Caltrans' specifications as to brightness, frequency of changeable copy and depiction of movement. The location and design of freeway signs must be included in an approved site sign plan for the development to ensure consistency with the design and architecture of the project.

An environmental initial study was completed, which concluded that adoption of these new regulations would not have significant negative impact on the environment. The signs are only intended for larger developments along the freeway corridor. Therefore, the number of signs possibly developed would be about the same as what was expected under the pylon sign program. As these signs must be approved as part of a site sign plan, they must be designed consistent with the architecture and theme of the associated development. Digital displays would still be subject to Caltrans limitations and must be no closer than 1000 feet to any other digital display on the same side of the freeway, even those displays on existing billboards.

In conclusion, as the current City freeway pylon sign program does not comport with state regulations, it is necessary to eliminate those provisions. This ordinance is consistent with the City's policy objectives to enhance the development potential of the freeway corridor in order to establish sales tax generating businesses and create local jobs.

ALTERNATIVE(S)

1. The Planning Commission may recommend that the City's height limit for freeway signs be maintained at 60 feet. As these signs are intended to enhance the potential for larger developments, staff does not recommend this alternative.
2. Provide alternative direction to staff.

ATTACHMENT(S)

1. Negative Declaration ND-2016-06 and initial study.
2. Draft Resolution No. PC-2016-30, with Exhibit "A"

ATTACHMENT 1

PLANNING DIVISION

9700 Seventh Avenue, Hesperia, California 92345
(760) 947-1224 FAX (760) 947-1221

NEGATIVE DECLARATION ND-2016-06

Preparation Date: November 10, 2016

Name or Title of Project: Freeway Sign Ordinance.

Location: 660 feet of the centerline of Interstate 15 and may be located near freeway interchanges that exist or are planned at Bear Valley Road, Main Street, Poplar/Muscatel Street, Ranchoero Road or Oak Hill Road. (Citywide)

Entity or Person Undertaking Project: City of Hesperia

Description of Project: A Development Code Amendment (DCA16-00002) of the City of Hesperia to allow freeway signs between 60 and 100 feet in height along the Interstate 15 freeway. This is in addition to other on premise signs currently permitted for commercial or industrial development. Such signs must serve developments of at least 35 contiguous acres and no more than two signs would be permitted per development. The revised sign regulations would also remove the City's Pylon Sign program, adopted in 2014, as recent Caltrans decisions on these signs regard them as billboards and would not permit their construction as required by the City's pylon sign regulations. In addition, the City's current requirement to allow any business within the City to advertise does not comport with the State's definition of an on premise sign.

Statement of Findings: The City Council has reviewed the Initial Study for this proposed project and has found that there are no significant adverse environmental impacts to either the man-made or physical environmental setting with inclusion of the following mitigation measures and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

Mitigation Measures:

1. A Sign Plan Review shall be submitted in order to review architecture is consistent with approved Exhibit 'A', and to ensure digital display timing and lighting are consistent with Caltrans regulations.
2. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
3. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading.

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Hesperia Planning Department.

Public Review Period: November 14, 2016 through December 19, 2016.

Adopted by the City Council:

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

**CITY OF HESPERIA INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM**

Project title: Freeway Signs

Lead agency name and address: City of Hesperia Planning Department, 9700 Seventh Avenue, Hesperia, CA 92345.

Contact person and phone number: Dave Reno, Principal Planner (760) 947-1235.

Project location: 660 feet from the Interstate 15 right-of-way located near freeway interchanges that exist or are planned at Bear Valley Road, Main Street, Poplar/Muscatel Street, Ranchero Road or Oak Hill Road.

Project sponsor's name and address: City of Hesperia, 9700 Seventh Avenue, Hesperia, CA 92345

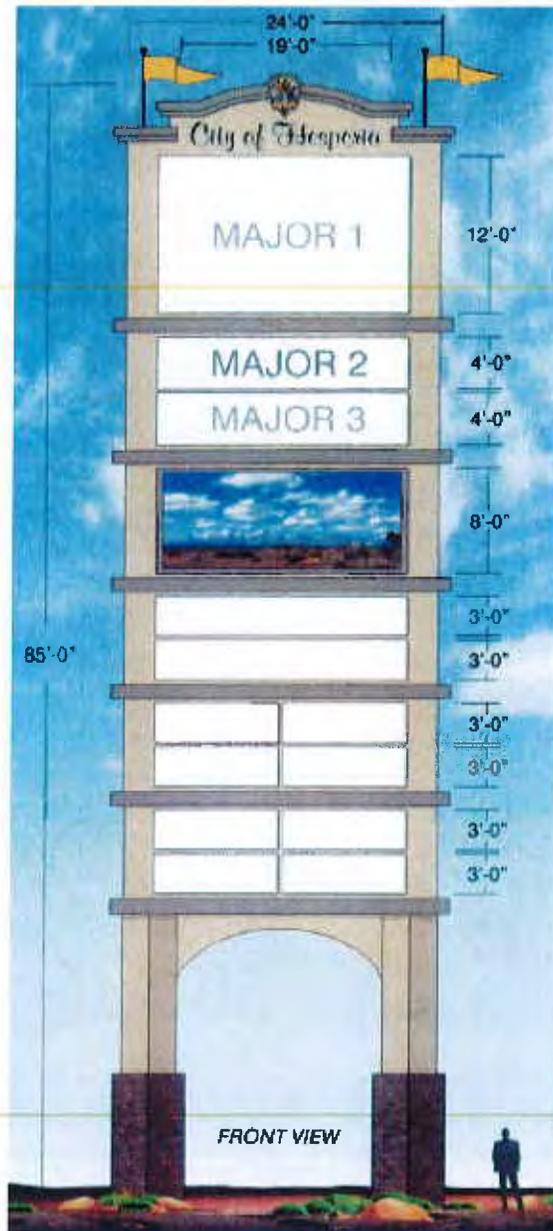
General plan designation: Regional Commercial, Auto Sales Commercial, Office Professional, Neighborhood Commercial, and Industrial Commercial.

Zoning: Regional Commercial, Auto Sales Commercial, Office Professional, Neighborhood Commercial, and Industrial Commercial.

Description of project: Development Code Amendment (DCA16-00002) of the City of Hesperia to allow freeway signs between 60 and 100 feet in height along the Interstate 15 freeway. This is in addition to other on premise signs currently permitted for commercial or industrial development. Such signs must serve developments of at least 35 contiguous acres and no more than two signs would be permitted per development. The revised sign regulations would also remove the City's Pylon Sign program, adopted in 2014, as recent Caltrans decisions on these signs regard them as billboards and would not permit their construction as required by the City's pylon sign regulations. In addition, the City's current requirement to allow any business within the City to advertise does not comport with the State's definition of an on premise sign.



Example of a Freeway Sign



Surrounding land uses and setting: (Briefly describe the project's surroundings.) Properties are located within Districts of the Main Street and Freeway Corridor Specific Plan (Specific Plan).

