PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: May 14, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

Joline Bell Hahn, Vice Chair

Stephen James, Commissioner

Julie Jensen, Commissioner

William A. Muller, Commissioner

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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.

MAY 14, 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 Chris Elvert
Vice Chair Joline Bell Hahn
Commissioner Stephen James
Commissioner Julie Jensen
Commissioner William Muller

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

E. Approval of Minutes: April 23, 2009 Planning Commission Meeting Draft Minutes **–1–**

PUBLIC HEARINGS

1. Consideration of Conditional Use Permit CUP09-10128 to construct a 3,750 square foot auto dismantling service with outdoor storage within an existing industrial building zoned I-2, located at 17435 Catalpa Street, Unit 1B (Applicant: Gerardo Miguel Ortega; APN: 0415-272-04) (Staff Person: Lisette Sanchez-Mendoza). **1–1**

2. Consideration of Development Code Amendment DCA09-10177, to amend the Title 16 regulations regarding windmills, wind machines, and similar accessory structures harnessing wind energy (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Stan Liudahl). **2–1**

3. Consideration of Administrative Appeal (APP-2008-01) (Appellant: Lunnen Development; APN: 372-251-04). **3–1**

4. Consideration of Revisions to the City's Sign Regulations, concerning Billboards (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Dave Reno). **4–1**

PRINCIPAL PLANNER'S REPORT

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

F. DRC Comments

G. Major Project Update

5-1

PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Eva Heter, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, May 7, 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

April 23, 2009

The special meeting of the Hesperia Planning Commission was held on Thursday, April 23, 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 Muller

2. Invocation - Commissioner Hahn

3. Roll Call

Chair, Stephen James	Present
Vice Chair, Chris Elvert	Present
Commissioner Joline Bell Hahn	Present
Commissioner Julie Jensen	Present
Commissioner William Muller	Present

4. Reorganization of the Board:

Motion: Commissioner Hahn motioned to nominate Vice Chair Elvert for Chair. Commissioner Muller seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner Hahn, Commissioner Jensen, Commissioner Muller, Vice Chair Elvert, Chair James**

Noes:

Absent:

Abstains:

The meeting was turned over to the new Chair, Chris Elvert.

Motion: Commissioner Jensen motioned to nominate Commissioner Hahn for Vice Chair. Commissioner James seconded the Motion. The motion passed by the following roll call vote:

Ayes: **Commissioner James, Commissioner Hahn, Commissioner Jensen, Commissioner Muller, Chair Elvert**

Noes:

Absent:

Abstains:

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The Reorganization of the Board results is as follows:

Chair, Chris Elvert
Vice Chair, Joline Bell Hahn
Commissioner, Stephen James
Commissioner Julie Jensen
Commissioner William Muller

Principal Planner, Dave Reno AICP presented Commissioner James with a plaque for his service as Chair for 2007-2009.

In Attendance for Staff: Principal Planner, Dave Reno AICP; Assistant City Attorney, Douglas Haubert; Director Development Services, Scott Priester; Senior Planner, Stan Liudahl AICP; Senior Planner, Daniel S. Alcayaga AICP; Assistant Planner, Lisette Sanchez-Mendoza; Planner, Paul Rull; Senior Engineer, Tom Thornton PE; Administrative Analyst, Rod Yahnke; Recording Secretary, Eva Heter.

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B. PUBLIC COMMENTS-

Chair Elvert opened Public Comment: 6:35 p.m.

No Comments to consider.

Chair Elvert closed Public Comments: 6:36 p.m.

C. CONSENT CALENDAR

Approval of Minutes: April 9, 2009 Planning Commission Minutes

Recording Secretary, Eva Heter introduced a correction made to the April 9, 2009 Planning Commission Minutes. The change was at the bottom of page 4 of the draft minutes (page -4- of the Agenda); original note: "**Commissioner Jensen** expressed her dislike of mono-poles;" correction: "**Commissioner Jensen** expressed her dislike of mono-pines."

Motion: Commissioner James moved to approve the April 9, 2009 Planning Commission Minutes as amended. Vice Chair Hahn seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

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D. PUBLIC HEARING ITEMS

1. Consideration of Conditional Use Permit (CUP09-10108), to replace an existing 69-foot high light standard with a 69-foot high light standard with a wireless communications facility at Lime Street Park, located on the northwest corner of Lime Street and Hesperia Road (Applicant: Royal Street Communications California, LLC; APNs: 0413-222-23 and 26) (Staff Person: Paul Rull).

Planner, Paul Rull gave a brief staff report.

Vice Chair Hahn questioned the ability to access the property through the fence located on Hesperia Road.

Planner, Paul Rull stated that the Applicant was available and prepared to address the issue before the Commission.

Chair Elvert opened Public Hearing: 6:40 p.m.

Maree Hoeger, Applicant Representative addressed the easement that Vice Chair Hahn was concerned; stated that there was an opening in the fence and access would be available from Hesperia Road.

Vice Chair Hahn clarified that access would be available off of Hesperia Road.

Maree Hoeger, Applicant Representative verified that access was available.

Chair Elvert closed Public Hearing: 6:42 p.m.

Motion: Vice Chair Hahn motioned to adopt Resolution No. PC-2009-22, as presented, approving Conditional Use Permits (CUP09-10108). Commissioner Jensen seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner James, Commissioner Jensen, Commissioner Muller, Vice Chair Hahn, Chair Elvert**

Noes:

Absent:

Abstains:

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2. Consideration of Conditional Use Permit (CUP09-10110) to construct a 70-foot high wireless telecommunications facility designed as a freestanding pole sign and Variance (VAR09-10122) to exceed the 50-foot height limitation of the I-2 Zone District located at 11011 Santa Fe Avenue East (Applicant: Royal Street Communications California, LLC; APN: 0415-241-13) (Staff Person: Lisette Sanchez-Mendoza).

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

Vice Chair Hahn questioned if the City owned the facility.

Principal Planner, Dave Reno AICP stated that the City owned the property.

Commissioner James questioned the square footage of the sign.

Assistant Planner, Lisette Sanchez-Mendoza stated that the sign was 20'x12' = 240 sq. feet

Chair Elvert opened Public Hearing: 6:46 p.m.

Maree Hoeger stated that the design was what was presented to Royal Street Communications California, LLC. She stated that the sign also served as an identification sign for the city.

Chair Elvert closed Public Hearing: 6:47 p.m.

Commissioner James questioned the actual sign being considered prior to the Sign Regulations that were currently being considered for the City.

Principal Planner, Dave Reno AICP stated that the sign would be considered an on-site sign and would not be considered with the Billboard Regulations currently being considered.

Motion: Commissioner James motioned to adopt Resolution Nos. PC-2009-20 and PC-2009-21, as presented [or amended], approving Conditional Use Permits (CUP09-10110) and Variance (VAR09-10122). Commissioner Muller seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner James, Commissioner Jensen, Commissioner Muller, Vice Chair Hahn, Chair Elvert**

Noes:

Absent:

Abstains:

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3. Consideration of a Conditional Use Permit to co-locate a telecommunications wireless facility on an existing Southern California Edison electric transmission tower located 160 feet north of Main Street and 525 feet east of Pyrite Avenue (CUP09-10109; Applicant: Royal Street Communications California, LLC; APN: 0405-194-37) (Staff Person: Daniel S. Alcayaga).

   And

   Consideration of a Conditional Use Permit to co-locate a telecommunications wireless facility on an existing Southern California Edison electric transmission tower located 100 feet south of Ranchero Road and 500 feet east of Via Quintana Street (CUP09-10138; Applicant: Royal Street Communications California, LLC; APN: 0397-211-01) (Staff Person: Daniel S. Alcayaga).

Senior Planner, Daniel S. Alcayaga AICP gave a brief staff report. He also introduced a green sheet item (See Attachment 1).

Chair Elvert stated that there were a large amount of towers and he questioned if there was a point when the proposals would be recommended for denial.

Senior Planner, Daniel S. Alcayaga AICP stated that staff took consideration of the coverage and possible overlap of coverage. He stated that one concern was that there were multiple providers which required service towers; therefore, co-location was a concern for new towers.

Commissioner James stated that each provider has a quota that they need to meet in order to provide adequate service.

Principal Planner, Dave Reno AICP stated that the policy was structured so that staff could minimize the towers by requiring co-locatable sites; he also stated that removal of the towers was also a possibility when the site were no longer being used or maintained.

Chair Elvert opened Public Hearing: 6:57 p.m.

Maree Hoeger, Applicant Representative addressed the current build-out plan for the city of Hesperia. She stated that total build-out for the city was 15 sites and that the network was just now beginning to be built. She addressed population and city standards.

Dwaine Thompson, Citizen questioned why sites would be considered if the properties were not owned by the City of Hesperia.

Maree Hoeger, Applicant Representative stated that placement of towers on City properties was ideal and that four of the five sites were located on City property. She reviewed the sites and stated that there were possible multiple-lease agreements.

Dwaine Thompson, Citizen questioned the use of Datura Park, if the proposed site wasn't specifically needed.

Maree Hoeger, Applicant Representative questioned the owner of the park.

Principal Planner, Dave Reno AICP stated that the park was owned by the park district.

Maree Hoeger, Applicant Representative stated that all city and park properties were considered and Datura Park couldn't be used without overlapping coverage.

Chair Elvert closed Public Hearing: 7:03 p.m.

Motion: Commissioner James motioned to adopt Resolution Nos. PC-2009-25 and PC-2009-26, as presented, approving Conditional Use Permit (CUP09-10109) and Conditional Use Permit (CUP09-10138). Commissioner Jensen seconded the motion. The motion passed by the following roll call vote:

Ayes: **Commissioner James, Commissioner Jensen, Commissioner Muller, Vice Chair Hahn, Chair Elvert**

Noes:

Absent:

Abstains:

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4. Consideration of Specific Plan Amendment (SPL09-10151), to change 55.0 acres from Regional Commercial to Public/Institutional Overlay and 5.0 acres from Regional Commercial to Neighborhood Commercial within the Main Street and Freeway Corridor Specific Plan and Tentative Parcel Map (TPM09-10141), to create six parcels from 160.0 gross acres located on the southeast corner of Main Street and U. S. Highway 395 (Applicant: Carl Ross; APN: 3064-571-01) (Staff Person: Stan Liudahl).

Senior Planner, Stan Liudahl AICP gave a brief staff report. He also introduced 2 green sheet items (See Attachment 2 & 3).

Commissioner Muller questioned if the site would be a vocational facility.

Principal Planner, Stan Liudahl AICP stated that the site would eventually be a vocational facility; however, within five years there may another request for another land use interim and he encouraged Commissioner Muller to discuss the issue further with the Applicant.

Commissioner Muller stated that the property appeared to him to require a great deal of work to level the property. He also stated concerns that cal-trans was considering an interchange at I-15 and Highway 395.

