

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: March 12, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Stephen James, Chair

Chris Elvert, Vice Chair

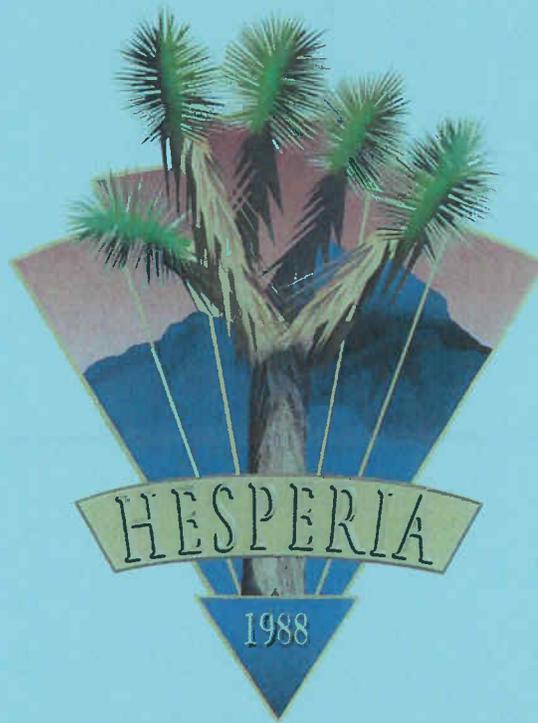
Joline Bell Hahn, Commissioner

Paul Russ, Commissioner

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

Dave Reno, Principal Planner

Douglas P. Haubert, 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.

MARCH 12, 2009

**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 Stephen James
 - Vice Chair Chris Elvert
 - Commissioner Joline Bell Hahn
 - Commissioner Paul Russ

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: February 26, 2009 Planning Commission Meeting Draft Minutes

-1-

PUBLIC HEARINGS

1. Consideration of a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison electric transmission tower located 225 feet south of Farmington Street and 435 feet east of Topaz Avenue (CUP-2008-12; Applicant: Royal Street Communications California, LLC; APN: 405-144-89) (Staff Person: Daniel S. Alcayaga, AICP). **1-1**

Consideration of a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison electric transmission tower located 460 feet east of Mariposa Avenue and 490 feet north of Mojave Street (CUP-2008-13; Applicant: Royal Street Communications California, LLC; APN: 405-331-24) (Staff Person: Daniel S. Alcayaga, AICP).

Consideration of a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison electric transmission tower located 50 feet south of Mesquite Street and 570 feet east of Opal Avenue (CUP-2008-14; Applicant: Royal Street Communications California, LLC; APN: 405-371-54) (Staff Person: Daniel S. Alcayaga, AICP).

Consideration of a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison electric transmission tower located 1,000 feet east of "I" Avenue and 250 feet south of Redding Street (CUP-2008-15; Applicant: Royal Street Communications California, LLC; APN: 398-131-17) (Staff Person: Daniel S. Alcayaga, AICP).

- 2. Consideration of Revision to the City's Sign Regulations, concerning Billboards (Applicant: City of Hesperia; 2-1 City Wide) (Staff Person: Dave Reno, AICP).

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

3-1

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, Eva Heter, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, March 5, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter
Planning Commission Secretary

**PLANNING COMMISSION
REGULAR ADJOURNED MEETING**

DRAFT MINUTES

February 26, 2009

The special meeting of the Hesperia Planning Commission was held on Thursday, February 12, 2009 in the City Council Chambers, 9700 Seventh Avenue Hesperia, California. The meeting was called to order at 6:30 p.m. by Chair James.

A. CALL TO ORDER

1. Pledge of Allegiance – Commissioner Russ

2. Invocation - Vice Chair Elvert

3. Roll Call

| | |
|--------------------------------|---------|
| Chair, Stephen James | Present |
| Vice Chair, Chris Elvert | Present |
| Commissioner Joline Bell Hahn | Absent |
| Commissioner Paul Russ | Present |
| (1) Commissioner's Seat Vacant | |

Motion: Commissioner Russ motioned to excuse the absence of Commissioner Hahn. Vice Chair Elvert seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

In Attendance for Staff: Principal Planner, Dave Reno AICP; Assistant City Attorney, Jeff Malawy; Senior Planner, Daniel Alcayaga AICP; Assistant Planner, Lisette Sanchez-Mendoza; Senior Engineer, Tom Thornton; City Project Manager, David Burkett; Recording Secretary, Eva Heter.

B. PUBLIC COMMENTS-

Chair James opened Public Comment: 6:32 p.m.

No comments to consider.

Chair James closed Public Comments: 6:32 p.m.

C. CONSENT CALENDAR

Approval of Minutes: February 12, 2009 Planning Commission Minutes

Motion: Commissioner Russ moved to approve the February 12, 2009, Planning Commission Minutes as presented. Vice Chair Elvert seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

* * * * *

D. PUBLIC HEARING ITEMS

1. Consideration of Conditional Use Permit (CUP-2008-07) to construct a 16,519 square foot truck terminal building on 5.6 gross acres zoned I-2, located on the south side of Lilac Street, 200 feet east of Darwin Avenue (Applicant: Wyatt Properties, LLC; APNs: 0415-211-31 & 0415-221-01) (Staff Person: Paul Rull).

Assistant Planner, Lisette Sanchez-Mendoza gave a brief staff report. She introduced a letter submitted to staff by Steve Gilhooly (See Attachment #1).

Senior Engineer, Tom Thornton reviewed the specifications on the stock pile permit that had been permitted, stating that dirt was to be stockpiled on the lot with the anticipation of the project commencement. He stated that an inspection had been completed to see that the stock pile had been placed according to plan; however, once the stock pile had been inspected and signed off it seemed as though there was some additional grading on the lot, after the inspection, which caused a possible encroachment on the neighboring property.

Assistant Planner, Lisette Sanchez-Mendoza stated that the CUP was consistent with both the General Plan and Zoning and that staff was recommending approval.

Vice Chair Elvert questioned if the concerns outlined in the letter submitted by Steve Gilhooly were being addressed; questioning if the current applicant would have to remedy the situation.

Senior Engineer, Tom Thornton stated that he would direct Vice Chair Elvert's question to the Assistant City Attorney.

Assistant City Attorney, Jeff Malawy stated that there had been a grading without a grading permit; however, when considering whether or not the project should go forward the concern was not something to be considered by the Planning Commission prospectively. He stated that the violation occurred on the property, prior to the applicant applying for the entitlements, and the violation could be handled privately between the two parties unless there was a code violation already written by a code enforcement officer.

Principal Planner, Dave Reno AICP stated that there were remedies available, with respect to the time the additional grading took place. He stated that a grading plan would have to be submitted, double fees would be paid for grading after the initial stockpile and then having to remedy it afterward. He stated that the concern was not a matter of consistency with the Zoning or General Plan because the project proposal was consistent with the two plans; furthermore, remedies were in place for the concern presented to the Planning Commission and any other considerations would be a civil matter in terms of restoring the fence. He also stated that both parties were in attendance and would be available to discuss the issue further with the Planning Commission.

Commissioner Russ questioned if the slope would be set back to the two feet; questioning if the encroachment would be corrected, according to the Cities requirements.

Principal Planner, Dave Reno AICP stated that two actions could take place: a) a final grading plan would be reviewed b) there is a possible necessity for some off-site encroachment and an agreement would have to be in place between the applicant and his neighbor.

Chair James questioned the proposed route to and from the facility.

Principal Planner, Dave Reno AICP stated that there were limited amounts of access to the parcel; no real diversion of traffic was possible.

Chair James opened Public Hearing: 6:41 p.m.

David Parker, Wyatt Properties Representative stated that no grading whatsoever had occurred on the property after the inspection. He stated that he had met with the neighboring property owner in December, at which time the concern regarding the fencing was mentioned; the fencing, which was extending three feet on the proposed site, was removed. He stated that Mr. Gilhooly's concern was that dumping would occur on his property; therefore, an agreement was reached that a temporary fence would be placed across Lilac to deter outside instance to both properties and then once the permit was received he would move the bank back to where it belonged and a new fence would be installed along with a block wall across the front. He stated that he thought that the agreement was all taken care of, due to his meeting with Mr. Gilhooly in December.

Vice Chair Elvert stated that it was just a matter of placing the issue as part of the public record.

Commissioner Russ stated that Mr. Gilhooly was just protecting his rights and placing the issue part of the public record.

David Parker, Wyatt Properties stated that absolutely not one bit of grading had taken place on the proposed site, post inspection; stating that not one piece of equipment has been on the property since the inspector signed off on the permit.

Chair James questioned the type of business that would be conducted on the site.

David Parker, Wyatt Properties stated APEX Trucking was a bulk commodity carrier, one of the largest in the west coast; the proposed site was for the limestone division. He stated that the site would be one of five terminal sites with the primary terminal in Adelanto. He stated that moving the facility to Hesperia would save about ten road miles for approximately 30 trucks; the site would create roughly 80 jobs to the City of Hesperia.

Vice Chair Elvert questioned if the site would be a loading facility or a repair yard.

David Parker, Wyatt Properties stated that the site would be a maintenance yard. He reviewed the truck schedule and the maintenance opportunities that the site would provide.

Vice Chair Elvert questioned the timing of the site development if an approval was obtained.

David Parker, Wyatt Properties stated that he had already been working on the project for roughly a year and he had hoped that an approval would be obtained in order to move the project along.

Chair James questioned the route of the trucks when leaving the facility.

David Parker, Wyatt Properties stated possible routes for trucks to travel.

Chair James clarified that trucks would travel down Bear Valley Road to "I" Avenue and into the facility and back by way of "G" Avenue to "I" Avenue to Bear Valley and back to the Freeway. He also questioned storage.

David Parker, Wyatt Properties reviewed the types of storage that would be maintained on the lot.

Steve Gilhooly stated that he was the agent for the trust owning the property. He stated that there were some challenges on the property and he wanted to make sure that corrections would be made according to the code. He addressed the letter introduced into public record (See Attachment #1). He discussed previous conversations with Mr. Parker and was assured that corrections would be made; however, he just wanted to make sure that the corrections would be made according to his understanding of the code.

Principal Planner, Dave Reno AICP stated that the condition states that off-site easements would need to be made by the applicant. He stated that if there was an encroachment on the neighboring property then the applicant would be responsible for obtaining the easement from Mr. Gilhooly; he also stated that if the grading plan signifies that all grading and slopes can be maintained entirely on the property, then obtaining the easements would not be necessary. He stated that restoring the property however was a necessity, as indicated in prior discussion and if not indicated as necessary in the final grading plan then the applicant would have to restore the conditions.

Steve Gilhooly stated that he wanted it stated in the record that 530' of the fence was removed and Mr. Parker claims that the fence was on his property; however, 132' of the fence was not on his property and the fence was completely gone. He stated that he accepted that fact that with the new building, if Mr. Parker secures the Richard's Family Trust property from potential dumping, liability, etc. then he didn't have a problem.

Chair James closed Public Hearing: 6:49 p.m.