Other public agency whose approval is required (e.g., permits, financing approval, or participation agreement.) Review and approval is required from the City.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

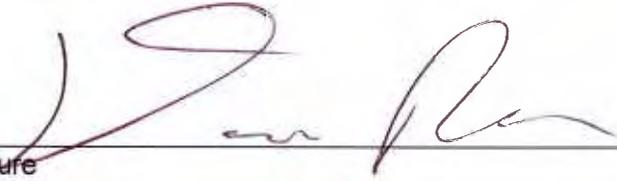
| | | | | | |
|--------------------------|-------------------------------|--------------------------|------------------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Aesthetics | <input type="checkbox"/> | Agricultural Resources | <input type="checkbox"/> | Air Quality |
| <input type="checkbox"/> | Biological Resources | <input type="checkbox"/> | Cultural Resources | <input type="checkbox"/> | Geology / Soils |
| <input type="checkbox"/> | Hazards & Hazardous Materials | <input type="checkbox"/> | Hydrology / Water Quality | <input type="checkbox"/> | Land Use / Planning |
| <input type="checkbox"/> | Mineral Resources | <input type="checkbox"/> | Noise | <input type="checkbox"/> | Population / Housing |
| <input type="checkbox"/> | Public Services | <input type="checkbox"/> | Recreation | <input type="checkbox"/> | Transportation / Traffic |
| <input type="checkbox"/> | Utilities / Service Systems | <input type="checkbox"/> | Mandatory Findings of Significance | <input type="checkbox"/> | |

DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

| | | |
|---|--|--|
| | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. | |
| X | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. | |
| | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
I find that the proposed project MAY have a "potentially | |
| | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. | |
| | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the project, nothing further is required. | |

"De minimis"


Signature

11-9-16
Date

Dave Reno - Principal Planner, Hesperia Planning Department

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off- as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting information sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL IMPACTS:

ISSUES

| I. AESTHETICS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | | X | | |
| <p>Comments.</p> <p>The City contains many scenic views of the Mojave Desert, the Mojave River, the San Bernardino and San Gabriel Mountains, as well as the Summit Valley area. The GPUEIR addresses the scenic vistas and focuses on preservation of natural open space to protect sensitive environments and specific amenities like washes, bluffs, Joshua tree forests and juniper woodlands (3). The proposed freeway signs will be located within the commercial corridors along the freeway and are not being proposed in a sensitive environment. Further, a state scenic highway does not traverse the City (2); although state Highways 138 and 173, which are located within the southern portion of the City, are eligible for being designated scenic highways. The proposed freeway signs will not be in proximity to these highways. Furthermore, the City does not contain any registered historic buildings.</p> <p>Construction of the freeway signs would not significantly change the visual character of the area. Development of similar signage is currently allowed for freeway oriented development. Signage allowed as part of this project will be in addition to signs that are currently allowed as part of any new development that qualifies for freeway signage, so the environmental impact would be slightly greater than that identified under the General Plan Update Environmental Impact Report (GPUEIR). Therefore, the impact of this project is not significant. Several commercial zoning designations including, Regional Commercial (RC), Auto Sales Commercial (ASC), Office Professional (OP), Neighborhood Commercial, (NC), and Commercial Industrial Business Park (CIBP) will be eligible for this type of development.</p> <p>The development of these freeway signs is subject to the maximum sign height of between 60 and 100 feet. Besides limiting the building height this project will set forth regulations and specify minimum architectural standards as implemented through the sign plan review process. The location, height and area will be subject to a study that will evaluate the optimal location in relation to freeway off-ramps, overpasses, existing development and topography. Signs incorporating digital displays may not be closer than 1000 feet from another digital display on the same side of the freeway and will be subject to current Caltrans regulations as to brightness, frequency of changeable copy and depiction of movement. Based upon these regulations, the use will not adversely affect day or nighttime views in the area. Finally these signs are limited to development of at least 35 contiguous acres. As such, staff does not expect many of these signs to be built, except for larger projects proximate to each existing or planned freeway interchange. Therefore, approval of the proposed project will not have a significant negative impact upon aesthetics.</p> | | | | |

| II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and State Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | | X |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? | | | | X |

Comments.
The City contains few sites currently in agricultural use and only two properties within a Williamson Act contract. This action will not change the zoning of any properties designated as prime or unique farmland and will not negate any Williamson Act contract (6).

The City and its Sphere Of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes (9). The southernmost portions of the City and SOI contain a narrow distribution of land within the shrub and conifer woodland bioregions. These bioregions do not contain sufficient forest land for viable timber production and are ranked as low priority landscapes (10). The project will affect the western portion of the City within the Interstate 15 corridor in the urban area and is substantially surrounded by urban development. During the nineteenth century, juniper wood from Hesperia was harvested for use in fueling bakery kilns. Use of juniper wood was discontinued when oil replaced wood in the early twentieth century (7). As a consequence, local timber production has not occurred since that time. Therefore, this project will not have an impact upon forest land or timberland.

| III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | | | X |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | | | | X |
| d) Expose sensitive receptors to substandard pollutant concentrations? | | | | X |
| e) Create objectionable odors affecting a substantial number of people? | | | | X |

Comments.

The General Plan Update and its Environmental Impact Report (EIR) addresses the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors **(11 & 12)**. Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. The proposed signs will not contain sensitive receptors. The signs will not cause a significant increase in emissions and are within existing commercial areas and not near a point source emitting a significant amount of poor air quality.

The Mojave Desert Air Quality Management District (MDAQMD) has published a number of studies that demonstrate that the Mojave Desert Air Basin (MDAB) can be brought into attainment for particulate matter and ozone, if the South Coast Air Basin (SCAB) achieves attainment under its adopted Air Quality Management Plan. The High Desert and most of the remainder of the desert has been in compliance with most federal and state standards for many years and studies indicate that ozone levels have been decreasing over the past 20 years **(12)**. The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of the South Coast Air Quality Management District (SCAQMD) to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards **(11 & 12)**.

All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD **(13)**. Programs have been established in the Air Quality Attainment Plan which addresses emissions caused by area sources. Both short-term (construction) emissions and the long-term (operational) emissions associated with the development were considered. Short-term airborne emissions will occur during the construction phase related to site preparation, land clearance, grading, excavation, and building construction; which will result in fugitive dust emissions. Construction equipment used during site preparation and construction activities will also generate emissions. Construction activities generally do not have the potential to generate a substantial amount of odors. The primary source of odors associated with construction activities are generated from the combustion petroleum products. However, such odors are part of the ambient odor environment of urban areas. In addition, the contractor will be required to obtain all pertinent operating permits from the Mojave Desert Air Quality Management District (MDAQMD) for any equipment requiring AQMD permits.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The General Plan Update Environmental Impact Report (GPUEIR) analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts **(14)**. Finally these signs will not contribute to additional development not already considered under the GPEIR.

| IV. BIOLOGICAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service? | | X | | |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service? | | | | X |

| | | | | |
|---|--|--|--|---|
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | | | | X |

Comments.

The potential project sites for these signs are not expected to support the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the project sites are outside the area considered suitable habitat for the species (17). The desert tortoise is also not expected to inhabit the site, given that the development of the sign will not impact substantial portion of land (15). If a sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified. The sites are also outside the range of the arroyo toad, which has been documented to inhabit a portion of the Tapestry Specific Plan and adjacent areas (16).

The potential project sites are not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest, occur within the Tapestry Specific Plan and vicinity (16). The potential project sites are located along the western boundary of the northwest within a developed portion of the City (1 & 4). Consequently, approval of the ordinance will not have an impact upon biological resources, subject to the enclosed mitigation measures.

| V. CULTURAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | | X | | |

Comments.

Based review of aerial photos, there is no evidence that historic resources exist within the project's potential sites. In addition, these sites are not on the list of previously recorded cultural resources **(18)**. This list, which was compiled as part of the 2010 General Plan Update; was created from the inventory of the National Register of Historic Properties, the California Historic Landmarks list, the California Points of Historic Interest list, and the California State Resources Inventory for San Bernardino County. Paleontological resources are not expected to exist on the project site. The Cultural Resources Sensitivity Map identifies the western portion of the City along Interstate 15 as area of cultural sensitivity **(19)**. Consequently, if cultural resources are found during grading activities, grading shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. This mitigation measure is listed on page 22.

In the event that human remains are discovered during initial site work, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) **(20)**. Should the Coroner determine that the remains are Native American, the Native American Heritage Commission (NAHC) shall be contacted and the remains shall be handled in accordance with Public Resources Code Section 5097.98. Therefore, approval of the ordinance is not expected to have a significant impact upon cultural resources with inclusion of the mitigation measure.

| VI. GEOLOGY AND SOILS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | | | | X |
| ii) Strong seismic ground shaking? | | | | X |
| iii) Seismic-related ground failure, including liquefaction? | | | | X |
| iv) Landslides? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil? | | | | X |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | | X |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | | X | | |

Comments.