Senior Engineer, Tom Thornton PE stated that the I-15 and the Highway 395 intersection would occur south of the property and would not interfere with the property. He discussed the encroachment, stating again that the interchange would be further south.

Commissioner Muller referenced the Master Plan Arterial Highways map, stating that the plan showed the interchange further north at Phelan Road and Main Street.

Senior Engineer, Tom Thornton PE stated that he did not have an understanding that there would be an interchange at the location in question. He stated that there would be a highway intersection; he stated that there had been talk of possible realignment of Highway 395 to the West.

Commissioner Muller addressed his concerns about the timeline of the proposed project and the realignment of the Highway 395.

Commissioner Jensen questioned if Mr. Leung was spoken to about his concerns.

Senior Planner, Stan Liudahl AICP stated that he was in the process of preparing a formal response regarding Mr. Leung's concerns.

Commissioner Jensen she stated that the proposed project did not appear to affect Mr. Leung's property.

Senior Planner, Stan Liudahl AICP stated that Commissioner Jensen was correct; the proposed project did not affect Mr. Leung's property.

Commissioner James stated that the circle icon being used to signify freeway interchanges may be causing some confusion when referencing the arterial map. He stated that the interchange didn't look accurate because the I-15 Freeway wasn't close to Highway 395 at that location and he hadn't heard any discussion about realigning the I-15 Freeway.

Commissioner Muller stated that his understanding was not for the realignment of the I-15 Freeway, but rather making freeway access up Highway 395. He stated that he had assumed that when the arterial map was constructed by the city, the information was acquired by Caltrans.

Principal Planner, Dave Reno AICP stated that over the years Caltrans had proposed a number of alignments and solutions to the Highway 395 issue, in terms of carrying more traffic on the highway. He stated that there had been two fairly extensive realignment proposals; which proposed realignment of the highway to the west. He stated that without control of Caltrans budgetary process or timing, City Staff was prepared to look at a variety of solutions including making Highway 395 a limited access highway. He stated that the map was for conveyance to the college to facilitate what the voters approved, a second campus and the Applicant can address all questions regarding timeline for the facility. He stated that the plan does not interfere with any potential issues that Caltrans may come up with in the future; it was merely to facilitate the land-use issues. He also stated that staff was not committing or precluding to anything that may possibly occur in the future with Highway 395.

Commissioner James stated that parcel #2 looked like it was directly in the wash.

Senior Planner, Stan Liudahl AICP reviewed the impact of the wash on parcel #2.

Commissioner James questioned if parcel #2 was in the protected area of the wash.

Principal Planner, Dave Reno AICP stated that the parcel was more on the slope as opposed to being down where the water would flow; he stated that even though the flat area of the wash was quite large, the historic flows do not impact a wide area.

Commissioner James questioned if the wash protection was intended to protect the slope area, stating that parcel #2 didn't appear to have any possibility of development.

Principal Planner, Dave Reno AICP stated that previous discussion about Open Space, areas had been identified as preservation areas and areas that were considered not to be preservation areas. He stated that after reevaluating the area it was decided that parcel #2 could handle access from Main Street as well as some commercial use, supported by the college students and traffic. He stated that the extensive area of slope in question would not apply for protection.

Commissioner James questioned parcels 3, 4, 5, and 6 being part of the college or if the parcels would be designated as institutional.

Principal Planner, Dave Reno AICP reviewed the institutional section of the map, stating that the only institutional use would be on parcel #1 and a zone change was considered for parcel #2, changing from regional commercial to neighborhood commercial.

Vice Chair Hahn stated that the protected wash area was located to the southwest of the proposed project.

Principal Planner, Dave Reno AICP stated that the protected wash area was further south by Verbena.

Commissioner James questioned the parcel located on the opposing side of Main Street being a protected wash area.

Principal Planner, Dave Reno AICP reviewed the three protected wash areas.

Chair Elvert questioned the parcels to the west of the proposed project; he questioned if there were any options for those parcels with the proposed project coming in, stating that he was surprised that the parcels were not included in the project.

Senior Planner, Stan Liudahl AICP stated that the parcels were not owned by Mr. Ross and were not part of the project for that reason.

Chair Elvert questioned the possibility of the parcels being land-locked because of the proposed project.

Senior Planner, Stan Liudahl AICP stated that the parcels were in the same conditions as they were prior to the proposed project.

Senior Engineer, Tom Thornton PE stated that when Caltrans realigned Highway 395 the property owners were approached and the parcels were not split in half; however, ownership was on both sides of the highway. He stated that the parcels were already quite undevelopable; however, there was a parcel map, attempting to break the pieces off for possible sale.

Chair Elvert questioned the accessibility of the parcels between the proposed project and Highway 395.

Senior Engineer, Tom Thornton PE reviewed the area surrounding the parcels in question. He reviewed the Arial with the Commissioners explaining the areas of possible vehicular access.

Chair Elvert questioned the location of the parcels owned by Mr. Leung.

Senior Planner, Stan Liudahl AICP reviewed the parcels owned by Mr. Leung as indicated in Mr. Leung's letter presented to the Commission (See Attachment # 3).

Chair Elvert questioned vehicular accessibility to the parcels along Highway 395.

Senior Engineer, Tom Thornton PE stated that slight variations may be seen for legal access; he reviewed the restrictions of the accessibility factors.

Chair Elvert questioned if the parcel map would cause limitation on the City's input on design and water flow through the site.

Senior Engineer, Tom Thornton PE stated that the parcel map did not limit the City's input on design or water flow through the site. He stated there was no development contemplated with the parcel map and that a condition was added for a CDP map which was a drainage condition and upon submittal of development plans, a final hydrology study would be required and City Staff would then make the decision according to the type of development for the design and water flow through the parcels.

Commissioner Muller questioned the proposed site for the southern portion of parcel #1.

Senior Engineer, Tom Thornton PE stated that he had only seen conceptuals and the Applicant would need to be addressed regarding possible development.

Commissioner Muller questioned the division of the parcels.

Senior Engineer, Tom Thornton PE stated that the proposed division was allowable for a commercial lot.

Chair Elvert opened Public Hearing: 7:25 p.m.

Dean Phillips, United Engineering, Applicant Representative addressed some of the questions by the Commission: he discussed the slope and grading of parcel #1. He stated that the topography made it appear that grading was not possible. He reviewed the grades and slopes of parcel #2. He acknowledged Commissioner Muller's concern about Highway 395 and stated that City Staff had been very informative regarding the restricted vehicular access along Highway 395 and Main Street. He reviewed the parcels between Highway 395 and parcel #1,

stating that if the owner of those parcels was to develop before Victor Valley College, then there may be an accessibility issue. He also discussed the possible realignment of Highway 395.

Carl Ross, Property Owner available for questions.

Robert Silverman, President of Victor Valley College stated that he was available for questions.

Commissioner Muller questioned the timeline for development. He stated that he was concerned about the location and the ability for the state to pass bonds.

Robert Silverman, President of Victor Valley College stated that the college planned to open in five years; the project would be completed in phases and he discussed the bonds that would be utilized. He stated that the first bond issuance would come in within three weeks and that the variable was not the state, rather it was the value.

Commissioner Muller questioned the interest rate of the bonds.

Robert Silverman, President of Victor Valley College stated that the interest looked at was 5% and the variables changed by the hour; by next week the bonds would be locked in; however, bond issuance was a day to day thing and the interest was a concern.

Discussion ensued regarding the bond issues.

Principal Planner, Dave Reno AICP stated that during the consideration of the Main Street & Freeway Corridor Specific Plan, the area was designated for institutional use; the site at the proposed location was consistent with the City's intended design.

Vice Chair Hahn questioned access to parcel two and a possible stop sign at the top of the hill.

Dean Phillips, United Engineering, Applicant Representative stated that he had worked with staff and the City Engineer addressing access issues and a signal at the location Vice Chair Hahn was questioning. He stated that the area was a prime location for a signal due to the design speeds and the line of site.

Vice Chair Hahn stated that she was concerned about visibility when traveling from west to east.

Robert Silverman, President of Victor Valley College stated that parcel #2 would be donated by Carl Ross to the foundation and would become some type of retail for the location. He stated that the property becomes more valuable to the college as retail.

Vice Chair Hahn stated that it would help to support the college.

Robert Silverman, President of Victor Valley College stated that parcel #2 was being placed as retail.

Vice Chair Hahn stated that she could see future uses of the wash; possibly soccer courts.

Robert Silverman, President of Victor Valley College stated that the area was one of the most important aspects of the site.

Discussion ensued regarding possible development on the site.

Vice Chair Hahn stated that another road would come into the campus area and the future road would allow easy access.

Robert Silverman, President of Victor Valley College stated that the intersection at Ranchero from Highway 395 was advantageous for the site.

Al Vogler, Hesperia Resident questioned protecting access to the parcels between the proposed site and Highway 395; he stated that creating access was the goal of the state and not potentially closing off access. He also questioned the requirements for physical improvements that would ensure that future access was protected. He stated that it had appeared, on the tentative map subdivision, that there was no requirement for any physical improvement; however, there were requirements for improvements in the futures. He further question the potential uses on parcel #2; specifically, questioning if the potential use was for retail sales.

Principal Planner, Dave Reno AICP stated that the map act specifically precludes development requirements for parcel maps, except upon development of each parcel. He stated that the question of whether or not there would be street improvements cannot be obtained with a parcel map. He clarified that access already existed on the parcels between the proposed site and Highway 395; the proposed parcel map does not make the access to the parcel between the proposed parcel map and Highway 395 better or worse. He stated that in the actual design of the site the college and as well as commercial use would be applicable, retail uses could occur on parcel #2; he addressed the possible retail uses on parcel #2. He stated that the design for access onto the site could change, possibly including more streets or wider streets based upon what development was proposed. He addressed the terms of design and drainage, stating that proposed uses would be evaluated upon their own merit and may carry their own environmental review against traffic, water, or drainage; all concerns would be appropriately addressed once plans were submitted.

Senior Engineer, Tom Thornton PE stated that improvements with the parcel map were conditioned dependent upon the development.

Vice Chair Hahn questioned the property to the north of parcel #1 being part of the district drainage area.

Senior Engineer, Tom Thornton PE indicated an area designated in the master plan that had been designated as a potential collection area.

Vice Chair Hahn questioned the ownership of the area.

Senior Engineer, Tom Thornton PE stated that he did not believe that the City owned the parcel.

Principal Planner, Dave Reno AICP stated that the property in questioned was under private ownership.

Chair Elvert closed Public Hearing: 7:51 p.m.