Commissioner Russ stated that it appeared as though everything would be taken care of between the applicant and neighboring owner.

Vice Chair Elvert stated that Mr. Gilhooly could always come back before the Commission with future concerns.

Commissioner Russ stated that Mr. Gilhooly had placed his concerns as part of the public record and if encroachment was necessary then the applicant would have to get an agreement.

Motion: Commissioner Russ motioned to adopt Resolution No. PC-2009-10, as presented approving Conditional Use Permit (CUP-2008-07). Vice Chair Elvert seconded the motion. The motion passed by the following roll call vote:

Ayes: Commissioner Russ, Vice Chair Elvert, Chair James

Noes:

Absent: Commissioner Hahn

Abstains:

* * * * *
* * * * *

2. Consideration of Public Facility Review (PFR-2008-07), to construct a two-story, 66,778 square foot government office building on 6.0 gross acres zoned High Density Residential within the Main Street and Freeway Corridor Specific Plan, located on the northwest corner of Smoke Tree Street and Seventh Avenue (Applicant: County of San Bernardino; APN: 0407-224-01) (Staff Person: Lisette Sanchez-Mendoza).

Assistant City Attorney, Jeff Malawy stated that Commissioner Russ had stated that he had a family member employed by the County of San Bernardino; however, under California's Political Reform Act Commissioner Russ did not have a financial interest in the project, hence no conflict of interest.

Vice Chair Elvert stated that he was currently employed by the County of San Bernardino.

Assistant City Attorney, Jeff Malawy stated that there was no conflict of interest for either Commissioner Russ or Vice Chair Elvert.

Principal Planner, Dave Reno AICP read two corrections into the record. He stated that the first change would be on page 2-14 of the agenda, Condition 22, A.: changing the sidewalk width from 6' to 5'; and on page 2-15 of the agenda, the last sentence of Condition 24 should read: The number, size, type, and configuration of plans to approve by the City shall be consistent with the Civic Center Design guidelines and the exhibit attached thereto dated 2/26/09. He stated that further explanation of the changes would follow.

Assistant Planner, Lisette Sanchez-Mendoza gave a brief staff report.

Vice Chair Elvert questioned the parking agreement.

Principal Planner, Dave Reno AICP stated that there was a parking agreement; he reviewed parking specifications for the project.

Vice Chair Elvert questioned if parking at City Hall could be used.

Principal Planner, Dave Reno AICP stated that the parking could work both ways.

Vice Chair Elvert requested additional information on the traffic report.

Principal Planner, Dave Reno AICP reviewed the traffic study for the proposed project.

Vice Chair Elvert questioned the portion of the building would be gated.

Principal Planner, Dave Reno AICP reviewed the fencing that would be included on the site.

Chair James opened Public Hearing: 6:58 p.m.

No comments to consider

Chair James closed Public Hearing: 6:58 p.m.

Motion: Vice Chair Elvert motioned to adopt Resolution No. PC-2009-03, as amended approving Public Facility Review (PFR-2008-07). Commissioner Russ seconded the motion. The motion passed by the following roll call vote:

Ayes: Commissioner Russ, Vice Chair Elvert, Chair James

Noes:

Absent: Commissioner Hahn

Abstains:

* * * * *

E. PRINCIPAL PLANNER'S REPORT

DRC COMMENTS:

Principal Planner, Dave Reno AICP reviewed the DRC Agenda comments.

F. PLANNING COMMISSION BUSINESS OR REPORTS:

* * * * *

G. ADJOURNMENT-

Chair James adjourned the meeting to Thursday, March 12, 2009 at 7:01 p.m.

Approved By:

Stephen S. James, Chair

Attested By:

Eva Heter, Recording Secretary

RECEIVED

February 25, 2009

FEB 25 2009

Hesperia Planning Commission
9700 Seventh Avenue
Hesperia, CA 92345

CITY OF HESPERIA
COMMUNITY DEVELOPMENT

RE: Consideration of Conditional Use Permit CUP-2008-07 to construct a 16,519 square foot truck terminal building on 5.6 gross acres zoned I-2, located on the south side of Lilac Street, 200 feet east of Darwin Avenue (Applicants: Wyatt Properties, LLC; APNs: 415-211-31 & 415-221-01)

Dear Mr. Paul Rull,

I am writing this letter in response to your request for input in support of or opposition to the above proposal.

My name is Steve Gilhooly; I am agent for the Robert P. and Dortha F. Richards Family Living Trust that owns the property at 17269 Lilac St and 17354 Mesa Rd. APNs: 415-221-02 & 415-221-210 which is on the eastern border of the Wyatt property.

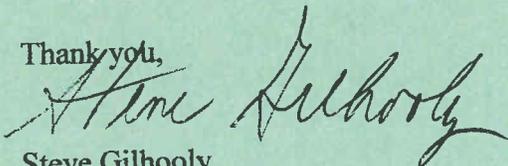
We are in support of this Conditional Use Permit PROVIDING the following is remedied:

1. Toe of the pad slope that intrudes, as much as 10', onto 17354 Mesa Rd. be re-graded to meet City of Hesperia code requirements – toe of slope to be set back 2' from property line. (Title 15 BUILDING AND CONSTRUCTION, Chapter 15.06 Grading).
2. Approximately 580' of chain link fence and support poles removed from 17354 Mesa Rd. is replaced.

Dave Parker, representative for Wyatt Properties, has assured me this will be done.

If you have any questions, please let me know.

Thank you,



Steve Gilhooly
19544 Oneida Rd.
Apple Valley, CA 92307
760-946-2829



DATE: March 12, 2009
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel S. Alcaayaga, AICP Senior Planner
SUBJECT: Conditional Use Permit Nos. CUP-2008-12, CUP-2008-13, CUP-2008-14, & CUP-2008-15; Applicant: Royal Street Communications California, LLC; APN: 405-144-89, 405-331-24, 405-371-54, & 398-131-17

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2009-13, PC-2009-14, PC-2009-15, and PC-2009-16 approving Conditional Use Permit Nos. CUP-2008-12, CUP-2008-13, CUP-2008-14, and CUP-2008-15.

BACKGROUND

Proposal: Conditional Use Permits to co-locate telecommunication wireless facilities on existing on Southern California Edison electric transmission towers (Attachment 1).

Current General Plan, Zoning and Land Uses: The telecommunication wireless facilities will be located on transmission towers within Southern California Edison electric transmission easements. The General Plan designation and zoning for the sites are as follows:

| | Zoning | General Plan Land Use |
|-------------|---|-------------------------|
| CUP-2008-12 | Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½) | Public (P) |
| CUP-2008-13 | Office Park in the Main Street and Freeway Corridor Specific Plan | Planned Mixed Use (PMU) |
| CUP-2008-14 | RR-2 ½ | Public (P) |
| CUP-2008-15 | None | Public (P) |

Locations:

| | |
|-------------|--|
| CUP-2008-12 | 225 feet south of Farmington Street and 435 feet east of Topaz Avenue (Attachments 2 and 3). |
| CUP-2008-13 | 460 feet east of Mariposa Avenue and 490 feet north of Mojave Street (Attachments 4 and 5). |
| CUP-2008-14 | 50 feet south of Mesquite Street and 570 feet east of Opal Avenue (Attachments 6 and 7). |
| CUP-2008-15 | 1,000 feet east of "I" Avenue and 250 feet south of Redding Street (Attachments 8 and 9). |

ISSUES/ANALYSIS

Land Use: The transmission towers range in height between 78 feet to 144 feet. The proposals would allow antennas to be attached to the towers at a height range between 40 feet to 65 feet. Mechanical equipment building sizes range from 200 square feet to 325 square feet and would be constructed on the ground entirely within the power line easements.

Metro PCS, the service provider, does not have any existing telecommunication wireless facilities in Hesperia. These are the first facilities being proposed in the City to give them the necessary network to begin providing service. Based on the service plans submitted to the City, staff has determined that the proposals would provide good to fair coverage in the respective service areas, while meeting the City's policy of co-locating on existing facilities. The proposed facilities are consistent with the General Plan land use and zoning standards.

Drainage: The proposed projects will not interfere with the current drainage flow of the sites.

Street Improvements: No public street improvements are required as the facilities cause little new traffic.

Environmental: These projects are exempt from the California Environmental Quality Act (CEQA), per Section 15303, New Construction or Conversion of Small Structures.

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

FISCAL IMPACT

Construction of these projects will be subject to payment of plan review and inspection fees as adopted by the City.

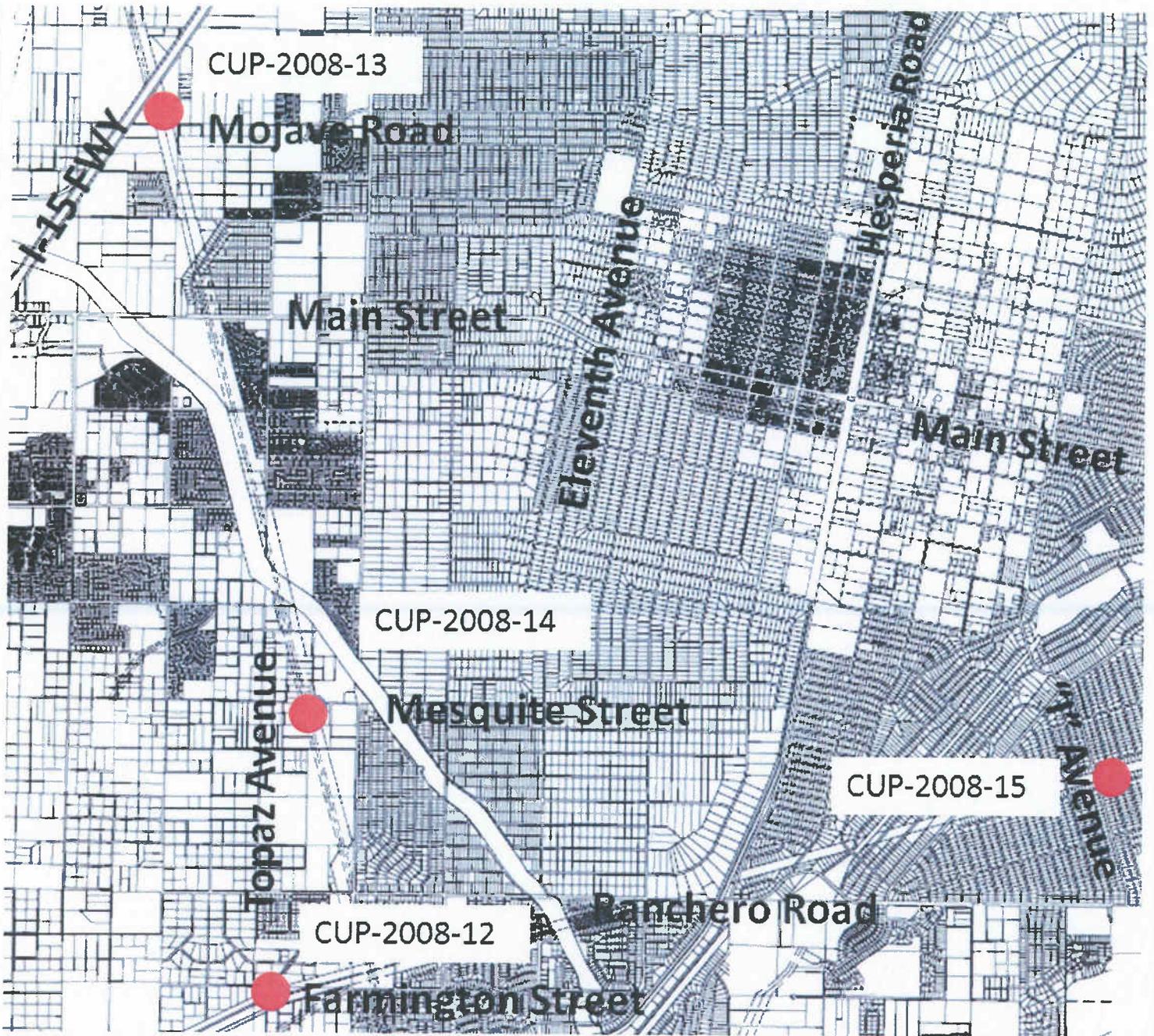
ALTERNATIVE(S)

Provide alternative direction to staff.