The potential project sites contain generally flat topography. No large hills or mountains are located within this area. According to Exhibit SF-1 of the General Plan Safety Element, no active faults are known or suspected to occur near or within the project sites. Further, they are not within an Alquist-Priolo Special Studies Zone or Earthquake Fault Zone (21). The City and Sphere of Influence (SOI) is near several major faults, including the San Andreas, North Frontal, Cleghorn, Cucamonga, Helendale, and San Jacinto faults (21 & 22). The nearest fault to the sites is the North Frontal fault, located approximately five miles to the east of the City.

The Alquist-Priolo Earthquake Fault Zoning Act prohibits structures designed for human occupancy within 500 feet of a major active fault and 200 to 300 feet from minor active faults (23). The potential project sites are not located in an Alquist-Priolo Earthquake Fault Zone or within 500 feet of a fault (21 & 22).

As a function of obtaining a building final, the proposed freeway signs will be built in compliance with the Hesperia Municipal Code and the Building Code (44), which ensures that the signs will adequately resist the forces of an earthquake. In addition, prior to issuance of a grading permit, a soil study is required, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be performed in accordance with all development codes. Consequently, the impact upon the project regarding geology and soils is considered less than significant.

VII. GREENHOUSE GAS EMISSIONS. Would the project:

| | Potentially Significant Impact | Significant With Less Than Significant Impact | No Impact |
|---|--------------------------------|---|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (25)? | | | X |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (25, 26 & 27)? | | | X |

Comments.

Assembly Bill 32 requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions to 1990 levels by 2020. In addition, Senate Bill 97 requires that all local agencies analyze the impact of greenhouse gases under CEQA and task the Office of Planning and Research (OPR) to develop CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions..."

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 (28). This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)(25). The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 28 percent below business as usual by 2020, consistent with AB 32 (26).

Development of the proposed signs will not increase the greenhouse gas (GHG) emissions beyond that analyzed within the General Plan Update Environmental Impact Report (GPUEIR). If the sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified.

| VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | | X |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | | | | X |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | | | | X |

Comments.

Many hazardous chemicals are used in construction of buildings and structures. However, proper use of these materials will not result in a hazardous waste release. The apartments will not involve the routine transport or storage of hazardous wastes. These wastes are limited to regular household cleansers and other over-the-counter hazardous chemical products. Therefore, the potential project sites do not have the potential to become a hazardous waste site.

The project site is currently vacant and is not listed within any of the following hazardous site database systems, so it is unlikely that hazardous materials currently exist on-site:

- National Priorities List www.epa.gov/superfund/sites/query/basic.htm. List of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. There are no known National Priorities List sites in the City of Hesperia.
- Site Mitigation and Brownfields Reuse Program Database www.dtsc.ca.gov/database/Calsites/Index.cfm. This database (also known as CalSites) identifies sites that have known contamination or sites that may have reason for further investigation. There are no known Site Mitigation and Brownfields Reuse Program sites in the City of Hesperia.
- Resource Conservation and Recovery Information System www.epa.gov/enviro/html/rcris/rcris_query_java.html. Resource Conservation and Recovery Information System is a national program management and inventory system of hazardous waste handlers. There are 53 Resource Conservation and Recovery Act facilities in the City of Hesperia. However, the project site is not a listed site.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) (<http://cfpub.epa.gov/superfund/cursites/srchsites.cfm>). This database contains information on hazardous waste sites, potential hazardous waste sites, and remedial activities across the nation. There is one Superfund site in the City of Hesperia. However, the project site is not located within or adjacent to the Superfund site.
- Solid Waste Information System (SWIS) (<http://www.ciwmb.ca.gov/SWIS/Search.asp>). The SWIS database contains information on solid waste facilities, operations, and disposal sites throughout the State of California. There are three solid waste facilities in the City of Hesperia; however the project site is not listed.
- Leaking Underground Fuel Tanks (LUFT)/ Spills, Leaks, Investigations and Cleanups (SLIC) (<http://geotracker.waterboards.ca.gov/search/>). This site tracks regulatory data about underground fuel tanks, fuel pipelines, and public drinking water supplies. There are fourteen LUFT sites in the City of Hesperia, six of which are closed cases. The project site is not listed as a LUFT site and there are no SLIC sites in the City of Hesperia.
- There are no known Formerly Used Defense Sites within the limits of the City of Hesperia <http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

The proposed ordinance does not conflict with air traffic nor emergency evacuation plans. The potential sites are located over 5 miles west of the Hesperia Airport and is therefore not within a restricted use zone associated with air operations (29). Consequently, implementation of the project will not cause safety hazards to air operations.

The project's potential for exposing people and property to fire and other hazards was also examined. The site is located within an urbanized area and is not in an area susceptible to wildland fires. The southernmost and westernmost portions of the City are at risk, due primarily to proximity to the San Bernardino National Forest (30 & 31). All new structures associated with this project will be constructed to the latest building standards including applicable fire codes. Consequently, approval of the site plan review and associated freeway signs will not have any impact upon or be affected by hazards and hazardous materials.

| VIII. HYDROLOGY AND WATER QUALITY. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements? | | | | X |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | | X |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | | | | X |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | | | | X |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | | | | X |
| f) Otherwise substantially degrade water quality? | | | | X |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow? | | | | X |

Comments.

Development of these signs will not disturb more land than would otherwise be developed at each potential site. Consequently, a Notice of Intent (NOI) and a general construction National Pollution Discharge Elimination System (NPDES) permit will not be required prior to land disturbance **(33)**.

This development will not significantly change absorption rates and potential drainage patterns, or the amount of surface water runoff, as the project consist of the development of signs alone **(4)**. If the sign is proposed in combination with a commercial or industrial project, then that development would be analyzed and any impacts associated with the project would be identified. The City is downstream of three dams. These are the Mojave Forks, Cedar Springs, and Lake Arrowhead Dams. In the event of a catastrophic failure of one or more of the dams, the project site would not be inundated by floodwater **(34)**. The areas most affected by a dam failure are located in the low lying areas of southern Rancho Las Flores, areas adjacent to the Antelope Valley Wash, and properties near the Mojave River.

The City of Hesperia is located just north of the Cajon Pass at an elevation of over 2,500 feet above sea level, which is over 60 miles from the Pacific Ocean. As such, the City is not under threat of a tsunami, otherwise known as a seismic sea wave **(24)**. Similarly, the potential for a seiche to occur is remote, given the limited number of large water bodies within the City and its sphere. A seiche would potentially occur only in proximity to Silverwood Lake, Hesperia Lake and at recharge basins **(24)**. The subject property exhibits at most a two percent slope. In addition, the water table is significantly more than 50 feet below the surface. The area north of Summit Valley contains steep slopes which have the potential to become unstable during storm events **(35)**. Therefore, the conditions necessary to create a mudflow; a steep hillside with groundwater near the surface, do not exist at this location.

The Mojave Water Agency (MWA) has adopted a regional water management plan (Plan) for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information, the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(32)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP indicates that the City is currently using less than half of its available water supply and that supply is not projected to exceed demand beyond the year 2030 **(32)**. The HWD has maintained a water surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts. Therefore, the impact upon hydrology and water quality associated with the site plan review and associated freeway signs are considered less than significant.

IX. LAND USE AND PLANNING. Would the project:

| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Physically divide an established community? | | | | X |

| | | | | |
|---|--|--|--|---|
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | | X |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | | | X |

Comments.

The potential sites for freeway signs are mostly vacant and are surrounded by vacant land with the exception of the properties at Main Street and Bear Valley Road, which are currently vacant but located within an area with existing commercial development (1). The potential on premise signs are consistent with the General Plan because they support commercial and industrial lands uses intended in the land use element (4).