Motion: Vice Chair Hahn motioned to adopt Resolution Nos. PC-2009-23 and PC-2009-24, as presented, recommending that the City Council introduce and place on first reading an ordinance approving Specific Plan Amendment (SPL09-10151) and Approve Tentative Parcel Map (TPM09-10141). Commissioner Jensen seconded the motion. The motion passed by the following roll call vote:

Commissioner Muller voted no stating that the traffic mitigation was unknown for the area; his vote was based upon the limited information provided to the Commission regarding future expectations of the realignment of Highway 395 and the possible I-15 Freeway interchange.

Ayes: **Commissioner James, Commissioner Jensen, Vice Chair Hahn, Chair Elvert**

Noes: **Commissioner Muller**

Absent:

Abstains:

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5. Consideration of Determination of Conformity – 2009-10 Capital Improvement Program (Staff Person: Scott Priester).

Scott Priester, Director Development Services gave a brief staff report with the use of a PowerPoint Presentation (See Attachment 4). He reviewed CIP FY 2008-09 Projects, Proposed CIP Projects FY 2009-10.

Vice Chair Hahn questioned the funds being partly "City funds" and "Caltrans funds."

Scott Priester, Director Development Services reviewed the funds that were included for the projects, which included City, State, County, and Federal Funds. He reviewed street projects, storm drain projects, and facilities projects. He stated that the Fire Station 301 was shovel-ready; however, the bid was pulled in order to apply for federal funding.

Chair Elvert thanked Scott Priester for his presentation.

Commissioner Muller referenced page 5-5 of the Agenda, addressing project number 7096; he questioned if the project would be in conjunction with Wal-Mart.

Scott Priester, Director Development Services stated that project 7096 would be east of the Wal-Mart project; he stated that staff's hope was to have project 7096 well underway at the time the construction of Wal-Mart begins, which was dependent upon the litigation process.

Commissioner Muller questioned project 7101 and the timeframe.

Scott Priester, Director Development Services stated that 7101 was complete; project 7101 was an upgrade to the existing traffic signal.

Commissioner Muller referenced project 7106, questioning the changes associated with the project.

Scott Priester, Director Development Services stated that the consultant was being engaged to start the conceptual work for the project; Parsons Transportation was involved to give staff ideas about design and potential costs. He stated that the project had been looked at as far as cost and was essentially frozen; the project was still under consideration.

Commissioner Muller questioned project 7104.

Scott Priester, Director Development Services stated that a draft of the plan had been completed and would be submitted to the City Council.

Commissioner Muller questioned any possible help from the County for the cost of the fire station.

Scott Priester, Director Development Services stated that the short answer was "NO" the City's goal was to maintain the actual capital improvements ownership of the fire stations; however, fire station 305 was agreed as a joint facility and the County will help in the cost of the facility.

Commissioner Muller referenced agenda page 5-11, questioning if Muscatel Interchange.

Scott Priester, Director Development Services stated that Muscatel would be an interchange.

Commissioner Muller referenced agenda page 5-14, questioning item 7080 being stopped due to development or if the project 7080 was still in progress.

Scott Priester, Director Development Services stated that the project 7080 was still in progress; he stated that the current alignment was in question and Caltrans was looking at various alignments. He stated that discussion had occurred on the subject for many years and the process of scoping for a new alignment has occurred two times. He reviewed the possibilities for alignment, stating that as public review occurred, Adelanto and Victorville took a position of opposing the project; the alignment was being reconsidered. Caltrans had divided the project into two parts; he reviewed the phases of the realignment.

Commissioner James questioned the reason for Glendale and Rocksprings Road having a right-hand turnout onto a street that dead-ends.

Scott Priester, Director Development Services stated that Engineering Staff would need to address the question.

Commissioner James questioned the reason for new streets being torn-up after they had been newly paved. He requested a report on the turning lane and the newly paved street being torn-up.

Scott Priester, Director Development Services stated that coordination with outside utility companies was a major reason for the newly paved streets being torn-up; he stated that the fiber-optic program was being implemented in Hesperia. He stated that remediation was considered; however, the program was important enough that the streets would be affected. He stated that a moratorium had not been placed on the affect of newly paved roads and development would not be stopped either; however, coordination was a priority. He stated that 7th Avenue was brand new; overhead utilities, storm drain were placed and during the process laterals were crushed and repaving had to occur; the contactor had to pay for the repaving & remediation was occurring as a result of crushed laterals. He stated that staff was concerned regarding the issue of repaving as well and prevention of current situations was a goal; Staff did not want to spend additional funds on reconstruction of roads after completion.

Commissioner James stated communication in the future would be detrimental for coordination with major outside agencies.

Scott Priester, Director Development Services stated that staff can have open communication with major outside agencies.

Commissioner James questioned the signal at "C" Avenue and Main Street; traffic was backing up on he west bound side considerably.

Scott Priester, Director Development Services stated that Main Street was antiquated for many years. The intersection was being looked at to solve the traffic concerns; he stated that development of Ranchero would relieve much of the traffic. He stated that Staff was also looking to place counters in order to identify the area of traffic generation.

Vice Chair Hahn questioned the funds allocated for "C" Avenue.

Scott Priester, Director Development Services stated that the Council Advisory Committee had comments on what should be added or removed and ultimately determines the primary projects for staff associated with the CIP projects.

Vice Chair Hahn questioned the "C" Avenue and Cloverleaf area and the process of moving traffic to Ranchero.

Scott Priester, Director Development Services discussed alignment and the various streets that were possibilities for moving traffic.

Commissioner Muller questioned the location of project 7110.

Scott Priester, Director Development Service gave insight into the area and where the location of project 7110.

Vice Chair Hahn questioned the intersection at Locust, stating that there were no sidewalk and was a very dangerous intersection for pedestrians.

Discussion ensued regarding the location of the area Vice Chair Hahn was concerned about.

Chair Elvert opened Public Hearing: 8:47 p.m.

Al Vogler, Hesperia Resident questioned the synchronization of signals as Capital Improvement Projects and the funds associated with synchronizing the signals. He also stated that there was a desire by Staff to widen Main Street with an addition of a divider, which would make accessibility difficult.

Scott Priester, Director Development Services reviewed the role of the Council Advisory Committee, stating that it was the responsibility of the Committee to add projects to the plan.

Chair Elvert closed Public Hearing: 8:51 p.m.

Motion: Vice Chair Hahn motioned to adopt Resolution No. PC-2009-28, finding that the proposed 2009-10 Capital Improvement Program as shown on Exhibit "A" is in conformance with the Hesperia General Plan, and direct that this finding be reported to the City Council, Hesperia Community Redevelopment Agency, and Hesperia Water and Fire Protection districts. Commissioner James seconded the motion. The motion passed by all commissioners present.

Ayes: **Commissioner Hahn, Commissioner Jensen, Commissioner Muller, Vice Chair Elvert, Chair James**

Noes:

Absent:

Abstains:

* * * * *

E. PRINCIPAL PLANNER'S REPORT

DRC COMMENTS:

Principal Planner, Dave Reno AICP gave a brief staff report and update of DRC actions.

F. PLANNING COMMISSION BUSINESS OR REPORTS:

* * * * *

G. ADJOURNMENT-

Chair James adjourned the meeting to Thursday, May 14, 2009 at 8:53 p.m.

Approved By:

_____
Chair, Planning Commission

Attested By:

_____
Eva Heter, Recording Secretary

ATTACHMENT 1

4/21/09

File no(s): CUP09-10138

To: whom this may Concern:

Due to my work, I'm unable to attend the public hearing on 4/23/0 regarding the transmitter being attached to the existing Southern CA; Edison Electric transmission tower. I'm already concerned about health issues living this close its right behind my prope I would like a follow up on this matter.

Sincerely, Sandra Diane Bee

ATTACHMENT 'A'

List of Conditions for Tentative Parcel Map TPM09-10141 (PM-19187):

Approval Date: May 20, 2009
Effective Date: July 3, 2009
Expiration Date: July 3, 2012

This list of conditions apply to a Tentative Parcel Map to create six parcels from 160.0 gross acres within the Regional Commercial, Public Institutional, and Neighborhood Commercial Districts of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Main Street and U. S. Highway 395 (Applicant: Carl Ross; APN(s): 3064-571-01).

This approval shall become null and void if a Parcel Map is not recorded within three (3) years of the effective date. An extension of time may be granted upon submittal of the required application and fee prior to the expiration date.

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

PRIOR TO RECORDATION OF THE PARCEL MAP:

___ _____ 1. **Map (Commercial).** A Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Map Standards. (E)

___ _____ 2. **Incorporation of Special Map Requirements.** Non-vehicular access shall be delineated on the Parcel Map for the entire length of the westerly and northerly property line for Parcel 1. (E)

___ _____ 3. **Flood Control Criteria.** A Final hydrology report requirement shall be included in the notes shown on the CDP to address future development. All easements overlay districts and proposed structures shall be shown on the Composite Development Plan along with any setback requirements to protect future structures from flooding. (E)

___ _____ 4. **Title Report.** The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)

___ _____ 5. **Plan Check Fees.** A customer request form from Engineering shall be completed and submitted to the Engineering Department. Upon receipt of form, plan-checking fees will be provided to the developer. Fees must be paid along with submittal. Map, CDP, Improvement Plans requested studies, and CFD annexation must be submitted as a package. (E)

___ _____ 6. **All Easements of Record.** It shall be the responsibility of the Developer to provide all Easements of Record per recent title report. (E)

___ _____ 7. **Access Easement(s).** The Developer shall grant an Access Easement if required to provide reciprocal access to and from parcels. Said easements shall be indicated on the Map. (E)

___ _____ 8. **Off-Site Offers of Dedication and Easements.** Should off-site offers of dedication or easements be required for off-site improvements, it shall be the responsibility of the Developer to obtain such dedications or easements at no cost to the City, pursuant to section 66462.5 of the Subdivision Map Act. (E)

___ _____ 9. **Irrevocable Offers of Dedication and Easements.** The Developer shall show all Offers of Dedication(s) and Easement(s) on the Map. This includes Southern California Edison easements.

___ _____ 10. **Specific Plan Amendment.** These conditions are contingent upon Specific Plan Amendment SPL09-10151 becoming effective. (P)

___ _____ 11. **CFD Annexation.** The applicant shall annex the property into Community Facilities District CFD 94-01 concurrent with recordation of the final map. (F)

___ _____ 12. **Fish & Game Fee.** The applicant shall submit a check to the City in the amount of $2,043.00 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

___ _____ 13. **Street Name Approval.** The developer shall submit a request for street names for all of the interior streets for review and approval by the Building Division. In addition, Mesa Linda Street shall be designated Mesa Linda Avenue. (B)

___ _____ 14. **Electronic Copies.** The Developer shall provide electronic copies of the approved project in AutoCAD format Version 2007 to the City's Engineering Department. (E)

___ _____ 15. **Approval of All Required Improvement Plans.** All improvement plans shall be prepared by a registered Civil Engineer per City standards and shall be approved and signed by the City Engineer. (E)

___ _____ 16. **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)

NOTE TO DEVELOPER. THIS CONCLUDES THE REQUIREMENTS FOR RECORDATION OF THE PARCEL MAP. IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW.