ATTACHMENTS

1. Area Map
2. Site Plan (CUP-2009-12)
3. Aerial Photo (CUP-2009-12)
4. Site Plan (CUP-2009-13)
5. Aerial Photo (CUP-2009-13)
6. Site Plan (CUP-2009-14)
7. Aerial Photo (CUP-2009-14)
8. Site Plan (CUP-2009-15)
9. Aerial Photo (CUP-2009-15)
10. Resolution No. PC-2009-13, with list of conditions
11. Resolution No. PC-2009-14, with list of conditions
12. Resolution No. PC-2009-15, with list of conditions
13. Resolution No. PC-2009-16, with list of conditions

ATTACHMENT 1



APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC

FILE NO (S):
CUP-2008-12, -13, -14, &
-15

LOCATION: CITY OF HESPERIA

APN (S): 405-144-89,
405-331-24, 405-371-
54, & 398-131-17

PROPOSAL: CONSIDERATION OF A FOUR CONDITIONAL USE PERMITS TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITIES ON EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWERS



AREA MAP

ATTACHMENT 3



APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC

FILE NO (S):
CUP-2008-12

LOCATION: 225 FEET SOUTH OF FARMINGTON STREET AND 490 FEET EAST OF TOPAZ AVENUE.

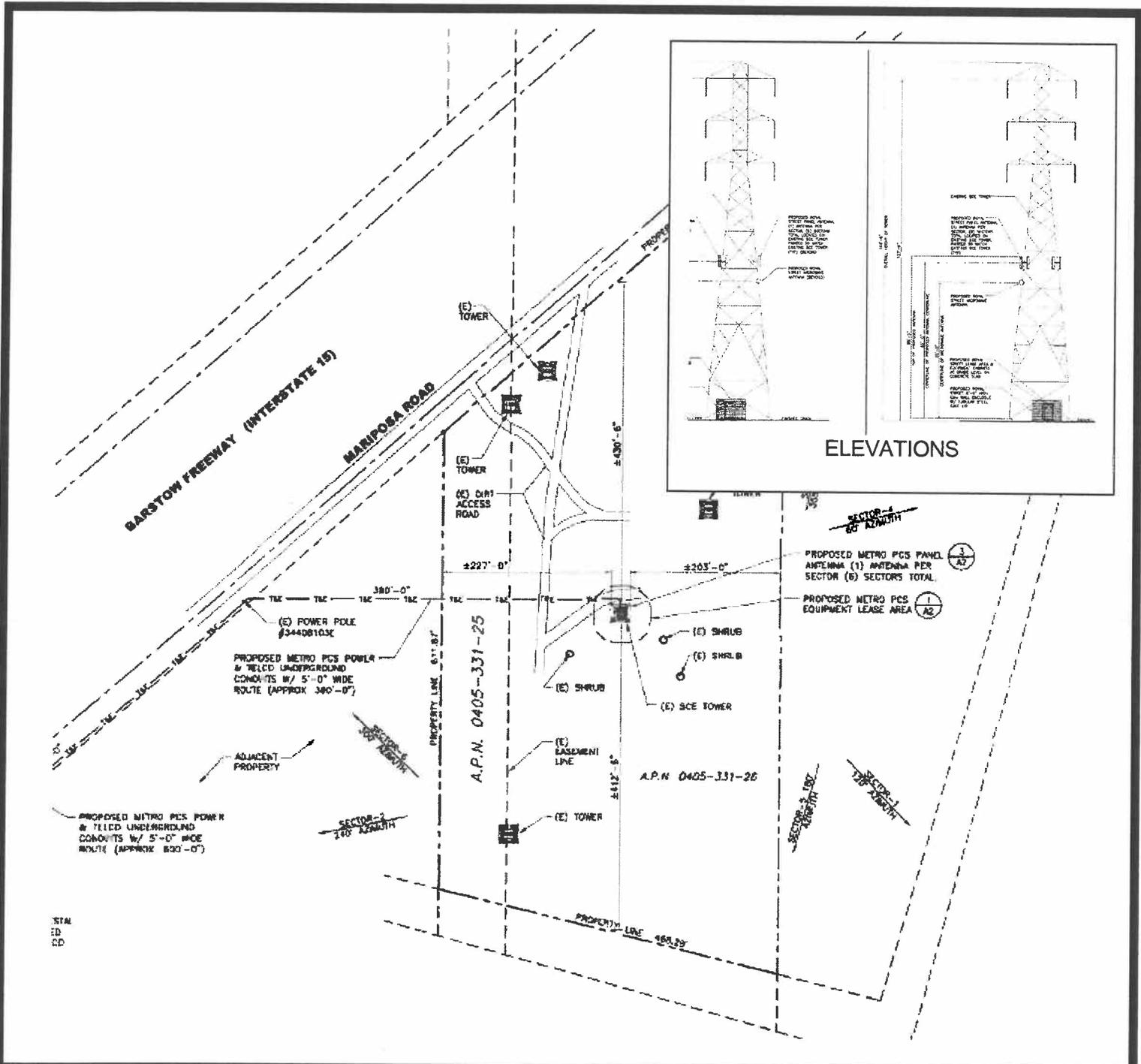
APN (S): 0405-144-89

PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



AERIAL PHOTO (CUP-2008-12)

ATTACHMENT 4



| | |
|---|------------------------------------|
| APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC | FILE NO (S):
CUP-2008-13 |
| LOCATION: 460 FEET SOUTHEAST OF MARIPOSA AVENUE AND 490 FEET NORTH OF MOJAVE STREET | APN (S): 0405-331-24 |
| PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER | |



SITE PLAN (CUP-2008-13)

ATTACHMENT 5



APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC

FILE NO (S):
CUP-2008-13

LOCATION: 460 FEET SOUTHEAST OF MARIPOSA AVENUE AND 490 FEET NORTH OF MOJAVE STREET

APN (S): 0405-331-24

PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



PHOTO AERIAL (CUP-2008-13)

ATTACHMENT 7



APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC

FILE NO (S):
CUP-2008-14

LOCATION: 50 FEET SOUTH OF MESQUITE STREET AND 575 FEET EAST OF OPAL AVENUE

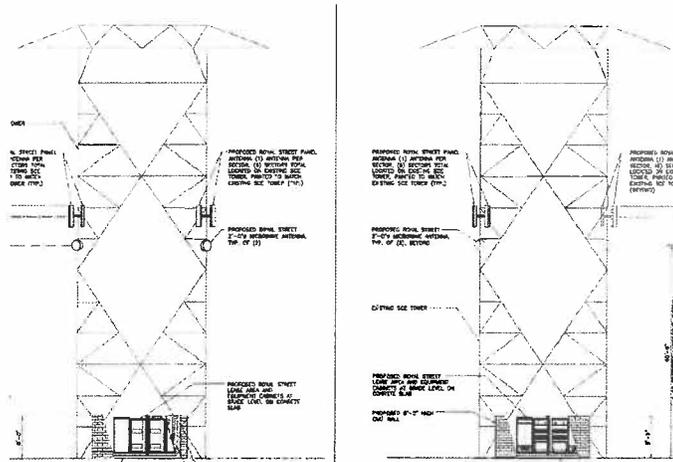
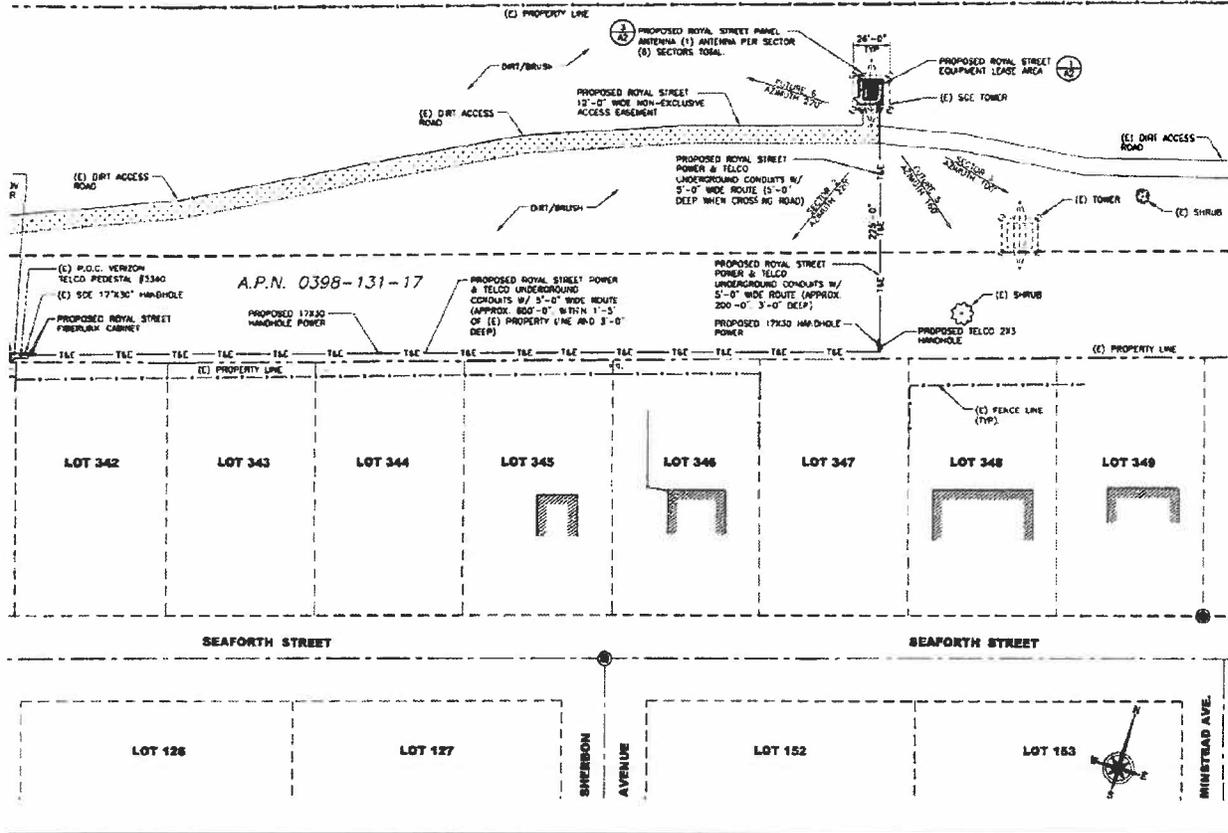
APN (S): 0405-371-54

PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



PHOTO AERIAL (CUP-2008-14)

ATTACHMENT 8



ELEVATIONS

| | |
|---|------------------------------------|
| APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC | FILE NO (S):
CUP-2008-15 |
| LOCATION: 1,000 FEET EAST OF "1" AVENUE AND 350 FEET SOUTH OF REDDING STREET | APN (S): 0398-131-17 |
| PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER | |

SITE PLAN (CUP-2008-15)

ATTACHMENT 9



APPLICANT (S):
ROYAL STREET COMMUNICATIONS CALIFORNIA, LLC

FILE NO (S):
CUP-2008-15

LOCATION: 1,000 FEET EAST OF "11" AVENUE AND 350 FEET SOUTH OF REDDING STREET

APN (S): 0398-131-17

PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT TO CO-LOCATE A TELECOMMUNICATION WIRELESS FACILITY ON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



PHOTO AERIAL (CUP-2008-15)

ATTACHMENT 10

RESOLUTION NO. PC-2009-13

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY UPON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER LOCATED 225 FEET SOUTH OF FARMINGTON STREET AND 490 FEET EAST OF TOPAZ AVENUE (CUP-2008-12)

WHEREAS, Royal Street Communications California, LLC, has filed an application requesting approval of Conditional Use Permit CUP-2008-12 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Southern California Edison Transmission Lines, which is within the Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½) Zone District located 225 feet south of Farmington Street and 490 feet east of Topaz Avenue and includes Assessor's Parcel Number 0405-144-89; and

WHEREAS, the Application, as contemplated, proposes to construct a wireless communications facility upon the existing Southern California Edison electric transmission tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs northwest and southeast, developed with existing electric transmission towers and associated equipment. The properties are developed with single-family residences to the north and south; and

WHEREAS, the subject site is currently designated Public (P). The properties to the north and south are designated Very Low density residential. The property to the east is designated P and the land is the within the County of San Bernardino jurisdiction to the west; and

WHEREAS, the subject property as well as surrounding properties are currently zoned Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½); and

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

WHEREAS, on March 12, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced March 12, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (d) The site for the proposed use will have adequate access based upon the existing access at Topaz Avenue.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP-2008-12, 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 13th day of March 2008.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP-2008-12:

Approval Date: March 12, 2009
Effective Date: March 24, 2009
Expiration Date: March 24, 2009

This list of conditions apply to a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison power line tower, located within the Southern California Edison power line easement located 225 feet south of Farmington Street and 490 feet east of Topaz Avenue. Any change of use or expansion of area may require approval of a Conditional Use Permit application (APN: 0405-144-89).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within two (2) 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 at least thirty (30) days prior to the expiration date.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

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

Init Date

- | | | |
|-------|-------|--|
| _____ | _____ | 1. <u>Building Constructions Plans.</u> Four complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division for review. (B) |
| _____ | _____ | 2. <u>Facility Requirements.</u> The antennae and all other equipment installed upon the power line tower shall be of a matching color to the tower. The antennae, any proposed perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P) |
| _____ | _____ | 3. <u>AQMD Approval.</u> The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B) |
| _____ | _____ | 4. <u>Access to the Wireless Communications Facility.</u> Access to the wireless communications facility shall be provided as shown upon the approved site plan. (P) |
| _____ | _____ | 5. <u>Consistency with Approved Graphics.</u> Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P) |

- _____ 6. **Indemnification**. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Advisory Board, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 7. **On-Site Improvements**. All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The facility shall be constructed consistent with the design shown upon the approved graphics. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

IF YOU NEED 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 | 947-1474 |
| (F) | Fire Prevention Division | 947-1623 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

ATTACHMENT 11

RESOLUTION NO. PC-2009-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY UPON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER LOCATED 460 FEET EAST OF MARIPSOA AVENUE AND 490 FEET NORTH OF MOJAVE STREET (CUP-2008-13)

WHEREAS, Royal Street Communications California, LLC, has filed an application requesting approval of Conditional Use Permit CUP-2008-13 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Southern California Edison Transmission Lines, which is within the Office Park zone in the Main Street and Freeway Corridor Specific Plan located 460 feet east of Mariposa Avenue and 490 feet north of Mojave Street and includes Assessor's Parcel Number 0405-331-24; and

WHEREAS, the Application, as contemplated, proposes to construct a wireless communications facility upon the existing Southern California Edison electric transmission tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs northwest to southeast, developed with existing transmission towers and associated equipment. The properties are vacant to the north, east and west. The properties are vacant and also developed with single-family homes to the south; and

WHEREAS, the subject site as well as surrounding properties are designated Planned Mixed Use (PMU); and

WHEREAS, the subject property is currently zoned Office Park by the Main Street and Freeway Corridor Specific Plan. The properties are also zoned Office Park to the north, east, and west. The properties are designated Office Park and Public/Institutional Overlay to the south; and

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

WHEREAS, on March 12, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced March 12, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (d) The site for the proposed use will have adequate access based upon the existing access at Mariposa Road.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP-2008-13, 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 13th day of March 2008.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP-2008-13:

**Approval Date: March 12, 2009
Effective Date: March 24, 2009
Expiration Date: March 24, 2009**

This list of conditions apply to a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison power line tower, located within the Southern California Edison power line easement located 460 feet east of Mariposa Road and 490 feet north of Mojave Street. Any change of use or expansion of area may require approval of a Conditional Use Permit application (APN: 0405-331-24).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within two (2) 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 at least thirty (30) days prior to the expiration date.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

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

Init Date

- | | | |
|-------|-------|--|
| _____ | _____ | 1. <u>Building Constructions Plans.</u> Four complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division for review. (B) |
| _____ | _____ | 2. <u>Facility Requirements.</u> The antennae and all other equipment installed upon the power line tower shall be of a matching color to the tower. The antennae, any proposed perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P) |
| _____ | _____ | 3. <u>AQMD Approval.</u> The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B) |
| _____ | _____ | 4. <u>Access to the Wireless Communications Facility.</u> Access to the wireless communications facility shall be provided as shown upon the approved site plan. (P) |
| _____ | _____ | 5. <u>Consistency with Approved Graphics.</u> Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P) |

- _____ 6. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Advisory Board, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 7. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The facility shall be constructed consistent with the design shown upon the approved graphics. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

IF YOU NEED 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 | 947-1474 |
| (F) | Fire Prevention Division | 947-1623 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

ATTACHMENT 12

RESOLUTION NO. PC-2009-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY UPON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER LOCATED 50 FEET SOUTH OF MESQUITE STREET AND 570 FEET EAST OF OPAL STREET (CUP-2008-14)

WHEREAS, Royal Street Communications California, LLC, has filed an application requesting approval of Conditional Use Permit CUP-2008-14 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Southern California Edison Transmission Lines, which is within the Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½) Zone District, located 50 feet south of Mesquite Street and 570 feet east of Opal Street and includes Assessor's Parcel Number 0405-371-54; and

WHEREAS, the Application, as contemplated, proposes to construct a wireless communications facility upon the existing Southern California Edison electric transmission tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs northwest to southeast, developed with existing transmission towers and associated equipment. The properties are vacant to the north and south. The properties are developed with single-family homes to the east and west; and

WHEREAS, the subject site is designated Public (P). The properties are designated P and Medium Low density residential to the north. The property is designated P to the south. The property is designated Very Low density residential to the east. The property is designated Rural Estate density residential to the west; and

WHEREAS, the subject site as well as surrounding properties are zoned Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½); and

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

WHEREAS, on March 12, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced March 12, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) Based upon the project's exemption from the requirement for environmental review and subject to the List of Conditions assigned to it, the Planning Commission finds that there is no substantial evidence that the proposed Conditional Use Permit will have a significant effect on the environment.
- (b) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.
- (c) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (d) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (e) The site for the proposed use will have adequate access based upon the existing access at Mesquite Road.
- (f) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP-2008-14, 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 13th day of March 2008.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP-2008-14:

Approval Date: March 12, 2009
Effective Date: March 24, 2009
Expiration Date: March 24, 2009

This list of conditions apply to a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison power line tower, located within the Southern California Edison power line easement located located 50 feet south of Mesquite Street and 570 feet east of Opal Street. Any change of use or expansion of area may require approval of a Conditional Use Permit application (APN: 0405-371-54).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within two (2) 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 at least thirty (30) days prior to the expiration date.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

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

Init Date

- | | | |
|-------|-------|--|
| _____ | _____ | 1. <u>Building Constructions Plans.</u> Four complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division for review. (B) |
| _____ | _____ | 2. <u>Facility Requirements.</u> The antennae and all other equipment installed upon the power line tower shall be of a matching color to the tower. The antennae, any proposed perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P) |
| _____ | _____ | 3. <u>AQMD Approval.</u> The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B) |
| _____ | _____ | 4. <u>Access to the Wireless Communications Facility.</u> Access to the wireless communications facility shall be provided as shown upon the approved site plan. (P) |
| _____ | _____ | 5. <u>Consistency with Approved Graphics.</u> Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P) |

- _____ 6. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Advisory Board, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 7. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The facility shall be constructed consistent with the design shown upon the approved graphics. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

IF YOU NEED 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 | 947-1474 |
| (F) | Fire Prevention Division | 947-1623 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

ATTACHMENT 13

RESOLUTION NO. PC-2009-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY UPON AN EXISTING SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER LOCATED 1,000 FEET EAST OF "I" AVENUE AND 250 FEET SOUTH OF REDDING STREET (CUP-2008-15)

WHEREAS, Royal Street Communications California, LLC, has filed an application requesting approval of Conditional Use Permit CUP-2008-15 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Southern California Edison Transmission Lines, which is within the Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½) Zone District located 1,000 feet east of "I" Avenue and 250 feet south of Redding Street and includes Assessor's Parcel Number 0398-131-17; and

WHEREAS, the Application, as contemplated, proposes to construct a wireless communications facility upon the existing Southern California Edison electric transmission tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs southwest and northeast, developed with existing transmission towers and associated equipment. The properties are vacant to the east and west. The properties are developed with single-family homes to the north and south; and

WHEREAS, the subject site is designated Public (P). The properties to the east and west are also designated P. The land to the north and south are designated Low density residential; and

WHEREAS, the subject site is zoned Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½). The properties are zoned Single-family residence (R-1) to the north and south; and

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

WHEREAS, on March 12, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced March 12, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (d) The site for the proposed use will have adequate access based upon the existing access at "I" Avenue.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP-2008-15, 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 13th day of March 2008.