The potential sites are not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community; exist within the Tapestry Specific Plan and vicinity (16). The project sites are located approximately seven miles northwest of this sensitive area and is within a developed portion of the City.

| X. MINERAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | | | | X |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | | | | X |

Comments.

According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the potential project sites (36). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. Consequently, the proposed project would not have an impact upon mineral resources.

| XI. NOISE. Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | | X |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | | | | X |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | | X |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | | | X |

| | | | | |
|---|--|--|--|---|
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |

Comments.

Approval of the proposed signs will result in both construction noise and operational noise, mostly associated with trucks and vehicular traffic to and from the site. According to the General Plan, the majority of noise sources within the City are mobile sources, which include motor vehicles (37). Freeways, major arterials, railroads, airports, industrial, commercial, and other human activities contribute to noise levels. Apart from the noise during construction, noises associated with this type of project will be mostly from traffic caused by arriving and departing vehicles to do maintenance on the signs.

Noise levels associated with construction activities may be significantly higher than the existing ambient noise levels in the vicinity of the project site. Noise generated by construction equipment, including trucks, graders, backhoes, well drilling equipment, bull-dozers, concrete mixers and portable generators can reach high levels and is typically one of the sources for the highest potential noise impact of a project. However, the construction noise would diminish as construction is completed. The proposed project must adhere to the requirements of the City of Hesperia Noise Ordinance (38). The Noise Ordinance contains an exemption from the noise level regulations during grading and construction activities occurring between 7:00 A.M. and 7:00 P.M., Monday through Saturday, except federal holidays.

The potential project sites are over 5 miles west of the Hesperia Airport. At this distance, the project is not impacted by any safety zones associated with this private airport (39). The project sites are even farther from the Southern California Logistics Airport (SCLA) and the Apple Valley Airport and will not be affected by any safety zones for these airports.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the noise impact upon build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with noise impacts (14). This project is consistent with the Specific Plan and no appreciable difference in noise impact will occur.

| XII. POPULATION AND HOUSING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | | X |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | | X |

Comments.

The subject property is within the Commercial and Industrial Districts of the Specific Plan (5). Since the project proposes to develop signs to advertise larger commercial or industrial development, its potential effect as a growth-inducing factor is less than significant. As the signs are part of a larger development then development would be analyzed any impacts associated with the project would be would be identified. Consequently, the proposed project will not cause a significant additional population or housing impact. In addition, this project will not displace any existing housing, necessitating the construction of replacement housing elsewhere, since the site is currently vacant.

The sites are currently served by water, sewer, and other utility systems (40). Therefore, development of the project would not cause a significant negative impact upon existing public facilities. Completion of the project would also have a less than significant impact upon population and housing, as no increase in density for residential uses is proposed.

XIII. PUBLIC SERVICES.

| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for the new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | X |
| Fire protection? | | | | X |
| Police protection? | | | | X |
| Schools? | | | | X |
| Parks? | | | | X |
| Other public facilities? | | | | X |

Comments.

The proposed project will not create an increase in demand for public services (5), therefore it will not be greater than that anticipated as part of the GPUEIR. The potential sites are currently adjacent to both sewer and water lines adequate to serve the development. Therefore, the impact of the site plan review and associated freeway signs on public services are less than significant.

XIV. RECREATION.

| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | | | X | |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | | | X |

| | | | | |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| Comments. | | | | |
| This project will not result in an increase in population growth beyond that which is planned for in the City's Land Use Element and the Specific Plan. Construction of these signs will allow for advertising of businesses located along the freeway. The impact will not result in an increase in population growth beyond that which is planned for in the City's Land Use Element and the Specific Plan, as no residential uses are proposed. Therefore, its impact upon existing recreational facilities will be minimal. | | | | |
| XV. TRANSPORTATION / TRAFFIC. Would the project: | | | | |
| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? | | | | X |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | | X | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | | X |
| e) Result in inadequate emergency access? | | | | X |
| f) Result in inadequate parking capacity? | | | | X |
| Comments. | | | | |
| The potential project sites are located within the Commercial and Industrial Districts of the Specific Plan. Consequently, the GPEIR analyzed development on this site. This project will not increase additional traffic not already accounted as part of the development that is being advertised on the proposed freeway pylon signs. | | | | |
| The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with transportation impacts (14). The proposed signs will not cause an increase in traffic from that which was analyzed under the GPUEIR. Consequently, the impact of the project upon transportation systems is less than significant. | | | | |
| XVI. UTILITIES AND SERVICE SYSTEMS. Would the project: | | | | |
| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | | X |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | | X |

| | | | | |
|---|--|--|--|---|
| c) Require or result in the construction of new storm water drainage facilities, the construction of which could cause significant environmental effects? | | | | X |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | | | | X |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | | | | X |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | | X |

Comments.

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin **(32)**.

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP evidences that the City is currently using less than half of its available water supply and that supply is projected to exceed demand beyond the year 2030 **(32)**. The HWD has maintained a surplus water supply through purchase of water transfers, allocations carried over from previous years, and recharge efforts.

The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled **(43)**. Currently, approximately 71 percent of the solid waste within the City is being recycled **(41 & 42)**. About 152 tons of solid waste is disposed at the landfill and 214 tons are recycled of the total solid waste produced by the City per day. The waste disposal hauler for the City has increased the capacity of its Materials Recovery Facility (MRF) to 600 tons per day in order to accommodate future development. Since the project to allow the development of freeway signs and no commercial development is being associated or analyzed in this study, the project will not cause a significant negative impact upon utilities and service systems.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

| | | | | |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|

| | | | | |
|--|--|--|---|---|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | | X | |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse affects on human beings, either directly or indirectly? | | | | X |

Comments.
Based upon the analysis in this initial study, a Negative Declaration may be adopted. Development of this project will have a minor effect upon the environment. These impacts are only significant to the degree that mitigation measures are necessary.

XVIII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case a discussion identifies the following:

The Certified General Plan Environmental Impact Report.

- a) **Earlier analyses used.** Earlier analyses are identified and stated where they are available for review.
- b) **Impacts adequately addressed.** Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.

The following mitigation measure is recommended as a function of this project:

4. A Sign Plan Review shall be submitted in order to review architecture is consistent with approved Exhibit 'A', and to ensure digital display timing and lighting are consistent with Caltrans regulations.
5. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
6. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading.

Authority: Public Resources Code Sections 21083 and 21087.

REFERENCES

- (1) Aerial photos of the City of Hesperia taken February, 2015.
- (2) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-7.
- (3) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-8.
- (4) Freeway Pylon Ordinance, Exhibit "A"
- (5) Figure 6.7 of the 2008 Main Street and Freeway Corridor Specific Plan.
- (6) Williamson Act map within Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Exhibit 3.2-2
- (7) Conservation Element of the 2010 City of Hesperia General Plan Update, Page CN-34.
- (8) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area Map 31 and Pages 21 and 22.
- (9) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
- (10) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
- (11) Air Quality Section of the 2010 City of Hesperia General Plan Update, pages CN-47 thru CN-50.
- (12) Section 3.3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.3-1 thru 3.3-30.
- (13) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
- (14) Statement of overriding considerations for the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR) adopted by Resolution No. 2008-053.
- (15) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-4.
- (16) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-3.
- (17) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-5.
- (18) Appendix C of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, C-1 thru C-34.
- (19) Section 5 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, Exhibit 5e.
- (20) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
- (21) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, Exhibit SF-1.
- (22) Section 1.2.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, Figure 1-2.
- (23) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
- (24) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-11.