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

ATTACHMENT 3

4/15/09

Attn: Stan Liudahl
Senior Planner

We are the property owner of APN: 3064-541-05 and we against the Specific Plan Amendment SPL09-10151. As we are on the west side of the subject property, as they change from Regional Commercial to Public/ Institutional Overlay and Neighborhood Commercial most likely our pacel on the west side of Hwy 395 will be affected and change to the same zoning. We do not want to suffer from their decision and change our zoning.

Please keep us inform in the development of this amendment.

Sincerely,

Albert Leung

ATTACHMENT 4

Capital Improvement Program (CIP)

I. Fiscal Year 2008-09 (Update)
II. Fiscal Year 2009-10 (Proposed)

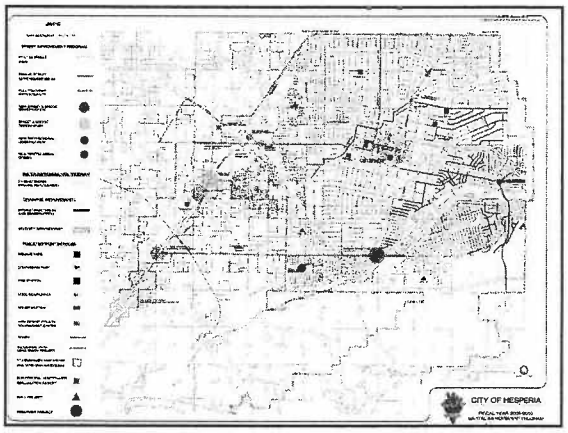
Planning Commission Meeting
April 23, 2009

CIP FY 2008-09 Projects Update

✓47 Projects Funded - $82.4 million
✓35 Projects Started
✓11 Projects Completed - $29.5 million

CIP FY 2008-09 Projects Update

	Underway/Complete	Complete
Streets	18	5
Drainage	1	1
Facilities	7	2
Water/Sewer	9	3
Total	35	11



CIP FY 2008-09 Projects Completed

• 2007-08 Street Improvement (Schedule 2)	$ 8,080,000
• 2008-09 Street Improvement (Schedule 1)	$ 4,200,000
• Juniper/Smoke Tree/8th Ave.	$ 1,650,000
• H-01 Drainage Facility (Section 2)	$ 9,400,000
• Rock Springs Road	$ 1,500,000
• Main Street Sewer (Topaz-Hickory)	$ 480,000
• Downtown Park	$ 1,250,000
• Mojave Corporation Yard Expansion	$ 700,000
• 2006-07 Pipeline Replacement	$ 1,500,000
• Other Projects	$ 712,000
Total of Projects Completed	**$ 29,472,000**

Proposed CIP Projects FY 2009-10

Streets	$ 43.5 million
Drainage	$ 0.3 million
Facilities	$ 43.5 million
Water/Sewer	$ 4.3 million
Total 27 Funded CIP Projects	**$ 91.6 million**

Capital Improvement Program

Streets Projects – 14 Projects

Ranchero Road Related Projects – 3 Projects

• Ranchero Road Undercrossing	$ 15,260,000
• Ranchero Road I-15 Interchange	$ 5,400,000
• Ranchero Road Improvements (7th Ave to Mariposa Rd)	$ 550,000
Total Ranchero Road Projects	**$21,210,000**

All Other Street Projects – 11 Projects

• Seventh Avenue Roadway Improvements	$ 350,000
• Aqueduct Crossing Improvements	$ 600,000
• Muscatel St. Interchange & Joshua St. Modification (Phase 1)	$ 160,000
• Muscatel St. Interchange & Joshua St. Modification (Phase 2)	$ 300,000
• Intersection at Main St. and Rock Springs Rd.	$ 1,530,000
• Township Improvements and Development (Phase 1)	$ 3,683,000
• Township Improvements and Development (Phase 2)	$ 500,000

Capital Improvement Program

Other Street Projects (Continued)

• Railroad Crossing Eucalyptus/Lemon/Mojave	$ 900,000
• Main Street Corridor Design (395 to 11th Avenue)	$ 500,000
• Main Street Corridor Construction	$ 3,750,000
• Industrial Park Lead Track	$ 3,250,000
• Bear Valley Rd Widening (Mariposa to 600 ft. East)	$ 300,000
• Annual Street Improvement	$ 6,277,000
• Traffic Signal at Smoke Tree & Seventh Ave.	$ 250,000
Sub-Total Street Projects	**$22,350,000**
Total Streets Projects	**$43,560,000**

Capital Improvement Program (Continued)

Storm Drain Projects – 2 Projects

• H-01 Drainage Facility (Section 3A - Fourth Avenue to Third Avenue) (Section 3B -Third Avenue to Railroad Tracks)	$ 250,000
• A-04 Drainage Facility (Section 1 – Main St. crossing at Pyrite)	$ 50,000
Total Storm Drain Projects	**$ 300,000**

Capital Improvement Program (Continued)

Facilities Projects – 6 Projects

• Fire Station 304 Interim Expansion (Eucalyptus)	$ 1,340,000
• Fire Stations 301/305 Site Study and Design	$ 200,000
• Fire Station 301 Construction	$ 5,000,000
• Fire Station 305 Construction	$ 5,000,000
• New Police Station Construction	$15,000,000
• High Desert County Government Center	$17,000,000
Total Facilities Projects	**$43,540,000**

Capital Improvement Program (Continued)

Water/Sewer Projects – 6 Projects

• Recoat and repaint Reservoirs 19A, 19B (Interior and Exterior)	$ 1,600,000
• Recoat and repaint Reservoir Plant 30 (exterior)	$ 120,000
• Reservoir 19C – new Reservoir tank construction	$ 30,000
• Waterline replacement EPA Hawthorne/Kern	$ 430,000
• Interstate 15 Corridor New Water and Wastewater System – Design and Construction	$ 1,630,000
• Property Acquisition for (Reservoir expansion at Sites 19A and 21)	$ 500,000
Total Water/Sewer Projects	**$ 4,310,000**
Total of All Projects	**$91,710,000**

City of Hesperia
STAFF REPORT

DATE: May 14, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Lisette Sánchez-Mendoza, Assistant Planner

SUBJECT: Conditional Use Permit CUP09-10128; Applicant: Gerardo Miguel Ortega, APN: 0415-272-04.

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-27, approving Conditional Use Permit CUP09-10128.

BACKGROUND

Proposal: A Conditional Use Permit to establish a 3,750 square foot auto dismantling service with outdoor storage and retail space for the sale of recovered parts within an existing industrial building (Attachment 1).

Location: The property is located at 17435 Catalpa Street, Unit 1B.

Current General Plan, Zoning and Land Uses: The site is within the Industrial/Commercial (IND/COM) General Plan Land Use designation and within the General Manufacturing Zone District (I-2). The surrounding land is designated and zoned as noted on Attachments 2 and 3. The site is presently developed with a multi-tenant industrial building. The property to the north is vacant. A dismantling facility exists to the south. Properties to the east and west are developed with industrial uses.

ISSUES/ANALYSIS

Land Use: The project includes the establishment of an auto dismantling business with outdoor storage. The vehicles are dismantled on-site (indoors) and parts are made available for resale. The outdoor storage area is used for temporary storage of the vehicles. Vehicles are recovered from auctions, insurance companies, and the general public. Once the vehicle is dismantled, the vehicle is removed from the site. As a condition of approval, the outdoor vehicle storage area is required to be paved and partially surrounded by a chain link fence with slats to serve as a visual buffer. Customers will not be in contact or have access to the vehicles. The customer will request the part at the service counter facility from a sales person. If the part is available in stock, it will be sold to the customer. A condition of approval requires the applicant to obtain a permit from the fire department for the handling of hazardous materials such as motor oil and gasoline.

Drainage: The proposed project will not interfere with the current drainage flow of the site.

Street Improvements: No public street improvements are required.

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

Conclusion: The project meets the standards of the Development Code and staff recommends approval.

FISCAL IMPACT

Development will be subject to payment of all plan review and inspection fees as adopted by the City.

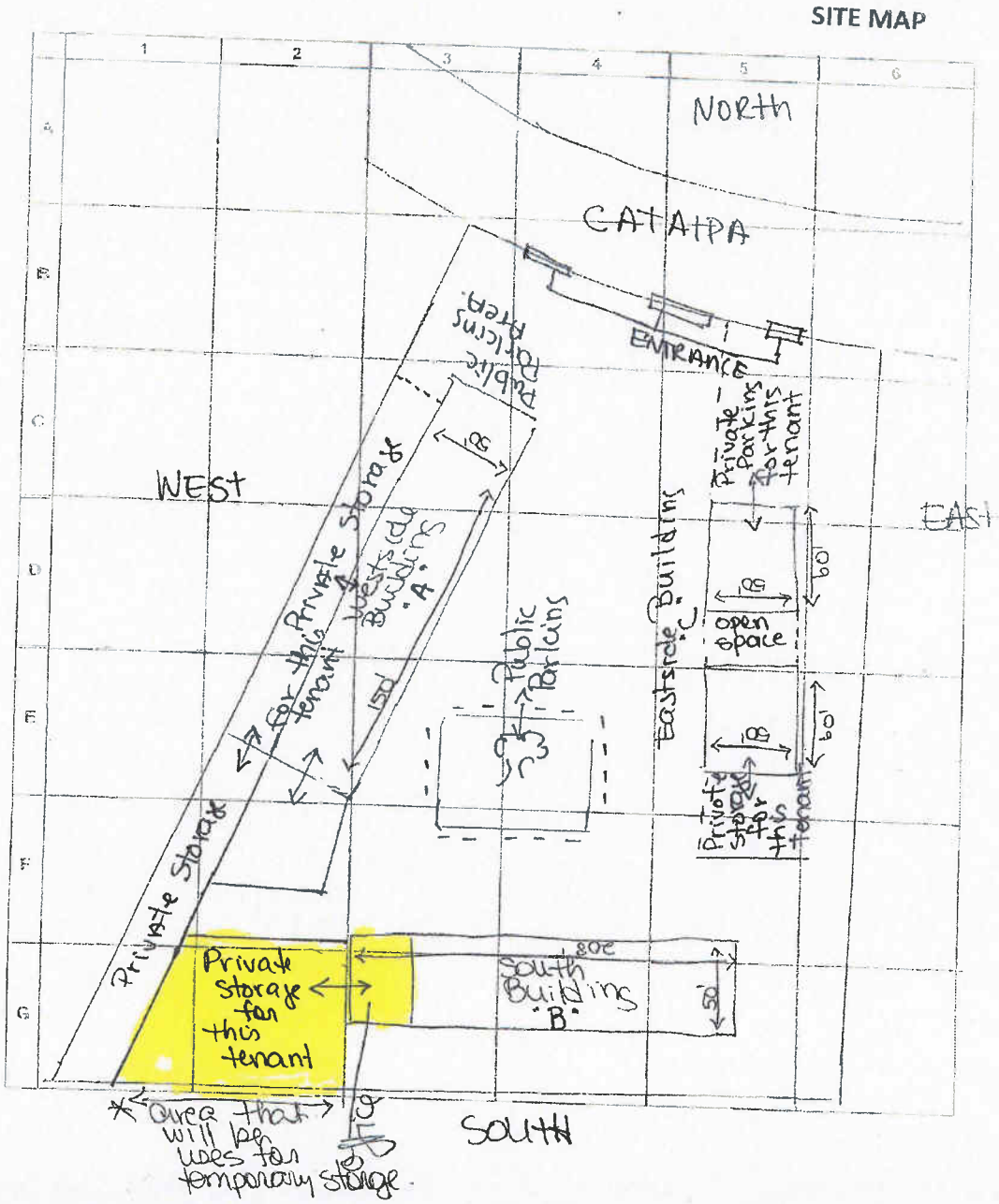
ALTERNATIVE(S)

Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. General Plan land use map
3. Zoning map
4. Aerial photo
5. Resolution No. PC-2009-27, with list of conditions

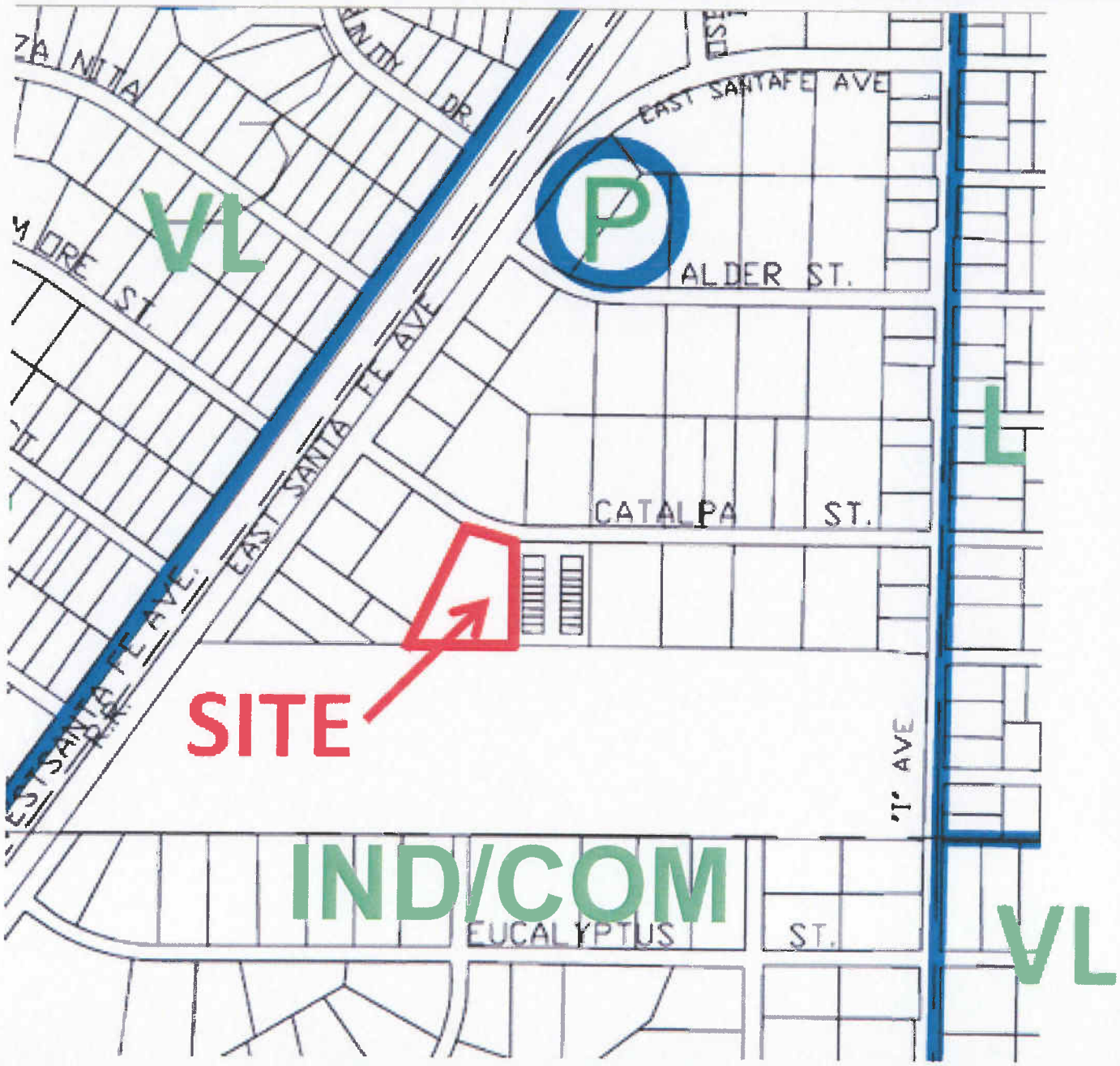
ATTACHMENT 1



APPLICANT(S): GERARDO MIGUEL ORTEGA	**FILE NO(S):** CUP09-10128
LOCATION: 17435 CATALPA STREET, UNIT 1B	**APN(S):** 0415-272-04
PROPOSAL: TO ESTABLISH A 3,750 SQUARE FOOT AUTO DISMANTLING SERVICE WITH OUTDOOR STORAGE AND RETAIL SPACE FOR THE SALE OF RECOVERED PARTS WITHIN AN EXISTING INDUSTRIAL BUILDING.	**N** ↑

SITE PLAN

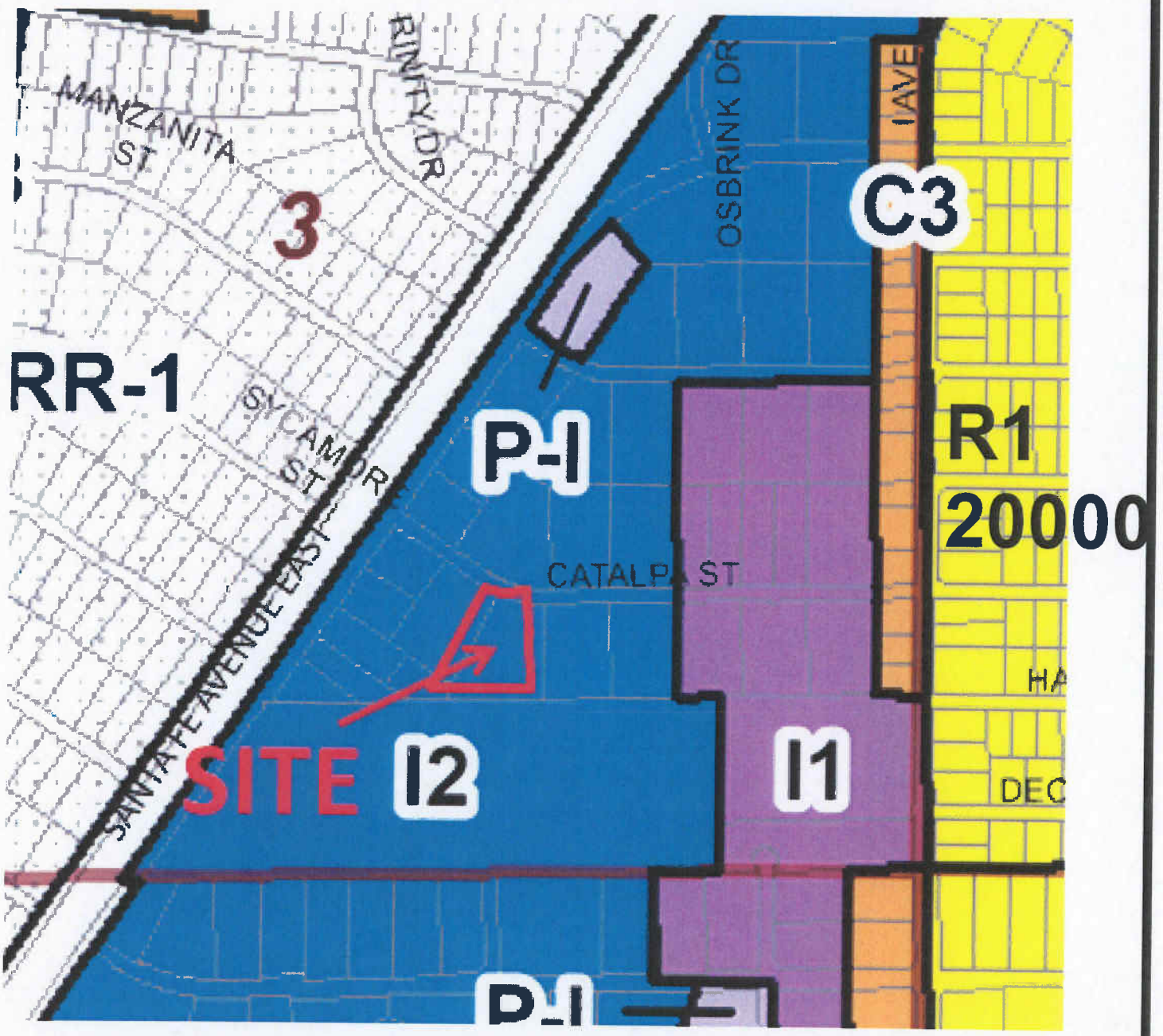
ATTACHMENT 2



APPLICANT(S): GERARDO MIGUEL ORTEGA	**FILE NO(S):** CUP09-10128
LOCATION: 17435 CATALPA STREET, UNIT 1B	**APN(S):** 0415-272-04
PROPOSAL: TO ESTABLISH A 3,750 SQUARE FOOT AUTO DISMANTLING SERVICE WITH OUTDOOR STORAGE AND RETAIL SPACE FOR THE SALE OF RECOVERED PARTS WITHIN AN EXISTING INDUSTRIAL BUILDING.	**N** ↑

GENERAL PLAN

ATTACHMENT 3



APPLICANT(S): GERARDO MIGUEL ORTEGA	**FILE NO(S):** CUP09-10128
LOCATION: 17435 CATALPA STREET, UNIT 1B	**APN(S):** 0415-272-04
PROPOSAL: TO ESTABLISH A 3,750 SQUARE FOOT AUTO DISMANTLING SERVICE WITH OUTDOOR STORAGE AND RETAIL SPACE FOR THE SALE OF RECOVERED PARTS WITHIN AN EXISITNG INDUSTRIAL BUILDING.	**N** ↑