Stephen S. James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP-2008-15:

Approval Date: March 12, 2009
Effective Date: March 24, 2009
Expiration Date: March 24, 2009

This list of conditions apply to a Conditional Use Permit to co-locate a telecommunication wireless facility on an existing Southern California Edison power line tower, located within the Southern California Edison power line easement located 1,000 feet east of "I" Avenue and 250 feet of Redding Street. Any change of use or expansion of area may require approval of a Conditional Use Permit application (APN: 0398-131-17).

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within two (2) 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 at least thirty (30) days prior to the expiration date.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

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

Init Date

- | | | |
|-------|-------|---|
| _____ | _____ | 1. <u>Building Constructions Plans</u> . Four complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division for review. (B) |
| _____ | _____ | 2. <u>Facility Requirements</u> . The antennae and all other equipment installed upon the power line tower shall be of a matching color to the tower. The antennae, any proposed perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P) |
| _____ | _____ | 3. <u>AQMD Approval</u> . The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B) |
| _____ | _____ | 4. <u>Access to the Wireless Communications Facility</u> . Access to the wireless communications facility shall be provided as shown upon the approved site plan. (P) |
| _____ | _____ | 5. <u>Consistency with Approved Graphics</u> . Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P) |

- _____ 6. **Indemnification**. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Advisory Board, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 7. **On-Site Improvements**. All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The facility shall be constructed consistent with the design shown upon the approved graphics. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

IF YOU NEED 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 | 947-1474 |
| (F) | Fire Prevention Division | 947-1623 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |



DATE: March 12, 2009
TO: Planning Commission
FROM: *TKH* Thomas K. Harp, Deputy Director, Development Services, C/D
BY: *D* Dave Reno, AICP, Principal Planner
SUBJECT: Billboard Issues and Options

RECOMMENDED ACTION

That the Planning Commission provide direction regarding revising the City's regulations regarding Billboards, and return to the Commission with an ordinance at a subsequent meeting.

BACKGROUND

This staff report covers the existing billboards in the City, billboard replacement or relocation, development proposals involving existing billboards and legal issues concerning billboards.

Existing Billboards and City Regulations:

The City currently has 33 billboards, 28 along the Freeway Corridor and five more downtown in the vicinity of Main Street and the railroad. The billboards along the freeway are generally grouped in three areas; Eight on the east side of the freeway between Bear Valley Road and Eucalyptus, four near the Interstate-15/Highway 395 interchange and nine on both sides of the freeway between Oak Hill Road and the top of the Cajon Pass.

The City's Development Code (Section 16.36.100) currently allows billboards no larger than 200 SF in area and 25 feet in height. Billboards are also restricted to the Commercial Resort (CR) Zone. However, this zone was removed from the City's Zoning Map by the adoption of the Freeway Corridor and Main Street Specific Plan. The new zoning in the Specific Plan does not permit billboards. At this time, all the existing billboards are considered nonconforming uses. The Specific Plan does allow some expansion, addition or alteration of non-conforming uses, subject to City approval.

Billboard Replacement or Relocation:

State Law (Section 5412 of the Business and Professions Code) encourages cities to enter into agreements with billboard owners to relocate billboards on whatever terms are agreeable to the parties. This section also encourages, but does not require, cities to revise their ordinances to enable such actions. The issue at hand is how the City should respond to inquiries regarding relocation. Lamar Advertising has proposed an agreement to upgrade, relocate and modify 10 billboards. Six of their billboards are generally located on both sides of the freeway near Oak Hill Road. Two are on the east side of the freeway, south of Bear Valley Road and two are along Main Street, near 5th and "G" Avenues.

Of the 10 billboards, three are proposed to be removed and two will be converted to digital displays. Five will be relocated on the same parcels and remain as conventional billboards. These five billboards are generally in the vicinity of Oak Hill Road. (Attachments 1, 2 & 3)

In addition, Lamar proposes to allow the City to place public service messages on the relocated billboards up to 4 times per year, for two weeks at a time. These messages are for the City or non-profit entities and cannot benefit any private company. The City may also place messages at other times when space is not leased for regular advertising. The draft agreement does not state whether the City shall pay for these public service announcements. Finally, Lamar has requested that the City revise its sign code to designate any relocated billboard as a permitted use.

One additional proposal involves reader boards advertising sponsors associated with sport or entertainment venues. AB 2339, which became effective in September 2008 exempts from the Outdoor Advertising Act, certain displays that are located on professional sports venues of 5,000 seats or more. The displays may advertise products services or good available at the arena, based on an agreement between the vendor and property owner that is valid for at least one year. The developer of the property where the Ice Castles facility and Bowling Center is proposed has requested that the City revise its ordinance to permit a similar sign in conjunction with that development. This would permit the sponsors of the facility to advertise their products, in addition to goods sold or offered on the premises. Although negotiations have not began, there is the possibility of the City placing Amber Alerts and other public service messages on the display, as well as receiving revenue as part of an agreement. The city would have to add a provision to the Code to define such a facility. Staff would tailor a definition that would accommodate sports venues expected in the City, as opposed to what state law allows.

Development Proposals Involving Existing Billboards:

As mentioned above, the City has 33 billboards that are all on commercial property. The issue is how the City should respond to development proposals on property with billboards. Since new billboards are not permitted under the current code, new land use approvals cannot include billboards as part of a site plan or subdivision.

Lunnen Development has proposed to relocate a billboard in conjunction with a new commercial or office development on a parcel located east of the freeway, north of Eucalyptus Street. The Development Review Committee declined the request, stating that any new development approved could not include a use not permitted by the zoning. As mentioned above, neither the old General Commercial (C-2) zone nor the zoning in the Main Street and Freeway Corridor Specific Plan permit billboards. Lunnen then requested a building permit to relocate the billboard elsewhere on the property. The City denied issuing the permit, and Lunnen has appealed this decision to the Planning Commission, which continued this hearing to April 9, 2009.

ISSUES/ANALYSIS

The City's General Plan governs development in the City and provides guidance for decisions on land use issues. The Land Use Element includes three goals that address commercial and industrial development:

L.G.8. Provide for a visually pleasing environment through adoption of design standards which will enhance the natural desert environment, conserve natural resources, and minimize visual clutter and blight.

L.G.10. Adopt zoning and land use policies, which will ensure maximum utilization of existing facilities and infrastructure within the City and Sphere of Influence.

In addition, the Land Use Element includes the following policy:

L.P.2 Promote balanced, efficient commercial development that is functional, safe attractive and convenient to users, and which will strengthen the local economy.

Finally, the adopted Main Street and Freeway Corridor Specific Plan contains goals that include:

Goal LU-1b: Provide for continuing growth within the Specific Plan area with land uses and intensities designated to meet the needs of anticipated growth and to achieve the communities objectives;

Goal UD-1: Strengthen the identity of the City of Hesperia and the Specific Plan area by building upon the surrounding natural resources and amenities and create a new image for Main Street and the Freeway Corridor that expresses an attractive, inviting high quality character and commercial vitality;

Goal UD-5: Encourage good design and high quality development within the Specific Plan area;

Goal ED-1: Encourage Commercial and industrial development in the Specific Plan area to assist with long-term financial stability and ensure fiscal viability for the City.

While billboards do generate revenue for property owners, and provide advertising for a variety of products, services and issues, the City's land use goals and policies focus on the establishment of well designed, attractive businesses that generate sales tax and build a local job base.

Should the City consider the permitting the addition, remodeling or relocating of billboards, the City may require an agreement to place Amber alerts and public service messages (Attachment 4). The City may also negotiate compensation based on the revenue that billboards generate or negotiate the construction of City – owned signs along the freeway at the interchanges.

The draft ordinance (attachment 6) includes a provision for a billboard owner to remove other billboards at a ratio of 3 sign faces to 1. These new sign regulations would address spacing (1,000 feet), changeable copy (no moving images and any copy cannot change more than every 6 seconds) and the brightness of the reader boards (they must be dimmed at night). The City of Barstow Planning Commission recently approved similar regulations concerning billboards and reader boards. These regulations are consistent with the recommendations from the Outdoor Advertising Association of America. (Attachment 5)

Legal Issues:

According to the City Attorney's office, billboard advertising is a form of commercial speech protected by the First Amendment of the federal Constitution. In *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Commission*, the United States Supreme Court set forth a four-part test for

determining the validity of restrictions on commercial speech. “The First Amendment protects commercial speech only if (1) that speech concerns lawful activity and is not misleading. **A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial government interest, (3) directly advances that interest, and (4) reaches no further than necessary to accomplish the given objective.**”

As applied specifically to road signs, the Supreme Court has stated, “[w]hile signs are a form of expression protected by the Free Speech Clause, they pose distinctive problems that are subject to municipalities’ police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. **It is common ground that governments may regulate the physical characteristics of signs – just as they can, within reasonable bounds and absent censorial purpose, regulate audible expression in its capacity as noise.**” *City of Ladue v. Gilleo*, 512 U.S. 43, 48 (1994).

The leading case in the field of municipal billboard regulation is the 1982 case, *Metromedia v. City of San Diego*, which resulted in a split ruling. The Court upheld the City of San Diego's complete ban on offsite commercial billboards, but invalidated other parts of the City's ordinance. The *Metromedia* ruling makes clear that a City should make careful findings to support any billboard restrictions. Regulation of noncommercial messages will be held to a higher level of scrutiny than commercial messages.

In at least four instances since *Metromedia*, the federal courts have upheld the Constitutionality of a total ban on billboards. As recently as January 7, 2009, the U.S. 9th Circuit Court of Appeals upheld the City of Los Angeles’ citywide billboard ban. If the City desires to prohibit billboards citywide, the City Attorney should be directed to review the City's existing code and the facts present to see if Hesperia can make the findings necessary to support such a ban.

Amortization and Removal of Existing Billboards:

According to the City Attorney's office, it is legally possible for the City to require the removal of nonconforming billboards. (*City of Salinas v. Ryan Outdoor Adver.* (1987) 189 Cal.App.3d 416). In general, to accomplish this, the City would adopt an ordinance prohibiting certain types of billboards, then establish an amortization period after which the illegal billboards must be removed.

The reasonableness of the amortization period depends on the interplay of many factors, including the depreciated value of the structures to be removed, their remaining useful life, and the harm to the public if they are left standing. Another factor may also be the billboard's proximity to a highway since the California Outdoor Advertising Act contains provisions for compensation for removal of certain billboards as required by the federal Highway Beautification Act.

The City may need to create different amortization periods depending on the facts and circumstances of each case to ensure the regulation does not amount to a "taking" for which the property owner would need to be compensated.

In some cases, it may be possible to require removal within five years. However, if the amortization period does not allow the property owner a fair return on their investment, a longer amortization period (or payment of compensation) could be required.

If the City wishes to consider an amortization period for removal of some or all of the City's nonconforming billboards, staff should be directed to investigate the reasonable amortization period for different categories of billboards and report back to the Council.

CONCLUSION

There are several issues to consider regarding billboards:

Billboards are not part of a land use expectation; The City's current sign regulations were adopted in 1993. Billboards have not been permitted in any general commercial or regional commercial zone since that time. Therefore, property owners cannot have had the expectation of establishing new billboards in the City. The 33 existing billboards have been considered nonconforming uses since 1993.