-
- (25) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
-
- (26) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
-
- (27) Table 5 of Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, pages 20 and 21.
-
- (28) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, pages SF-31 thru SF-33.
-
- (29) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
-
- (30) Map showing very high fire hazard areas, flood zones, and significant hazardous materials sites of the 2010 City of Hesperia General Plan Update Safety Element, Exhibit SF-2.
-
- (31) Fire Hazard Section of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.7-9.
-
- (32) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
-
- (33) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-15.
-
- (34) Dam Inundation Map for the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
-
- (35) Table 3.6-2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.6-24.
-
- (36) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
-
- (37) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4 thru NS-12.
-
- (38) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467.
-
- (39) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, Exhibit LU-3.
-
- (40) Current Hesperia water and sewer line atlas, page H13.
-
- (41) Quarterly data of the San Bernardino County Disposal Reporting System for the 2010 calendar year.
-
- (42) 2010 California Department of Resources, Recycling and Recovery Annual AB939 Report.
-
- (43) California Integrated Waste Management Act (AB 939).
-
- (44) 2013 California Building Code.
-

ATTACHMENT 2

RESOLUTION NO. PC-2016-30

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND REGULATIONS REGARDING FREEWAY SIGNS (DCA16-00002)

WHEREAS, On January 5, 1998, the City Council of the City of Hesperia adopted its Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, Chapter 16.20 of the Hesperia Development Code establishes development standards for a variety of uses as well as improvements to commercial and industrial property. Similar regulations are established within the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, The City of Hesperia Development Code regulations pertaining to signs requires modification to allow on premise freeway signs as an advertising opportunity for businesses located within the City; and

WHEREAS, The approval of this project requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The initial study prepared for this proposed Development Code amendment concludes that there are no significant environmental impacts on the environment; and

WHEREAS, On December 8, 2016, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to donation bins and concluded said hearing on that date; and

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

NOW THEREFORE, THE PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

1. All of the facts set forth in the Recitals, Part A of this Resolution, are true, correct and are adopted as findings.
2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Resolution is consistent with the goals and objectives of the adopted General Plan.
3. Based upon substantial evidence presented to this Commission during the above-referenced December 8, 2016, hearing, including public testimony and written and oral staff reports, this Council has determined that the amendment will enable the City to allow additional advertising opportunities for businesses located within the City's freeway corridor.

4. The initial study prepared for this proposed Development Code amendment concluded that revisions to the City's freeway sign regulations will not have a significant impact on the environment. Consequently, Negative Declaration ND2016-06 was prepared.
5. Based upon the conclusions set forth in paragraphs 1, 2 and 3 above, this Commission recommends Council hereby adopts Development Code Amendment DCA16-00002 and its Negative Declaration (ND-2016-06), amending Title 16, Chapter 16.36 (Sign Regulations) as shown on Exhibit "A."
6. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 8th day of December 2016.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

EXHIBIT "A"

Deletions are shown as ~~strikeouts~~ and additions are shown in red text.

Chapter 16.36 (Sign Regulations) of the Hesperia Development Code is hereby revised as follows:

The following definitions are hereby amended or deleted:

"Billboard" means any outdoor advertising structure or sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed, and which is designed or made available for the rental or lease of such sign space for advertising. Billboards shall not mean any on-premises sign or ~~"city freeway pylon signs."~~ Billboards may utilize digital advertising displays as part or all of their surface area.

~~"On premises sign" A sign that is either of the following: (1) a sign that advertises the business conducted, services rendered, or goods produced or sold upon the property on which the sign is placed; or (2) a sign that is within 660 feet of the edge of the right-of-way centerline of a freeway and advertises business conducted, services rendered, or goods produced or sold within 1000 feet of the sign and which meets the requirements of a freeway sign under Section 16.36.060(C)(9). On-premise signs shall not be considered "Off-site signs" for purposes of Sections 16.36.050(A) or 16.36.080."~~

~~"City freeway pylon sign" means a city owned or controlled or regulated sign, located on private property or property owned or leased by the city and approved for participation in the "city freeway pylon sign program" per Section 16.36.092. Said signs must be located within six hundred sixty (660) feet of the centerline of Interstate 15, for the purpose of displaying eligible major businesses, freeway oriented businesses and industries located within the city. In addition, city sponsored and/or civic activities and events, as well as emergency notices may also be displayed on this sign.~~

~~"Relocation agreement" means an agreement entered into between the city or redevelopment agency and a billboard or property owner to relocate or replace an existing billboard to another property or to reconstruct it on the same property. Reconstruction may also include converting a billboard to a digital advertising display.~~

Section 16.36.060(C)(9) is revised to read as follows:

Freeway Signs. Freeway signs are for regional uses located within six hundred sixty (660) feet of the Interstate-15 freeway. Freeway signs may be forty (40) feet high and two hundred (200) square feet in area. When two or more uses record an agreement to share signage, a freeway sign with two signs may be up to three hundred (300) square feet in area and fifty (50) feet in height. A freeway sign with three or more signs may be up to four hundred fifty (450) square feet in area and sixty (60) feet in height.

Notwithstanding the paragraph above, freeway signs between 60 and 100 feet in height and up to 1000 square feet in area may be permitted, subject to a study to determine the optimal location in relation to freeway off-ramps, overpasses, existing development, and topography. Such signs must be located on the premises of a development project consisting of at least 35 contiguous acres. No more than two signs may be permitted per development. Signs incorporating digital displays may not be closer than 1000 feet from another digital display on the same side of the freeway. Such displays are subject to current Caltrans' specifications as to brightness, frequency of changeable copy and depiction of movement. The location and design of freeway signs must be included in an approved site sign plan for the development to ensure consistency with the design and architecture of the project.

Section 16.36.092 is hereby deleted:

~~16.36.092 – City freeway pylon signs.~~

~~A. The city freeway pylon sign program ("program") is intended to permit freeway advertising of eligible business and industries along the Interstate 15 freeway corridor to enable exposure not otherwise available to such businesses due to their location within the city.~~

~~B.~~

~~To qualify for participation in the program, the sign, or any portion thereof, must meet all of the following criteria:~~

~~1.~~

~~The sign must be owned by the city, leased by the city, or the sign owner must have entered into a city freeway sign program agreement with the city.~~

~~2.~~

~~The sign must be located within six hundred sixty (660) feet of the centerline of Interstate 15.~~

~~3.~~

~~Freeway pylon signs containing digital displays shall not be within one thousand (1,000) feet of other freeway pylon signs with digital displays or within five hundred (500) feet of other freeway pylon signs located along the same side of the highway.~~

~~4.~~

~~The sign must be designed substantially similar to the design indicated in [Section 16.36.092\(H\)](#).~~

~~C.~~

~~Approval of Participation in the Program.~~

~~1.~~

~~The city manager may deem any sign that is owned or leased by the city, and which meets all qualifications above in subsection (b), to be a participating city freeway pylon sign.~~

~~2.~~

~~Owners of privately owned signs must apply to the city to participate in the program. A city freeway sign program agreement is required and shall be approved by the city council. This agreement is between the private sign owner and city in which the sign owner grants city control over all or a certain portion of the sign to use for the city~~

freeway pylon sign program in compliance with all regulations in [Section 16.36.092](#), and shall provide provisions for the content, maintenance, and removal of the sign.

D.