ZONING

ATTACHMENT 4

OUTDOOR STORAGE AREA

APPLICANT(S): GERARDO MIGUEL ORTEGA	**FILE NO(S):** CUP09-10128
LOCATION: 17435 CATALPA STREET	**APN(S):** 0415-272-04
PROPOSAL: TO ESTABLISH A 3,750 SQUARE FOOT AUTO DISMANTLING SERVICE WITH OUTDOOR STORAGE AND RETAIL SPACE FOR THE SALE OF RECOVERED PARTS WITHIN AN EXISTING INDUSTRIAL BUILDING.	**N** ↑

AERIAL PHOTO

ATTACHMENT 5

RESOLUTION NO. PC-2009-27

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A 3,750 SQUARE FOOT AUTO DISMANTLING SERVICE WITH OUTDOOR STORAGE AND RETAIL SPACE FOR THE SALE OF RECOVERED PARTS WITHIN AN EXISTING INDUSTRIAL BUILDING ZONED I-2, LOCATED AT 17435 CATALPA STREET, UNIT 1B (CUP09-10128)

WHEREAS, Gerardo Miguel Ortega has filed an application requesting approval of Conditional Use Permit CUP09-10128 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a developed parcel within the General Manufacturing Industrial Zone District (I-2), located at 17435 Catalpa Street, Unit 1B and consists of Assessor's Parcel Number 0415-272-04; and

WHEREAS, the Application, as contemplated, proposes to establish an auto dismantling service with outdoor storage; and

WHEREAS, the site is presently developed with three industrial buildings. Property to the north is vacant. An existing dismantling yard exists to the south. Properties to the east and west are developed with industrial uses; and

WHEREAS, the subject property is designated Industrial/Commercial (IND/COM). Surrounding properties to the north, south, and east and west are also designated Industrial/Commercial (IND/COM); and

WHEREAS, the subject property is zoned General Manufacturing (I-2). All surrounding properties are also zoned I-2; and

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

WHEREAS, on May 14, 2009, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced May 14, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site is physically suitable for development, because there are no known physical or topographical constraints to development and the site has adequate area to accommodate the proposed auto dismantling service.

(b) The site is physically suitable for development, because the proposed use will not require the construction of additional structures and the site is compatible with the existing structures on-site, and all Development Code regulations required for the permitted uses can be met.

(c) The design of the auto dismantling service and any related improvements are not likely to cause serious public health problems, because all construction will require necessary permits and will conform to the City's adopted building and fire codes.

(d) The proposed auto dismantling business conforms to the regulations of the Development Code and all applicable City Ordinances.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP09-10128, 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 14th day of May 2009.

_____
Chair, Planning Commission

ATTEST:

_____
Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP09-10128:

Approval Date: May 14, 2009
Effective Date: May 26, 2009
Expiration Date: May 26, 2011

This list of conditions apply to a Conditional Use Permit to establish a 3,750 square foot auto dismantling service with outdoor storage and retail space for the sale of recovered parts within an existing industrial building located at 17435 Catalpa Street, Unit 1B. Any change of use or expansion of area may require approval of a revised Conditional Use Permit (Applicant: Gerardo Miguel Ortega; APN:0415-272-04).

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.

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

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSSUANCE:

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

____ _____ 2. **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:

___ _____ 3. **Chain Link Fencing.** Chain link fence with privacy slats shall be provided along the perimeter of the area designated for outdoor storage. (P)

___ _____ 4. **Outdoor Storage Area.** Area designated for outdoor storage shall be paved and limited to the area approved by this conditional use permit. (P)

___ _____ 5. **KNOX Box®**. An approved Fire Department key box is required. The KNOX Box® shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. (F)

___ _____ 6. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. (F)

___ _____ 7. **Haz-Mat Approval.** The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8401 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials. (F)

___ _____ 8. **On-Site Improvements**. All on-site improvements, as shown on the approved site plan, shall be completed in accordance with all applicable Title 16 requirements. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

OPERATING CONDITIONS:

___ _____ 9. **Outdoor Storage.** Outdoor storage are shall be used for the storage of vehicles being dismantled. No permanent storage of objects unrelated to the business shall be permitted. (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**	**947-1414**
(F)	**Fire Prevention Division**	**947-1012**
(RPD)	**Hesperia Recreation and Park District**	**244-5488**

City of Hesperia
STAFF REPORT

DATE: May 14, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Stan Liudahl, AICP, Senior Planner

SUBJECT: Development Code Amendment DCA09-10177 regarding windmills; Applicant: City of Hesperia; Area affected: Citywide

---

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-29, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10177.

BACKGROUND

This Development Code Amendment is proposed to facilitate construction of windmills and similar accessory structures, which will reduce the community's reliance on the regional power grid, leading to increased sustainability. The City is in an area which receives regular wind patterns, due to its proximity to the Cajon Pass. The five to seven mile per hour average wind speed is advantageous to production of wind energy. Installation of a windmill will reduce the electric bill of the individual purchaser and help reduce the incidence of electric shortages during peak demand for the grid. When the windmill produces energy, the electric meter turns backwards, reducing the electric bill and reflecting that the energy is being input to the electric grid. In addition, state and federal incentive programs are available to reduce the initial cost of these systems. The power output of windmills designed for residential use varies widely, particularly between roof-mounted and tower-mounted systems.

Windmills, wind machines, and other similar structures are constructed in three general size ranges, although sizes tend to overlap to a degree based upon manufacturers' specifications. The most familiar are the largest, which are found in large wind farms (Attachment 1). The nearest wind farm is located in the pass near Palm Springs. Other wind farms exist in the passes near Tehachapi and east of the San Francisco Bay region. Individual wind generators in these wind farms produce between 1.5 and 5 megawatts of electricity and incorporate approximately 100-foot diameter rotors on 300-foot or taller towers. The medium-sized wind machines produce from around 10 Kilowatts to 500 Kilowatts and include five-foot to 15-foot diameter rotors (Attachment 2). Tower height can vary widely, from under 20 feet to over 100 feet high. The newest technology in wind energy is roof-mounted (Attachment 3). These structures create between 600 watts and 6 Kilowatts of energy and exhibit architecturally enhanced rotors to compliment the building architecture in sizes from seven feet to 30 feet in diameter.

Currently, windmills are only listed as permitted within the Limited Agricultural (A-1) and General Agricultural (A-2) Zone Districts. The Development Code is silent with respect to these structures in all other zone districts. Due to recent developments in wind energy, state and federal incentive programs, and a general trend towards sustainability, staff has processed applications in other zone districts with approval of a site plan review. Staff is forwarding this Development Code Amendment for consideration to formalize a permitting process for these accessory structures in all areas of the City.

ISSUES/ANALYSIS

This Development Code Amendment will revise the regulations within Title 16 regarding windmills, wind turbines, wind machines, and similar accessory structures harnessing wind energy. The proposal will allow windmills on towers as an accessory use within all single-family residential, agricultural, institutional, Specific Plan, Planned Development, and industrial zone districts. Staff believes that windmills mounted on towers may be aesthetically incompatible with multiple-family and commercial developments. Therefore, staff recommends that they be allowed in these zones only with approval of a revised site plan review application. Roof-mounted structures harnessing wind energy would be allowed within all zone districts, including Specific Plan and Planned Developments. The proposed Development Code Amendment also includes definitions, standards, minimum maintenance, and removal provisions in the event that a windmill is in a state of disrepair for 180 or more continuous days. Windmills have been designed with safety features to prevent damage to them during periods of extreme winds. All structures shall be a light gray, white, or other approved non-reflective color to minimize visual disruption of the area. Use of conspicuous colors will be prohibited. Nothing in this Development Code Amendment shall be construed to affect the structural requirements for any windmill, as enforced by the Building and Safety Division.

Staff recommends that the number of windmills on individual properties not be limited, as long as the intent is to provide energy for the principal buildings on the property. Windmills on lots without a principal use designed to provide power to off-site locations are considered a wind farm and would require approval of a conditional use permit. Windmills on towers will be subject to the height restrictions of the zone district, adjusted to include the special height increases within the Development Code, which permits a 50 percent height increase beyond the height limitation of the zone district. No portion of the tower, blades, rotor or any other part of the structure shall exceed this height. To ensure that towers do not negatively impact adjacent properties, staff recommends that all structures on towers be located behind the primary structure on the property and be a minimum of 1.1 times the overall height of the structure from the side and rear property lines. This will ensure that the windmill will not encroach onto an adjacent property if the structure falls. In general, this ordinance will require that tower-mounted windmills be on lots at least one-half acre in size. Multiple numbers of roof-mounted wind machines would be permitted on each property, provided that they not exceed the height limitation of the zone district and comply with the Noise Ordinance at all property lines.

Windmills shall be subject to the Noise Ordinance, which limits daytime noise at residential property lines to 60 dB (A) and 55 dB (A) in the evening. Since the wind may cause the windmill to operate at any time, staff has imposed the evening noise limitation. The Noise Ordinance also allows noise to exceed 55 dB (A) for temporary periods, accounting for sporadic increases in noise such as from construction activity. In addition, the Ordinance allows 5 dB (A) over ambient noise levels, due to wind noise. The specifications for any windmill shall show compliance with the evening noise limitation without consideration for ambient noise. In commercial and

industrial areas, windmills shall be subject to the evening noise standard of the receiving zone district. Should any windmill create excess noise as defined in the specifications for the machine, then it shall be setback the additional distance necessary to comply with the noise limitation. The General Plan identifies that although 55 dB (A) is a generally noticeable sound level, it is less than the noise produced by an air conditioner over 100 feet away (60 dB (A)).

The noise produced by windmills varies by manufacturer. One type produces 45 dB (A) at a distance 40 feet from the windmill. On average, windmills produce between 55 dB (A) and 61 dB (A), with an ambient noise level between 55 dB (A) and 60 dB (A) and would not produce noise more than 10 dB (A) above ambient. Based upon the Noise ordinance, some windmills would need to be located farther from the property line than others, due to variations in the noise produced between models.

Staff measured the sound produced by the windmill on a tower approximately 40 feet tall located in the industrial area at 17434 Mesa Street, with winds blowing in excess of 10 miles per hour. The ambient noise in the location was about 88 dB (A), the noise measured about 95 dB (A) on the ground beneath the windmill, and the noise level dropped to about 92 dB (A) approximately 30 feet from the tower. This equates to seven decibels over ambient at the base of the tower and less than four decibels above ambient about 30 feet from the tower. Consequently, the windmill would comply with the Noise Ordinance if situated in accordance with the recommended setback.

Staff recommends that wind farms be allowed only with approval of a conditional use permit in outlying areas within the rural residential, agricultural, institutional, and industrial zone districts. Staff believes this will provide sufficient public notice and hearing requirements to ensure land use compatibility issues are adequately addressed.