Billboards are distracting to motorists and consumers; Billboards, particularly reader boards, are distracting to consumers and motorists. While the City can adopt regulations that limit the brightness and frequency of changeable copy, these signs detract from the natural environment, or from future, on-site development. This does not support the City's land use goals. In addition, the State is considering converting Caltrans message centers along freeways to reader boards and to permit private advertising during times when public service announcements (traffic conditions, Amber alerts) are not shown. These signs, along with the existing billboards, would only contribute to the visual clutter along the City's freeway corridor. For your information, Assembly Bill AB109 has been introduced to prohibit new digital advertising displays until January of 2012. No action date on this bill has been scheduled at this time.

Billboards do not support land uses along the freeway corridor; Billboards do provide income to property owners and may possibly be used to provide public service messages. However, billboards do not provide sales tax revenue to the City or create local jobs. In fact, billboards create a financial disincentive to develop property, as the cost of removal or relocation and the loss of income to the property owner must be included in the financial considerations to develop any new project.

Billboard agreements should be consistent with City objectives; Should the City determine that new or relocated billboards or digital displays be subject to an agreement, these agreements with billboard owners should achieve the following;

- Reduce the number and concentration of billboards in the City
- Provide advertising for City and public events
- Improve aesthetics along the freeway corridor
- Increase safety by reducing distractions for drivers
- Provide for revenue to the City from billboard owners

ALTERNATIVES:

The City has considerable latitude to pursue a variety of options. The first four alternatives represent different philosophies towards billboards and the last two should be considered to clean up the Development Code with respect to the defunct CR zone and to consider limited

signs associated with sports facilities. Attachment 6 contains draft code language associated with these alternatives:

1. The City may revise its sign regulations to maintain the existing prohibition of new billboards. This alternative includes pursuing amortization of existing billboards. The cost and schedule of this would have to be determined on a case by case basis. This would include revising the Development Code to eliminate the defunct Commercial Resort zone.
2. The City may revise the code to maintain the existing prohibition of new billboards but not pursue amortization of any existing billboards.
3. The City may revise the sign regulations to maintain the existing prohibition of new billboards but permit sign relocations and reconstruction to digital displays on the existing billboards in the City. The intent of this alternative is to maintain, but not increase the overall number of billboards in the City.
4. The City may revise the sign regulations to permit new billboards subject to agreements with property owners and billboard companies. This may include provisions to require removal of some billboards and upgrades to any that remain or are relocated. This option may require additional environmental review, as new billboards and reader boards may present new impacts in the form of light, glare and visual clutter.
5. The City needs to revise the Development Code to eliminate the Commercial Resort (CR) zone. This alternative would be consistent with the Main Street and Freeway Corridor Specific Plan, which removed the CR zone upon its adoption in October 2008.
6. The City may revise the sign regulations permitting reader boards to allow advertising of sponsors for specific uses, such as sports facilities.
7. Provide alternative direction to staff.

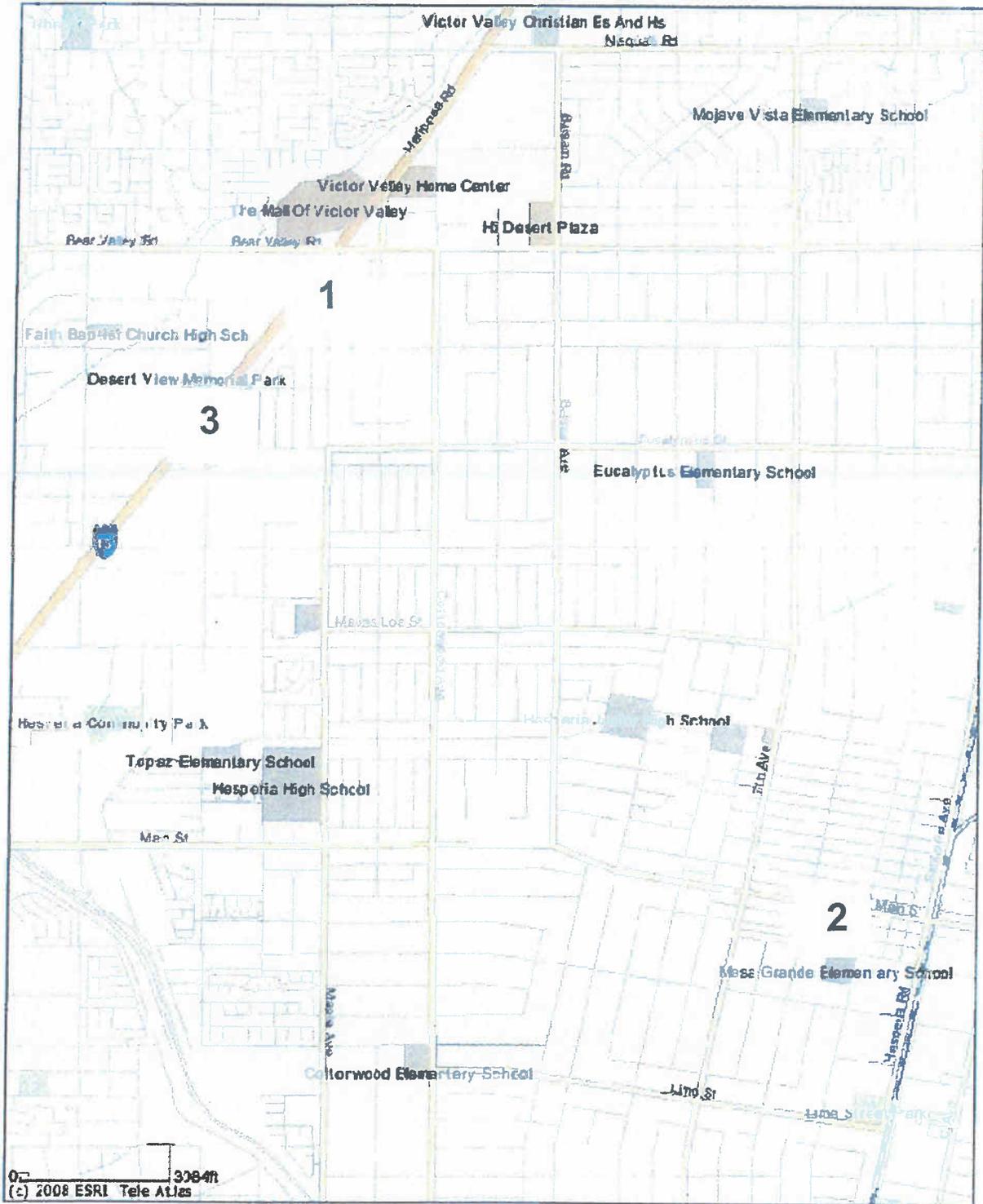
ATTACHMENTS:

1. Billboards proposed to be removed by Lamar Advertising
2. Billboards to be converted to reader boards by Lamar Advertising
3. Billboards proposed to be rebuilt/relocated by Lamar Advertising
4. Draft Billboard or Digital Advertising Display Agreement
5. Brightness recommendations from the Outdoor Advertising Association of America
6. Resolution PC-2009-17, with draft Billboard Regulations