~~Once approved for participation in the program, all city freeway pylon signs shall require planning commission approval of a site plan review. The sign shall comply with the following regulations for the non-digital display portion of the sign:~~

~~1.~~

~~Only advertisements for eligible businesses, as defined below, with a city issued business license, shall be displayed.~~

~~2.~~

~~Eligible businesses, in order of priority, for city freeway pylon signs located near the Ranchero Road freeway interchange include: auto malls comprised of at least three dealers, new car dealers, major retailers (more than one hundred thousand (100,000) square feet), minor retailers (between one hundred thousand (100,000) and twenty thousand (20,000) square feet), regional shopping centers or malls with a combined floor area of fifty thousand (50,000) square feet or more, hotel or motels, neighborhood shopping centers of at least fifteen thousand (15,000) square feet, minor retailers of twenty thousand (20,000) square feet or less, full service restaurants, theatres, (motion picture or live action), vehicle fuel stations, fast food outlets, industries within the city with at least fifty (50) employees, any city, county, park district or school district sponsored organizations, and businesses located outside the city and at least one hundred (100) miles from city limits.~~

~~3.~~

~~Eligible businesses, in order of priority, for city freeway pylon signs in all other locations include: major retailers (more than one hundred thousand (100,000) square feet), minor retailers (between one hundred thousand (100,000) and twenty thousand (20,000) square feet), auto malls comprised of at least three dealers, regional shopping centers or malls with a combined floor area of fifty thousand (50,000) square feet or more, hotel or motels, new car dealers, neighborhood shopping centers of at least fifteen thousand (15,000) square feet, minor retailers of twenty thousand (20,000) square feet or less, full service restaurants, theatres, (motion picture or live action), vehicle fuel stations, fast food outlets, industries within the city with at least fifty (50) employees, any city, county, park district or school district sponsored organizations, and businesses located outside the city and at least one hundred (100) miles from city limits.~~

~~4.~~

~~Eligible businesses may apply to city or the private owner, if such sign is privately owned, to obtain advertising space on a city freeway pylon sign. Such application shall be approved provided the applicant's proposal complies with all requirements of [Section 16.36.092](#). Eligible businesses may replace other businesses already on the sign that are lower in priority, after the lease on the occupied space expires. The applicant may choose to occupy a vacant space if available, or to be placed on the city's waiting list or sign operator's waiting list.~~

~~5.~~

~~A waiting list of eligible businesses with approved applications shall be maintained and eligible business shall be notified when a space becomes available. If the sign is owned by the city, a waiting list shall be maintained by the city. If the sign is privately owned, the list shall be maintained by the private owner. The eligible~~

~~businesses on the waiting list shall be contacted in order of priority, not in the order they were placed on the waiting list.~~

~~6.~~

~~Private sign owners may give priority to their tenants but shall allow other eligible businesses on vacant sign spaces and on the digital display.~~

~~7.~~

~~Displaced businesses may renew their lease for any remaining available spaces, or be placed on the waiting list.~~

~~8.~~

~~Notwithstanding the above, shall any vacancies occur for longer than one hundred eighty (180) days, the space shall be offered to the next eligible business at the same or lower rates paid by other tenants on the sign.~~

~~E.~~

~~Digital Display Portions of City Freeway Pylon Signs.~~

~~1.~~

~~Any business or industry within the city, with a city issued business license, regardless of priority, may advertise on the digital display portion of the sign on a first come, first serve basis. City, county, park district or school district sponsored organizations may also advertise on the digital display portions of the sign, subject to availability.~~

~~2.~~

~~The city at its discretion, may advertise public service announcements, traffic conditions or Amber alerts that are a benefit to the community and the traveling public, and may displace other digital display advertisements at any time with these types of announcements.~~

~~3.~~

~~The digital display shall not depict or simulate any motion or video (i.e. video clips or flashing, etc.). Any slide (image) shall be displayed for a minimum of six seconds and transitions between slides shall not take more than one second.~~

~~F.~~

~~City freeway pylon signs do not replace and are not intended as a substitute for any business signage otherwise permitted under this code. Participation in the program is voluntary.~~

~~G.~~

~~Sign Content.~~

~~1.~~

~~Advertisement of "adult" oriented goods or services is prohibited. The advertisement promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with, films rated "X" or "NC-17," adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult internet sites, and escort services.~~

~~2.~~

~~All content, except for public agency announcements, service announcements, and Amber alerts, shall be for commercial purposes only.~~

H.

~~Design Standards:~~

- ~~1. Signs shall be limited to eighty five (85) feet in height.~~
- ~~2. Architecture and design shall be similar to Figures 1 and 2 and will require approval as part of the site plan review.~~
- ~~3. All signs shall include the city's name and logo.~~
- ~~4. Design shall incorporate a variety of colors and materials.~~

Figure 1

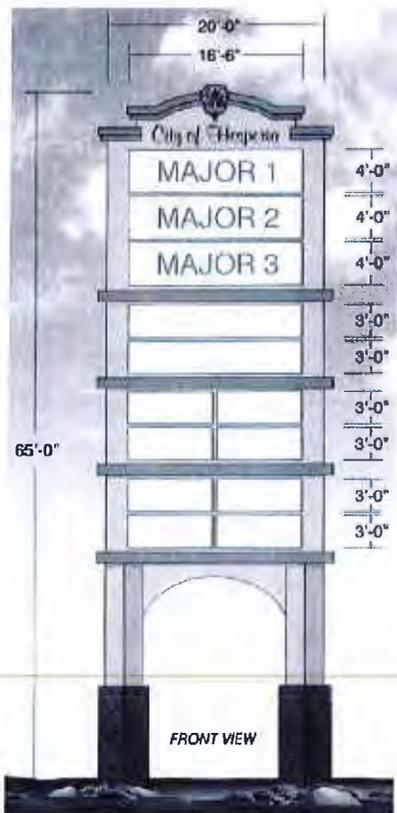
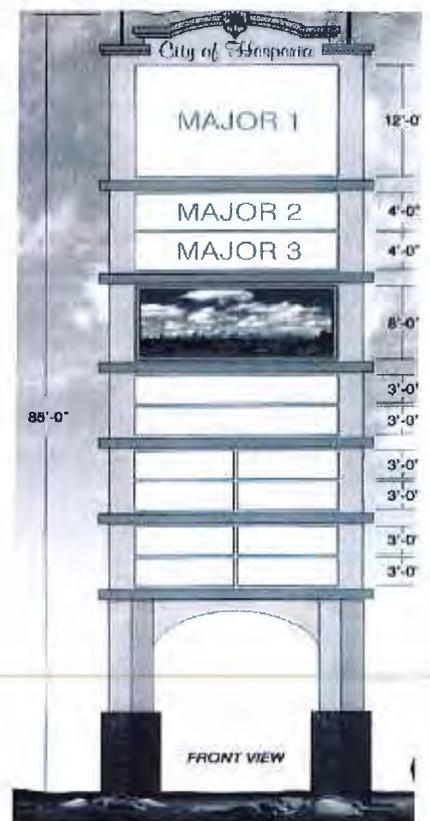


Figure 2



~~(Ord. No. 2013-015, § 4(Exh. A), 11-5-13)~~

Section 16.36.120 is revised to read as follows:

Previously permitted signs and amortization.

A.

"Grandfathering" of Permitted Signs. Any sign erected with permits in accordance with any prior code or this chapter in effect at the time of construction, may remain in place indefinitely. Permitted signs made nonconforming by this chapter are included in this provision, unless they subsequently become subject to subsection (D) of this section.

B. Persons who cannot produce evidence of a permit as required by subsection (A) of this section may appeal the abatement of their sign to the **Planning Commission** ~~community enhancement committee~~. The appeal fee shall be set by resolution of the city council. The committee shall hold a public hearing on the matter and may consider the following factors:

1.

Special topographic circumstances of the site, building or the sign;

2.

Special historical or cultural significance to the community;

3.

Special architectural significance or design limitations that would necessitate the type of sign requested;

4.

Other factors including, but not limited to, adjacent structures or signs, public improvements, specimen trees or existing landscaping that are relevant in the placement or design of the sign in relation to its location within the development.

D. Abatement of Existing Signs. Notwithstanding the status of any sign, whether previously permitted, grandfathered or approved by the **Planning Commission** ~~committee~~, that fall within the criteria listed below, shall immediately be removed from the site, without compensation, under any of the criteria as follows:

1.

Any sign which has been more than fifty (50) percent destroyed or damaged (other than destruction of the facial copy) and the display cannot be repaired within thirty (30) days of the date of its damage or destruction;

2.

Any sign which is a danger to the public or is unsafe; and

3.

Any sign that constitutes a traffic hazard, such as a sign that simulates or interferes with signs or signals, (not created by the relocation of any street or highway or by any other act of the city);

4.