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

CONCLUSION

Staff supports the Development Code Amendment, as it will provide a procedure for permitting windmills and similar accessory structures in other zone districts besides the Limited Agricultural (A-1) and General Agricultural (A-2) Zone Districts and will enable the City to promote energy sustainable technology, consistent with state and federal incentives.

FISCAL IMPACT

None.

ALTERNATIVES

1. The Planning Commission may revise the Development Code Amendment to restrict the zone districts allowing windmills, provide for a minimum lot size, and/or require approval of a revised site plan review application for windmills in more than just the multiple-family and commercial zone districts. This alternative may result in reducing the number of properties qualifying for installation of this energy sustainable technology. Staff believes that the minimum setback regulations will provide sufficient safeguards preventing land

use incompatibility in all but the multiple-family and commercial zone districts. For this reason, staff recommends that approval of a revised site plan application be required in those two districts. Staff believes that there is not a similar concern in the other zone districts and that windmills should be allowed ministerially. As such, staff does not support this alternative.

2. The Planning Commission may revise the Development Code Amendment to reduce the proposed minimum side and rear yard setback requirement. Staff does not support this alternative, as the 1.1 times the windmill height formula ensures that should a windmill fall, it would not impact the adjacent properties and that the windmill is in scale with the property size.
3. Provide alternative direction to staff.

ATTACHMENTS

1. Photo of wind farm
2. Medium-sized wind machine
3. Roof-mounted wind machine
4. Resolution No. PC-2009-29, with Exhibit "A"

ATTACHMENT 1

APPLICANT(S): CITY OF HESPERIA	**FILE NO(S):** DCA09-10171
LOCATION: CITYWIDE	**APN(S):**
PROPOSAL: CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT TO AMEND THE TITLE 16 REGULATIONS REGARDING WINDMILLS, WIND MACHINES, AND SIMILAR ACCESSORY STRUCTURES HARNESSING WIND ENERGY	**N** ↑

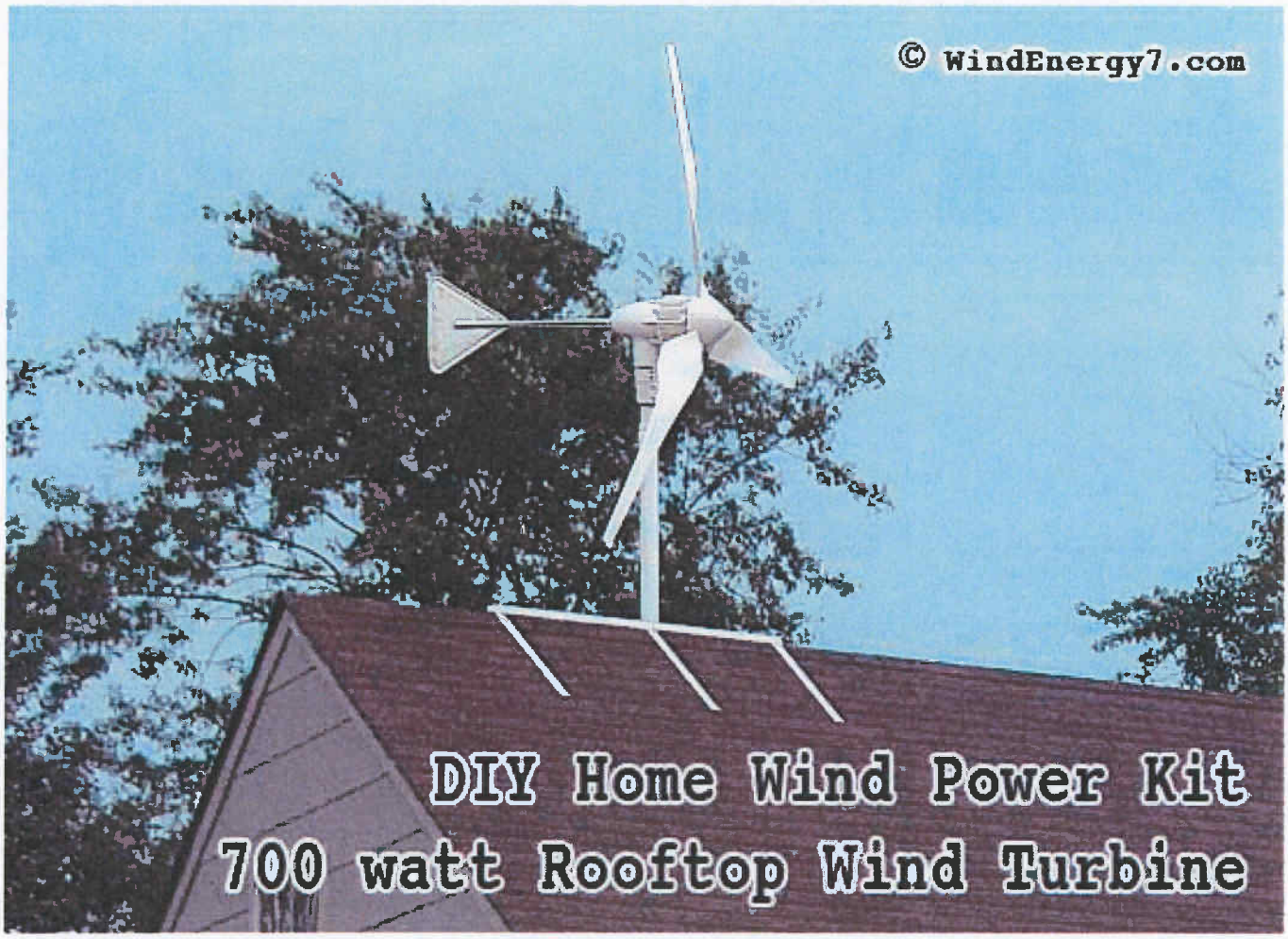
PHOTO OF A WIND FARM

ATTACHMENT 2

APPLICANT(S): CITY OF HESPERIA	**FILE NO(S):** DCA09-10171
LOCATION: CITYWIDE	**APN(S):**
PROPOSAL: CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT TO AMEND THE TITLE 16 REGULATIONS REGARDING WINDMILLS, WIND MACHINES, AND SIMILAR ACCESSORY STRUCTURES HARNESSING WIND ENERGY	**N** ↑

MEDIUM-SIZED WIND MACHINE

ATTACHMENT 3



APPLICANT(S): CITY OF HESPERIA	**FILE NO(S):** DCA09-10171
LOCATION: CITYWIDE	**APN(S):**
PROPOSAL: CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT TO AMEND THE TITLE 16 REGULATIONS REGARDING WINDMILLS, WIND MACHINES, AND SIMILAR ACCESSORY STRUCTURES HARNESSING WIND ENERGY	**N** ↑

ROOF-MOUNTED WIND MACHINE

DCA09-10171 Graphic.DOC

ATTACHMENT 4

RESOLUTION NO. PC-2009-29

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE TITLE 16 REGULATIONS REGARDING WINDMILLS, WIND MACHINES, AND SIMILAR ACCESSORY STRUCTURES HARNESSING WIND ENERGY (DCA09-10177)

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

WHEREAS, The City of Hesperia Development Code regulations pertaining to windmills, wind machines, and similar accessory structures harnessing wind energy requires modification; and

WHEREAS, Title 16 of the City of Hesperia Development Code shall be amended as per the attached Exhibit A; and

WHEREAS, It is the City's intent to promote sustainable energy practices, by encouraging use of technologies harnessing wind and solar energy; and

WHEREAS, The proposed Development Code amendment is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures of the CEQA Guidelines, as there is no possibility that the proposed Development Code revision regarding windmills and similar structures harnessing wind power can have a significant adverse effect on the environment; and

WHEREAS, On May 14, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA09-10177, amending Title 16 as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 14th day of May 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT "A"

Chapter 16.08 Definitions

16.08.889 Wind farm. "Wind farm" for purposes of this chapter shall be multiple windmills on a lot or parcel in which the windmills are not accessory to a primary use, with the intent to provide energy to a location other than the site that the windmills are located.

16.08.890 Windmill. "Windmill" for purposes of this chapter shall include wind machines and similar accessory structures harnessing wind energy.

Chapter 16.16 Zone Districts
Article III. Additional Uses

16.16.064 Windmills.

A. Windmills as defined by Section 16.08.890 shall be permitted subject to the provisions as provided herein.

1. Tower-mounted windmills shall be allowed as an accessory use on developed single-family residential, rural residential, agricultural, institutional, Specific Plan, Planned Development, and industrial lots, subject to the structure and all appurtenant equipment being located behind the primary building not within the front or street side yard and a minimum of 1.1 times the overall structure height from the side and rear property lines. Windmills may be allowed within multiple-family and commercial zone districts with approval of a revised site plan review application. Guy wires may encroach into the minimum setbacks, but shall not encroach over property lines. Specifications on the noise produced by the windmill shall be submitted, identifying the distance from the structure to the property line to meet the City's Noise Ordinance. The setback shall be increased should the manufacturers' specifications evidence that the windmill would exceed the evening noise standard at any property line. Tower-mounted windmills shall not exceed the height limitation of the zone district in conjunction with the special height increases of Section 16.20.060. The height shall be measured to the top of the blades or rotors or any other portion of the windmill, which extends farthest above ground level. The blades and rotors of the windmill shall be a minimum of 15 feet above ground level at the lowest point to ensure the safety of persons and property beneath. Approval of additional height beyond the special height increases within Section 16.20.060 shall require approval of a variance.

2. Roof-mounted windmills shall be allowed in all zone districts, including Specific Plan and Planned Developments. Roof-mounted windmills shall not exceed the height regulation of the zone district unless approved by a variance. Roof-mounted windmills do not qualify for the special height increases of Section 16.20.060. The height shall be measured from the ground to the top of the blade/rotor or any other portion of the windmill. Specifications on the noise produced by the windmill shall be submitted, identifying the distance from the structure to the property line necessary to meet the

City's Noise Ordinance. The windmill shall be located so that it does not exceed the evening noise standard at any property line.

3. All windmills shall be a light gray, white, or other City-approved non-reflective color to minimize visual disruption of the area. Use of conspicuous colors is prohibited. Windmills shall not contain signs or be illuminated, unless required by state or federal law.

4. Nothing in this Development Code Amendment shall be construed to affect the structural requirements for any windmill, as enforced by the Building and Safety Division. All windmills shall require issuance of a building permit prior to installation.

5. All mechanical equipment associated with the windmill located outdoors shall be secured by a minimum five-foot high fence to prevent unauthorized access. Ladders or step bolts on the side of towers shall be a minimum of 9 feet above ground level or shall be equipped with an approved method to prevent unauthorized access.

6. Windmills shall be equipped with manual and automatic controls to limit the operational speed of the blades/rotor to the design limits of the windmill. An automatic braking, governing or feathering system shall also be provided to prevent uncontrolled rotation.