ATTACHMENT 1



BILLBOARDS PROPOSED TO BE REMOVED

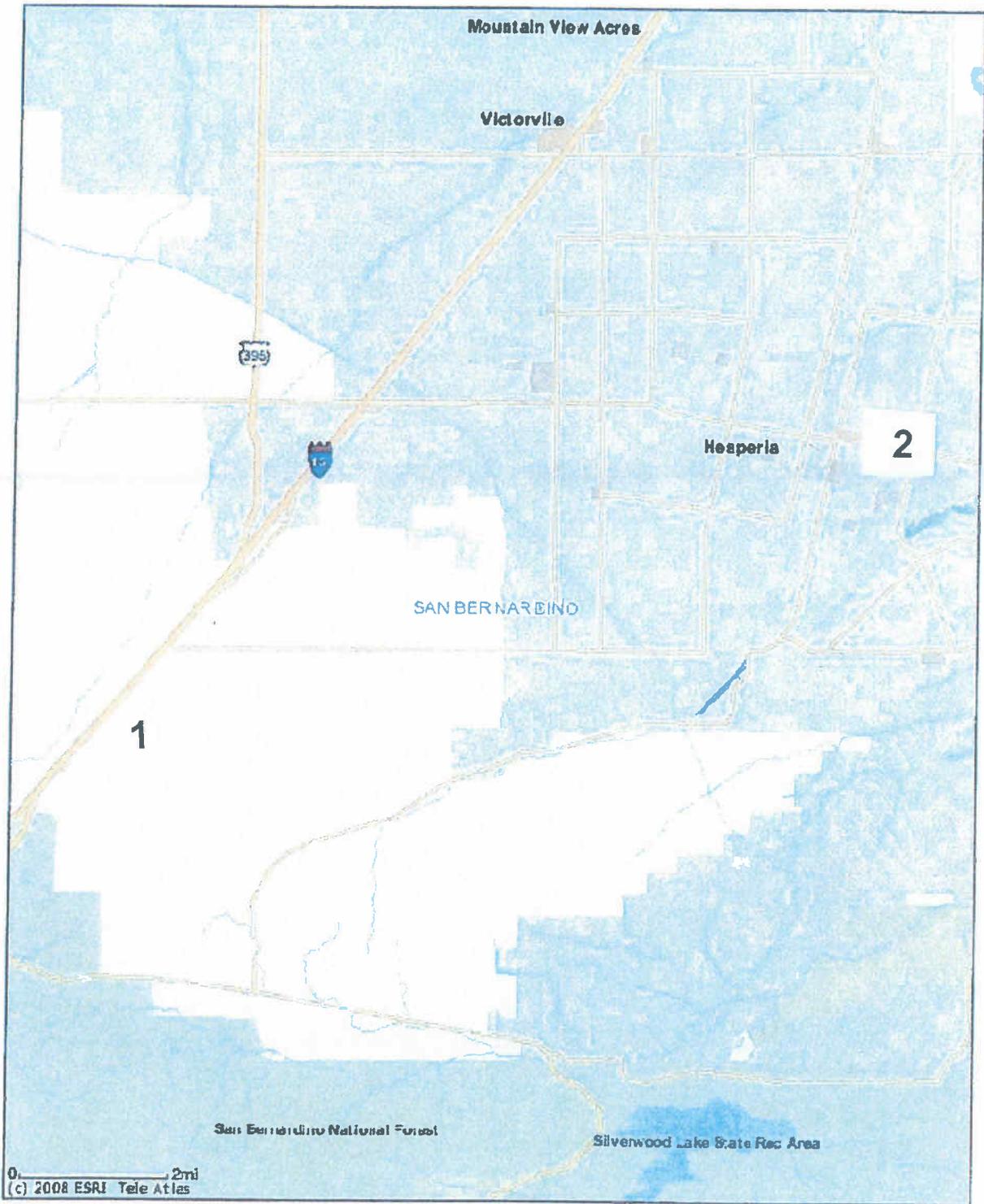


1. Mariposa & Maple
2. Main & Second Avenue
3. Mariposa & Eucalyptus

ATTACHMENT 2



BILLBOARDS TO BE CONVERTED TO DIGITAL DISPLAYS

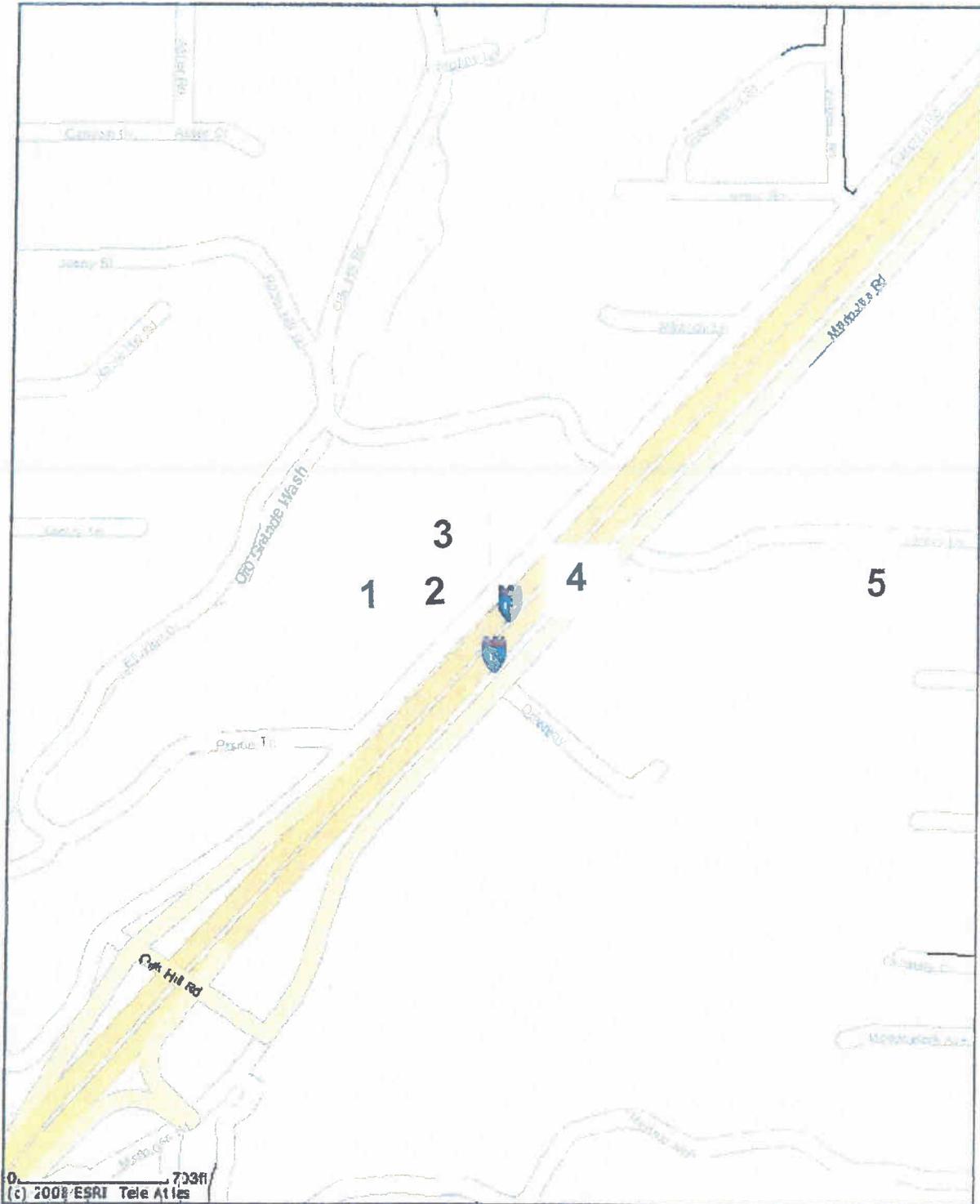


1. Mariposa, south of Rancho
2. Main & Third Avenue

ATTACHMENT 3



BILLBOARDS TO REMAIN IN PLACE OR BE RELOCATED



FIVE BILLBOARDS LOCATED ALONG THE FREEWAY NEAR OAK HILL ROAD

ATTACHMENT 4

Date:

Mike Podegracz, City Manager
City of Hesperia
9700 Seventh Avenue
Hesperia, Ca 92345

_____ agrees with the City of Hesperia to allow the City of Hesperia to utilize one slot (one slot defined as 1/5 of the daily advertising throughout the day of the electronic billboard) on the digital structure (Permit # _____), generally located _____, for a period of up to six months per calendar year, in perpetuity, unless amended as mutually agreed upon by both parties. Should any advertising time remain available (i.e., unused), said time shall be set-aside for future use within that same calendar year and shall not be accrued. The City of Hesperia must give _____ two weeks notice before advertisement will be put on display.

In addition to the above advertisement, _____ further agrees to post Amber Alerts and any emergency that is on a national, state or local level that is deemed pertinent by the City of Hesperia to the freeway travelers (Amber Alerts shall always be deemed pertinent to the freeway travelers). For the purpose of this agreement, freeway travelers shall also include the local population due to their daily commutes to or from the City. Said emergency notification shall not count as part of the allotted advertising time for the City but shall be considered a benefit to the community and freeway travelers.

This agreement is valid only after both _____ and The City of Hesperia sign and date.

DATE

Mike Podegracz, City Manager
City of Hesperia

DATE

ATTACHMENT 5

Digital Billboards Brightness Recommendations and Measurement Techniques

The Outdoor Advertising Association of America (OAAA) has commissioned Dr. Ian Lewin, a principal at Lighting Sciences, Inc., Scottsdale, AZ, to recommend criteria for brightness levels on digital billboards. The standards are designed to minimize the risk of glare or unreasonable driver distraction. Highlights from the lighting research follow:

- The recommended criteria follows the lighting standards established by the Illuminating Engineering Society of North America (IESNA)
- Recommended regulatory criteria:
 - **Lighting levels will not increase by more than 0.3 foot candles (over ambient levels) as measured using a foot candle meter at a pre-set distance**
 - **Pre-set distances to measure the foot candles impact vary with the expected viewing distances of each size sign. Measurement distance criteria follows:**

Posters 150'

10'6x36 Bulletins 200'

14x48 Bulletins 250'

20x60 Bulletins 350'

- **Each display must have a light sensing device that will adjust the brightness as ambient light conditions change**

Background to support the regulations:

- The measurement distances were selected based on the average minimum viewing of any digital billboard.
- Enforcement: Standards can be easily enforced as follows:
 1. At least 30 minutes past sunset, use a foot-candle meter to record the ambient light reading for the area. This is done while the digital billboard is off or displaying all black copy.
 2. The reading should be taken with the meter aim directly at the digital sign at the appropriate pre-set distance.
 3. Turn on the digital display to full white copy and take another reading.
 4. If the difference between the readings is 0.3 foot-candles or less, the brightness is properly adjusted.
- These lighting standards will drop the night time brightness of the sign to approximately 4% to 15% of its capable output. The light output spread is due to the variation in the ambient lighting level of each location.
- The daytime brightness will operate near maximum output (7,500 nits), which is required to overcome full sunlight.

ATTACHMENT 6

RESOLUTION NO. PC-2009-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCE NO. 2009-02 REVISING THE CITY'S SIGN REGULATIONS CONCERNING BILLBOARDS

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

WHEREAS, Chapter 16.36 of the Hesperia Development Code currently establishes regulations for signs, including billboards;

WHEREAS, The City's sign regulations were established for the purposes of encouraging the positive economic development of the city, promoting the safety of the traveling public, protecting existing property values in both residential and nonresidential areas, preventing the overcrowding of land, promoting a positive community appearance as part of a concerted city wide effort to protect and enhance the aesthetics of the city for the enjoyment of all citizens.;

WHEREAS, The public is possessed with the important right of safe and unobstructed travel over the public right-of-way, therefore, the regulations are designed to prevent their overconcentration, improvement placement, and excessive height, bulk, number and area. It is recognized that, unlike on-premises identification signs, which are in actuality a part of a business, billboards are a separate and distinct use of the public thoroughfare. With a view to this distinction, billboards are regulated differently from on-premises signs;

WHEREAS, The substantial possibility exists of a proliferation of billboards and digital advertising displays in the City over extended periods of time with the attendant traffic safety, visual clutter and loss of meaning of the message conveyed by said signs, in the absence of any regulation of such signs;

WHEREAS, A compelling need therefore exists for a reasonable system of regulation of billboards in order to protect the rights and advance the concerns stated in this ordinance;

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as it is certain that Development Code revisions pertaining to the establishment of regulations regarding billboards can have no significant adverse effects on the environment;

WHEREAS, On March 12, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the establishment of regulations regarding billboards, and concluded said hearing in that date.

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

NOW THEREFORE, THE PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

Section 1. All of the facts set forth in the Recitals, Part A of this Resolution, are true, correct and are adopted as findings.

Section 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.

Section 3. The proposed Development Code revisions are exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as it is certain that Code revisions pertaining to the establishment of regulations regarding billboards can have no significant adverse effects on the environment.

Section 4. Based upon the conclusions set forth in paragraphs 1, 2 and 3 above, this Commission hereby recommends adoption of that Ordinance attached hereto and entitled as follows:

ORDINANCE NO. 2009-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HESPERIA, CALIFORNIA, AMENDING CHAPTER 16.36
REGULATING BILLBOARDS**

5. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 12th day of March 2009.

Steven James, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT "A"

Article X, Commercial Resort (CR) Zone District, (Sections 16.16. 385 through 455) of Chapter 16.16, are hereby repealed.

Sections 16.36.020 and 16.36.100 are amended to read as follows. Text in *Italics* indicate that it is new. Text in ~~strikeout~~ is to be deleted.

16.36.020 Definitions

Words and terms used in this chapter are defined as follows:

"Animated sign" means any sign that uses movement of the physical parts or extensions of the sign to depict action or create a special effect. These do not include reader boards, barber poles or similar signs where the sign structure itself is not in motion.

"Banner" means any sign of lightweight fabric of similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

"Beacon" means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate or move.

"Billboard or outdoor advertising structure" means a sign which has a flat surface sign space upon which advertising may be posted, painted, or affixed, and which is designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists. Billboards may utilize Digital Advertising Displays as part or all of their surface area.

"Bulletin board sign" means any sign located in a multi-tenant complex that lists businesses and addresses located therein.

"Changeable copy sign" means a sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and a changeable copy sign for purposes of this chapter.

"Club or organization sign" means any sign that exhibits an event or regularly scheduled meeting of a group, club, civic organization or similar use at the site.

"Commercial message" means any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

"Construction or contractor sign" means a temporary sign, which states the names of the individuals and/or firms connected with the construction of a project. Such signs may include the

name of the project, the address of the business and the emergency telephone number.

“Copy” means any words, letters, numbers, figures, designs, logos or other symbolic representations incorporated into a sign.