Any sign erected without a permit after the effective date of the ordinance codified in this chapter.

THIS PAGE INTENTIONALLY LEFT BLANK



DATE: December 8, 2016
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
SUBJECT: Donation Bins

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2016-31, recommending that the City Council adopt regulations concerning donation bins.

BACKGROUND

The City's Municipal Code establishes design standards for residential, commercial, industrial and public uses. The Development Code currently does not list donation bins as a permitted use. The City has recently taken code enforcement action to remove several bins from the City. These bins are often placed in parking lots and on vacant land adjacent to the City's right-of-way. In many cases, donations left outside the bins have been causing litter, blight and creating a public nuisance.

As a result of the City's enforcement actions, the City was contacted by individuals representing one of three organizations that placed bins in the City. The representatives cited several court cases alleging that donation bins enjoy First Amendment rights as "silent solicitors" of charitable contributions.

Federal courts in recent years have held that donation bins are protected speech under the First Amendment. In *National Federation of the Blind of Texas, Inc. v. Abbott* (2011) 647 F.3d 202, the 5th Circuit Court of Appeals found that "solicitation is not limited to in-person communication." (*Id.* at 212.) The court goes on to explain, "[t]he mere inclusion of the name of a charity on a donation box communicates information about the beneficiary of the benevolence and explicitly advocates for the donation of clothing and household goods to that particular charity. At a minimum, the donation boxes implicitly advocate for that charity's views, ideas, goals, causes, and values." (*Id.* at 213.) Furthermore, because donation bins are "not mere collection points for unwanted items, but are rather silent solicitors and advocates for particular charitable causes," **the 5th Circuit concluded donations bins are charitable solicitations, distinct from commercial speech.** (*Id.*)

In *Planet Aid v. City of St. Johns* (2015) 782 F.3d 318, the 6th Circuit agreed with the 5th Circuit, holding that "speech regarding charitable giving and solicitation is entitled to strong constitutional protection, and the fact that such speech may take the form of a donation bin does not reduce its level of protection." (*Id.* at 326.) In *Planet Aid*, the City Council of St. Johns voted to adopt an ordinance prohibiting donation boxes within the city. The court in *Planet Aid* determined the ordinance did not ban or regulate all unattended, outdoor receptacles, but only banned unattended, outdoor receptacles with an expressive message on a particular topic – charitable solicitation and giving. (*Id.* at 328.) The court found this to be a content based

restriction. (*Id.*) Applying strict scrutiny, the court concluded that the ordinance was likely to be held a violation of the First Amendment. (*Id.* at 331.)

The City Attorney has researched this issue and found that earlier this year in *Recycle for Change v. City of Oakland*, the 9th Circuit Court of Appeals reviewed the City of Oakland's ordinance regulating the size, maintenance, and location of unattended donation and collection boxes ("UDCB"). The court held that the ordinance was a reasonable time, place, and manner regulation. As an explanation for its ruling, the court highlighted the fact that the **ordinance did not ban donation bins outright, implement content-based restrictions, or discriminate on the basis of viewpoint or the message being conveyed.** Those types of regulations would require strict scrutiny, according to the court. However, the court found the Oakland ordinance applied to all UDCBs equally and the purpose was to address the secondary effects of the UDCBs, such as concerns for graffiti, blight, and public safety. These findings led the court to apply intermediate scrutiny, which requires the ordinance to be narrowly tailored to achieve a substantial government interest and leave open alternative channels of communication. The court found Oakland's interest in addressing illegal dumping, scavenging, graffiti, and traffic safety to be a substantial government interest. Additionally, the court found the regulation of size, maintenance, and location of the UDCBs to be narrowly tailored and that the ordinance did not restrict the ability to solicit donations in a manner unrelated to UDCBs. Thus, Oakland's ordinance was a reasonable time, place, and manner regulation.

ISSUES/ANALYSIS

Section 16.16 of the Hesperia Municipal Code (HMC) lays out regulations for reverse vending machines, collection facilities, and processing facilities. However, there is no reference to donation bins or any similar type of receptacle. The absence of donation bins within the HMC could be interpreted to mean that donation bins are not regulated and therefore there are no restrictions on the same. On the other hand, the absence of donation bins can also be interpreted to mean that donation bins are banned outright from the City. If by leaving out donation bins from the HMC, the City had intended to ban donation bins, the City could face liability if a lawsuit was filed against it on that ground. As discussed above, recent case law has established that if certain collection bins are allowed, but donation bins are not, the City's decision to ban donation bins would be a content based restriction. The City would thus have to face strict scrutiny by the courts. In other words, the regulation would have to be necessary to achieve a compelling government interest. City regulations often do not survive strict scrutiny because that standard of review is so high to meet.

It is also worth noting Gwinnett County, Georgia was sued in federal court by two recycling companies in 2014 for its ban on collection bins placed by for-profit companies. This year, the County proposed a new ordinance that no longer banned collection bins, but more tightly regulated both for-profit and non-profit collection bins. Additionally, the City of Stanton, California was also sued last spring for its ordinance prohibiting donation bins in the city. A few months later, Stanton lifted its ban and approved new regulations allowing the donation bins to be once again placed throughout the city. These recent events indicate there is a real potential for a municipality to be sued if the municipality has banned donation bins. It is also likely that if a municipality were to be sued, that ban would not survive.

The proposed ordinance is similar to one adopted in the City of Perris. It defines donation bins and requires approval of a special use permit. They are only permitted in commercial or industrial land use designations and must be located on paved areas away from buildings. Bins cannot be placed on public property, utility easements or locations where excess parking is not available. Only non-profit organizations are eligible to place bins in the City and contact information from the organization must be clearly labeled on the bin. Any donations left outside the bin are considered a public nuisance and subject to removal by the City at the property owners expense. In conclusion, the proposed ordinance is designed to withstand court challenges that occurred in other cities and will provide a convenient way for citizens to make charitable donations.

ALTERNATIVE(S)

1. The Planning Commission may recommend to not adopt the ordinance. This option is not recommended.
2. Provide alternative direction to staff.

ATTACHMENT(S)

1. Letter from Kristin Greene representing American Textile Recycling Services, dated October 31, 2016
2. Draft Resolution No. PC-2016-31 with Exhibit "A"

MOLERA  ALVAREZ

A GOVERNMENT & PUBLIC AFFAIRS FIRM

October 31, 2016

Dave Reno
Principal Planner
City of Hesperia, CA

Mr. Reno,

American Textile Recycling Services (ATRS) will place twenty (20) donation bins in the city of Hesperia for the purpose of fundraising for Giving Children Hope, a California charity. ATRS agrees that in the course of placing the bins they will be located subject to the zoning and safety limitations imposed by the City for the months of November and December with the possibility of a time extension to be discussed at a later date. The placement of the bins is in anticipation of a new donation bin ordinance to be drafted by Hesperia staff for review and/or approval by the City Council.

Sincerely,



Kristin Greene
V.P. State and Regulatory Affairs

ATTACHMENT 2

RESOLUTION NO. PC-2016-31

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ESTABLISH REGULATIONS TO PERMIT AND REGULATE DONATION BINS (DCA16-00003)

WHEREAS, On January 5, 1998, the City Council of the City of Hesperia adopted its Ordinance No. 250, thereby adopting the Hesperia Municipal Code; and

WHEREAS, Chapter 16.20 of the Hesperia Development Code establishes development standards for a variety of uses as well as improvements to commercial and industrial property. Similar regulations are established within the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, The City of Hesperia recognizes the need to permit and regulate the placement of donation bins to allow charitable contributions to be collected, while protecting the health, welfare and safety of citizens; and

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Development Code revisions regarding donation bins can have significant adverse effects on the environment; and

WHEREAS, On December 8, 2016, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to donation bins and concluded said hearing on that date.

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

NOW THEREFORE, THE PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

1. All of the facts set forth in the Recitals, Part A of this Resolution, are true, correct and are adopted as findings.
2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Resolution is consistent with the goals and objectives of the adopted General Plan.
3. The proposed Development Code revisions are exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Code revisions regarding donation bins can have significant adverse effects on the environment.

4. Based upon the conclusions set forth in paragraphs 1, 2 and 3 above, this Commission hereby recommends that the City Council approve and place on first reading an ordinance establishing regulations for donation bins, as shown in EXHIBIT "A".
5. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 8th day of December 2016.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission

EXHIBIT "A"

Chapter 16.20 of the Hesperia Development Code is revised to read as follows:

ARTICLE XIV

DONATION BINS

Sections:

16.20.750 PURPOSE
16.20.760 DEFINITION
16.20.770 DEVELOPMENT CRITERIA
16.20.780 PROHIBITED LOCATIONS
16.20.790 APPROVAL PROCESS
16.20.800 DEVELOPMENT STANDARDS

16.20.750 PURPOSE AND INTENT

The purpose of regulating Donation Bins is to ensure public safety, avoid public nuisance, and promote compatibility of the use with surrounding uses and properties.

16.20.760 DEFINITION

Donation Bin. As used herein, shall mean a small detached structure placed on private property used for the deposit of donated household goods such as clothing and shoes, small appliances, toys, etc., intended for collection by the charity or other nonprofit organization with ownership of the bin.

16.20.770 DEVELOPMENT CRITERIA

Donation Bins are permitted on developed sites in all commercial and industrial zones subject to the following:

- A. A Special Use Permit application shall be submitted and approved administratively (by Planning staff) prior to placement of any Donation Bin.
- B. A maximum of one (1) Donation Bin may be placed on any one developed commercial or industrial lot. Development must have previously been approved by the City.
- C. Donation Bins shall be spaced apart from one another by a minimum distance of 300 feet.
- D. Permits for Donation Bins shall be issued to non-profit organizations only. A copy of the organization's 501(c) shall be submitted with the Special Use Permit application.
- E. No Donation Bin shall be placed within the public right of way, landscaped areas, required parking spaces, or on vacant land.

16.20.780 PROHIBITED LOCATIONS

- A. All residential and agricultural zones and land use designations.
- B. Within the Public Institutional zone and all public facilities, including schools, parks and public places.
- C. Vacant land, including the undeveloped portion of a commercial or industrial project.
- D. Public right of ways, utility easements, and utility corridors.

16.20.790 APPROVAL PROCESS

Donation Bins shall not be placed on any location within the City without approval by the Planning Division, based on the following requirements:

- A. Application: Applicant shall file an application for a Special Use Permit.
- B. Authorization: If the property owner is not the applicant, the owner's written authorization on the City form is required and shall be notarized.
- C. Exhibits: Provide three (3) copies of the exhibits described below:
 - 1. Elevation drawings or photographs of the proposed Donation Bin are required. Drawings and Donation Bin specifications shall be fully dimensioned.
 - 2. Site Plan shall depict location of all structures, parking areas, trash enclosures, landscaping, and pedestrian walkways, including disabled access, potentially affected by the Donation Bin. Buildings and parking stalls shall be dimensioned, and the Site Plan shall be drawn to scale. Include all boundaries and property features including but not limited to, north arrow, vicinity map, scale, public utility poles and boxes, guy wires, signs, fire hydrants and fire lanes.
- D. Grant Deed for property.
- E. Copy of the organization's 501(c) for proof of non-profit status.
- F. The Planning Division will issue one (1) numbered permit per approved Donation Bin to be permanently affixed in a conspicuous location on the front of the box. Permits are not transferrable.

16.20.800 DEVELOPMENT STANDARDS

- A. Donation Bins shall not exceed the dimensions of six (6) feet wide by six (6) feet deep (36 square feet), and eight (8) feet in height.
- B. Donation Bins must be placed within the buildable area of the lot. Donation bins shall be located on gravel, concrete or asphalt.
- C. Donation Bins shall have paved access.
- D. Donation Bins shall be located no closer than 10 feet from existing buildings or structures, interior property lines and property lines adjacent to public streets.
- E. Donation Bins shall be located a minimum of 100 feet away from residential property or properties designated or zoned for residential or agricultural uses.
- F. All donations must be fully contained within the bin. Donations not fully contained within the bin are considered a public nuisance and subject to removal by the City at the property and/or bin owner's expense. Donation Bin's shall state on their exterior: "No donation items shall be left outside this bin."
- G. Donation Bins shall contain contact information consisting at a minimum, the name of the nonprofit organization and a valid phone number.

- H. Donation Bins shall be maintained in good condition with no graffiti or excessive signage. Graffiti shall be removed within forty-eight (48) hours.
- I. Nonprofit organizations shall obtain a no-cost business license from the City of Hesperia.

Chapter 10, Subsection B 10 of the Main Street and Freeway Corridor Specific Plan is revised to read as follows:

- (g) Donation bins are permitted pursuant to Article XIV of Chapter 16.20 of the HMC.

Chapter 11, Subsection B 11 of the Main Street and Freeway Corridor Specific Plan is revised to read as follows:

- (e) Donation bins are permitted pursuant to Article XIV of Chapter 16.20 of the HMC.

THIS PAGE INTENTIONALLY LEFT BLANK



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, November 16, 2016**

A. PROPOSALS:

1. ALTEC ENGINEERING; (SPR16-00014)

Proposal: Consideration of a Site Plan Review and Tentative Tract (TTE16-00012) to allow construction of a 72-unit town home complex on 10.9 gross acres.

Location: Southwest corner of Sultana Street and "G" Avenue (0410-221-08)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

2. ROBERTO RODRIGUEZ; (CUP16-00010)

Proposal: Consideration of a Conditional Use Permit to allow the sale of beer (Type 40) for on-site consumption within a proposed billiard hall.

Location: 17352 Main Street (0410-135-56)

Planner: Ryan Leonard

Action Taken: Forwarded to Planning Commission Meeting of December 8, 2016

3. LEWIS RETAIL CENTERS; (SPRR16-00008)

Proposal: Consideration of Tentative Parcel Map 19555 to create 6 parcels from 21.39 gross acres (PMNR16-00002) and Revised Site Plan Review SPRR16-00008 to construct a gas station with 8 fuel dispensers, a 5,423 square foot convenience store with an attached car wash, and an 8,530 square foot commercial building.

Location: Southwest corner of Main Street and Cataba Road (3064-601-06)

Planner: Ryan Leonard

Action Taken: Administrative Approval

4. **CLAUDIA KANO: (CUPE16-00001)**

Proposal: Consideration of a Conditional Use Permit Extension to allow a first extension of time for approved Conditional Use Permit CUP13-00003 to construct a 99-bed skilled nursing facility, a 52-unit independent living facility, and a 7,051 square foot outpatient dialysis center on 5.3 gross acres.

Location: 17577 and 17579 Sultana Street (0411-214-40 & 41)

Planner: Daniel Alcayaga

Action Taken: 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, November 30, 2016**

A. PROPOSALS:

1. PACIFIC COMMUNITIES BUILDER, INC.; (TTE16-00018)

Proposal: Consideration of an extension of time for an approved Tentative Tract (TT-16767) to create 52 single-family residential lots on 10.0 gross acres.

Location: South side of Hollister Street, approximately 650 feet west of Fuente Avenue (3057-051-33, 34 & 35)

Planner: Ryan Leonard

Action Taken: Administrative Approval

2. ALTA VISTA PUBLIC CHARTER SCHOOL; (SPRR16-00010)

Proposal: Consideration of a Revised Site Plan Review to expand an existing charter school.

Location: 11960 Hesperia Road, Unit C (0415-034-11)

Planner: Daniel Alcayaga

Action Taken: Administrative Approval

THIS PAGE INTENTIONALLY LEFT BLANK