“Digital Advertising Display” means an advertising display of still, scrolling or moving images including video or animation, that may be changed remotely through electronic means and utilizes a series of grid lights, including cathode ray, light-emitting diode (LED) , plasma screen, liquid crystal display (LCD) fiber optic or other electronic media or technology. A Digital Advertising Display may also be known as “Reader board”.

“Directional sign” means a sign which contains words such as “entrance,” “enter,” “exit,” “in,” “out” or other similar words or a sign containing arrows or characters indicating traffic direction and used either in conjunction with such words or separately.

“Flag” means any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

“Future tenant identification sign” means a temporary sign which identifies a future use of a site or building.

“Grand opening” means a promotional activity used by newly established businesses, within thirty (30) days after occupancy, to inform the public of their location and contribution to the community. “Grand opening” does not mean an annual or occasional promotion of retail sales by a business.

“Height” shall be the vertical distance from the highest point of the sign to the highest point within five feet horizontally from the base of the sign.

“Inflatable sign” means any sign capable of being inflated with air or gas.

“Institutional use” means facilities which provide a service to the general public, including schools, churches, post offices, fire stations, hospitals, civic centers, and publicly owned land.

“Lot” means a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage and use, and that can provide such yards and other open spaces as required by the zoning regulations.

“Marquee” means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

“Marquee sign” means any sign attached to, in any manner, or made a part of a marquee.

“Monument sign” means a freestanding sign generally supported by a solid base and less than ten feet in height. The base of a monument sign may include a hollow or opening as part of its design, so long as this area does not exceed more than twenty (20) percent of the sign’s face.

“Nonconforming sign” means any sign that does not conform to the requirements of this chapter.

“Off-site sign” means a sign in accordance with this chapter which directs traffic to a business within the city but not located on the same site as the sign.

“Off-site subdivision sign” means a sign in accordance with this chapter which directs traffic to a subdivision within the city.

“Open house sign” means a temporary off-site directional sign advertising the sale or lease of residential, commercial or industrial property, and the identification of the firm handling such sale, lease or rent.

“Pennant” means any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

“Person” means any individual, association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

“Political sign” means a sign erected prior to an election to advertise or identify a candidate, campaign issue, election proposition, or other related matters.

“Portable sign” means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operations of the business, and parked both adjacent to and in the parking provided for said business.

“Principal building” means the building in which is conducted the principal use on the site on which it is located. Sites with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

Prior Code. Following incorporation, the City adopted, by reference (Ordinance No. 1 and readopted by Ordinance No. 17), the San Bernardino County Code, including the San Bernardino County Development Code. The Development Code contained the sign regulations applicable to the City prior to the adoption of this chapter. As used in this chapter, the provisions of the San Bernardino County Development Code pertaining to signs are referred to as the

“prior code.”

“Projecting sign” means any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

“Reader board sign” means a sign utilizing a field of small lights or other devices to create the effect of letters, numbers or symbols on the sign face.

“Real estate sign” means a temporary sign advertising the sale or lease of the property upon which it is located, and the identification of the firm handling such sale, lease or rent.

“Regional uses” means uses, which have access from major highways or arterials, and area of a size and configuration to facilitate development of businesses attracting consumers from a regional market area. Such uses could include retail malls, auto malls, movie theaters, recreation or other similar uses as approved by the director.

“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.

“Residential sign” means any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service as such location conforms with all requirements of the municipal code and general plan.

“Revolving sign” means a sign which all or a portion of which may rotate either on an intermittent or constant basis.

“Roof sign” means a sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

Roof Sign, Integral. “Integral roof sign” means a sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

“Secondary wall signs” are accessory to the business sign but advertises goods, products or services offered at the site.

“Sign” means any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a

person or entity, or to communicate information of any kind to the public.

“Sign area” means the smallest geometric shape that will encompass the limits of the writing or other display. The structure or backdrop shall not be included in the computation. Multifaced signs shall compute all faces if they can be viewed from any one point at the same time. Channel letters shall be measured in the same fashion.

“Site sign plan” means a plan showing the height, size, type, location and architecture of all signs on a particular property or development. Signs in addition to those in Sections 16.36.040, 16.36.060 and 16.36.070 may be permitted when found to be benefiting the purpose of this chapter.

“Sports Facility” means any facility expressly designed for the conduct of sports or recreation activities, owned by the state, county, city or other public or private entity in which sports or sanctioned recreation activities are conducted which has a total square footage greater than 50,000 square feet or, or has a fixed designed seating capacity greater than 5,000 seats.

“Street” means the public right-of-way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, streets, terraces, trails or other thoroughfare.

“Street frontage (building)” means the length of the building facing, or within forty-five (45) degrees of facing, the public right-of-way of thirty (30) feet in width or more.

“Street frontage (site)” means the length of the site that abuts dedicated public streets with thirty (30) feet or more of public right-of-way.

“Temporary sign” means any sign that is used only temporarily and is not permanently mounted.

“Tethered balloon” means a balloon inflated with air or gas, which is fastened or restrained so that it can range only within a set radius.

“Wall sign” means any sign attached parallel to, but within twelve (12) inches of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

“Window sign” means any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window. (Ord. 296 § 4 (Exh. A (part)), 2000)

16.36.100 Billboards

For the purposes of regulating excess signage, encouraging the positive economic development of the city, promoting the safety of the traveling public, protecting existing property values in both residential and nonresidential areas, preventing the overcrowding of land, promoting a positive community appearance as part of a concerted city wide effort to protect and enhance the aesthetics of the city for the enjoyment of all citizens. The regulations are designed to prevent their overconcentration, improvement placement, and excessive height, bulk, number and area. It is recognized that, unlike on-premises identification signs, which are in actuality a part of a business, billboards are a separate and distinct use of the public thoroughfare. With a view to this distinction, billboards are regulated differently from on-premises signs. It is intended that billboards be located away from residential areas, and that such signs be regulated to protect the character of the area wherein billboards are located, and to conserve property values in these areas. *Billboards or digital advertising displays may only be constructed, relocated, or upgraded consistent with the following criteria:*

1. All billboards are subject to *Site Plan Review*. ~~approval as provided in this title and shall be allowed within the CR (commercial-resort) zone district.~~ Except for ordinary maintenance, poster panel replacements, copy changes, or repair not involving structural, material or electrical changes, no billboard, or part thereof, shall be erected, altered, constructed, changed, converted, reerected, additionally illuminated, reduced in size, enlarged or moved unless the entire billboard and structure are brought into conformity with this title.
2. No billboard may exceed *six hundred seventy two (672)* ~~two hundred (200)~~ square feet. The sign area is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines that fully encloses all extremities of the sign, excluding supports, the base or apron unless such copy, message, announcement or decoration appears on the base or apron. The allowable sign area of signs with equal size and shape for both double-faced (back-to-back) and V-type signs is measured by computing the area of only one side of the sign. Both sides of a double-faced or V-type sign shall be of equal size. The sign area of signs with three or more sides (multiple-side signs) containing copy message, decoration or announcement visible from a street, highway or expressway is measured as the sum of the area of any two adjacent sides. *The digital advertising display areas of the sign shall be calculated as part of the permitted sign area.*
3. *Any Billboards or Digital Advertising Displays shall be subject to the approval of a Relocation Agreement and a digital agreement with the owner to facilitate public service announcements, Amber Alerts and other community service announcements.*
4. *Digital Advertising Displays may be approved as part of a Sports Facility as defined herein, subject to approval of a digital agreement with the owner to facilitate public service announcements and Amber Alerts.*
5. *Non-conforming billboards owned by the same advertising company within the City boundaries shall be removed prior to completion of the new sign or upgrade to Digital Advertising Displays at a ratio of 6 sign faces to 1.*
6. No billboard or part thereof, including base or apron, supports, supporting structures and trim, may exceed twenty-five (25) feet in height.

7. All signs shall comply with the appropriate detailed provisions of the State Building Codes and the National Electric Code.
8. Billboards shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code; provided, that in no case shall a billboard be erected closer than ten feet horizontally or vertically from an conductor or public utility guy wire.
9. No part of a billboard may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the right-of-way intersection.
10. No part of any billboard shall be located less than one thousand (1,000) feet from any part of another billboard, measured in all directions.
11. Billboards shall not be permitted in any historic district or agricultural district.
12. Billboards shall not be permitted in any neighborhood shopping districts or in the downtown commercial core.
13. Billboards shall not be permitted on any designated scenic street, road, drive, parkway or highway.
14. Billboards shall not be permitted within seven hundred fifty (750) feet of any residential district, historic district, park, school, church, hospital, retirement home, cemetery, convention center, or government building.
15. Billboards shall not be permitted on or over the roofs of buildings.
16. Billboards shall not be permitted at any bridge crossing or situated to impair any scenic vistas.
17. Billboards shall not be permitted to be stacked over or placed next to any other billboard.
18. No sign shall depict or simulate any motion or video (i.e., video clips, flashing, etc.). *Any slide (image) shall be displayed for a minimum of 6 seconds and transitions between slides shall not exceed 1 second.*
19. *Each sign shall include a photometric sensor that will adjust the intensity of the sign for daytime and nighttime viewing. The nighttime intensity shall be limited to 0.3 foot candles (over ambient levels) as measured at a preset distance as established by the Lewin Report as prepared for the Outdoor Advertising Association of America (OAAA).*
20. *Generators shall not be used to power billboards and must be connected to the power grid, unless a sustainable power source is used (such as solar or wind).*

CITY OF HESPERIA



CITY OF HESPERIA DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, MARCH 4, 2009

A. PROPOSALS:

1. Royal Street Communications California, LLC (CUP09-10109)

Proposal: A Conditional Use Permit to co-locate a telecommunication wireless antenna on an existing Southern California Edison Tower.

Location: 520 feet east of Pyrite Avenue, on the north side of Main Street within the Southern California Edison Co. Transmission line corridor.

Planner: Daniel S. Alcayaga

Action: Forwarded to Planning Commission

2. Orchard Christian Church (SP09-10121)

Proposal: A revised site plan review to establish a church in an existing building on 4.2-acres zoned Commercial/Industrial Business Park.

Location: 17505 Hercules Street, Unit A-3

Planner: Daniel S. Alcayaga

Action: Administrative Approval

3. Royal Communications California, LLC. (CUP09-10110 & VAR09-10122)

Proposal: A Conditional Use Permit to construct a 70 foot high wireless communication facility designed as free standing pole sign located at the animal control facility and a variance to exceed the 50 foot height limit in the I-2 zones.

Location: 1101 Santa Fe Avenue East. (Animal Control Facility)

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to Planning Commission

4. **Loma Verde, Inc. (TNT09-10111)**

Proposal: A first extension of time to create 32 lots on 15.6 gross acres zoned R1-18000.

Location: West of Farmdale Avenue, approximately 400 feet south of Rancho Street.

Planner: Paul Rull

Action: Administrative Approval

5. **Robert Berg (ME-2009-02)**

Proposal: To construct a 3,000 square foot metal garage in lieu-of the five percent accessory building area limitation at 14940 Mesa Street.

Location: 14940 Mesa Street.

Planner: Paul Rull

Action: Administrative Approval