7. The windmill shall not cause any electromagnetic interference.

8. Windmills shall be kept in good working order and shall be maintained in an aesthetic state. All windmills which are in a nonoperational state for 180 consecutive days or more shall be considered abandoned and shall be dismantled and removed from the property at the owner's expense.

9. Wind Farms shall be allowed in rural residential, agricultural, institutional, and industrial zone districts with approval of a conditional use permit.

10. All references to wind machines within the current Development Code shall be eliminated, pursuant to this ordinance.

Chapter 16.16 Zone Districts

Article IV. Single-family Residence (R-1) District

16.16.080

K. Windmills, as defined by Section 16.08.890 and allowed pursuant to Section 16.16.064.

Chapter 16.16 Zone Districts

Article VII. Limited Agricultural (A-1) District

16.16.280

O. Accessory uses and structures, including the following:

16. Windmills, as defined by Section 16.08.890 and allowed pursuant to Section 16.16.064.

City of Hesperia
STAFF REPORT

DATE: May 14, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Stan Liudahl, AICP, Senior Planner

SUBJECT: Administrative Appeal APP-2008-01; Appellant: Lunnen Development; APN: 3072-251-04

RECOMMENDED ACTION

It is recommended that the Planning Commission continue this item to allow the City Council time to consider the proposed Billboard Ordinance.

BACKGROUND

Proposal: An administrative appeal of the denial of a building permit to replace an existing two-sided, 40-foot high, 672 square foot billboard with a two-sided, 47-foot high, 672 square foot digital billboard (Attachments 1 thru 4). As part of the application, the property owner submitted a letter (Attachment 2), which outlines the request. The digital sign would allow the police and fire agencies to interrupt normal advertising with emergency information and time on the sign would also be made available for public service announcements.

Location: On the east side of Interstate 15, north of Short Street.

Current General, Plan, Zoning and Land Uses: The site is within the Planned Mixed Use (PMU) General Plan Land Use designation and the Regional Commercial District of the Main Street and Freeway Corridor Specific Plan. A recreational vehicle sales and rental facility exists to the north and the property to the west, beyond Interstate 15, contains a mortuary. The properties to the south and east are vacant (Attachment 5).

The City contains 33 existing billboards, 28 along the Freeway Corridor and five 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 Street, four near the Interstate 15/U. S. Highway 395 interchange and nine on both sides of the freeway between Oak Hills Road and the Cajon Pass (Attachment 6).

ISSUES/ANALYSIS

The Planning Commission continued the appeal from its February 12th and April 9th meetings per the appellant's request. The first continuance was granted due to the appellant's inability to attend the meeting and the second was due to the appellant obtaining a different representative for the project. These continuances have allowed the Development Code Amendment (DCA) for billboards to catch up with this request. Staff is bringing the DCA back to the Commission on May 14th with additional information on brightness standards, protection against digital hackers, and amortization.

The City's Development Code (Section 16.36.060) currently allows billboards within the Commercial Resort (CR) Zone. However, this zone district was recently superseded by the adoption of the Freeway Corridor and Main Street Specific Plan. The new zoning in the Specific Plan does not permit billboards. Consequently, the existing billboards are considered nonconforming uses. Section 16.36.100 limits billboards to a maximum area of 200 square feet and height of 25 feet. In addition, billboards are to be spaced a minimum of one thousand feet apart and are not to be located in a historic, agricultural, or neighborhood shopping district, the downtown commercial core, or within 750 feet of any residential district. The Specific Plan does allow some expansion, addition or alteration of non-conforming uses, subject to City approval.

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 not requires, cities to revise their ordinances to enable such actions. These agreements may allow for replacement/modification of existing billboards with upgraded billboards based upon removal of multiple billboards. In this case, the property owner controls just one billboard.

Land Use: The City's General Plan contains a number of goals and policies that that focus on the establishment of well designed, attractive businesses that generate sales tax and build a local job base. The adopted Main Street and Freeway Corridor Specific Plan also contains goals that include:

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.*

In developing a recommendation on this request, staff considered several issues in addition to the policies discussed above:

Billboards are not part of a land use expectation; The City's current sign code was 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 always been considered nonconforming uses.

Billboards are distracting to motorists and consumers; Billboards, particularly reader boards, are distracting to consumers and motorists. While Caltrans' regulations 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.

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.

Legal issues concerning billboard regulations were discussed with the City Attorney's office. Their opinion is that cities can regulate physical aspects of signs, including billboards, as long as the regulations support a substantial government interest, and that the regulation goes no further than necessary to accomplish that objective. Further, in at least four instances since *Metromedia v City of San Diego (1992)*, 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.

Environmental: Denial of a project is exempt from the requirements of the California Environmental Quality Act.

CONCLUSION

Staff cannot support approval of the proposed billboard replacement at this time, as the request is inconsistent with the Development Code. Until the City Council formalizes a policy allowing for the relocation and upgrading of billboards, staff cannot make a positive recommendation. The appellant has agreed to extending this item twice, allowing time for consideration of an Ordinance. Staff would recommend that the Commission continue this item to allow the Council time to consider the proposed Ordinance.

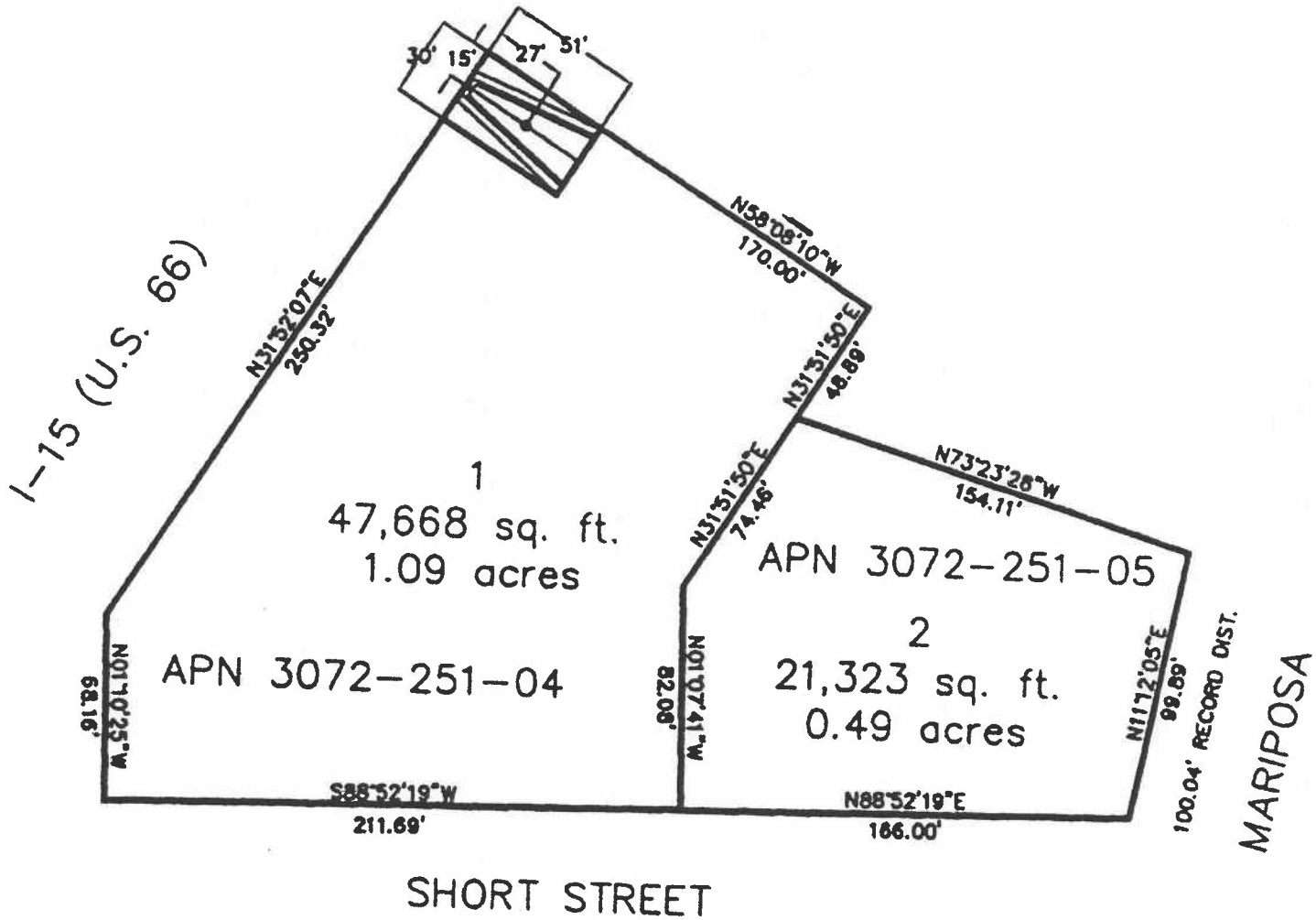
ALTERNATIVES

1. The Planning Commission may deny the appeal without prejudice, inasmuch as the City is currently considering a Development Code Amendment addressing billboards.
2. The Planning Commission may consider the proposed replacement of the existing billboard through approval of a Conditional Use Permit under the non-conforming use provisions. Staff supports the upgrade of existing billboards only with a relocation agreement with a billboard owner. This alternative would not result in a reduction in the number of billboards in the City, as staff is unaware that the property owner controls more than one billboard. As such, staff does not support this alternative.
3. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. Letter from W. Thomas Lunnen dated October 11, 2008 regarding the digital billboard
3. Proposed billboard plans
4. Photos of the existing billboard
5. Aerial Photo
6. Map of existing billboards within the City
7. Resolution No. PC-2009-07

ATTACHMENT 1



APPELLANT(S): LUNNEN DEVELOPMENT	**FILE NO(S):** APP-2008-01
LOCATION: ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET	**APN(S):** 3072-251-04
PROPOSAL: CONSIDERATION OF ADMINSTRATIVE APPEAL APP-2008-01, TO REPLACE AN EXISTING TWO-SIDED, 40-FOOT HIGH, 672 SQUARE FOOT BILLBOARD WITH A TWO-SIDED, 47-FOOT HIGH, 672 SQUARE FOOT DIGITAL BILLBOARD	**N** ↑

SITE PLAN

ATTACHMENT 2

LUNNEN DEVELOPMENT

Real Estate Development | Investment | Brokerage | Consulting

Mike Podegracz
City Manager
9700 Seventh Ave
Hesperia, Ca 92345

10/11/08

Re: Digital Messaging Center APN 3072-251-04

Dear Mike,

I wanted to provide you with a brief narrative of what it is we are trying to accomplish and the benefits to the City of Hesperia. We propose to have a seamless upgrade from an existing billboard on our property to a Digital Messaging Center. The new sign will be constructed by Osservare Outdoor Sign LLC and they will be investing approximately $1,000,000 for its construction. It will be constructed with masonry materials and a decorative façade which will include a City of Hesperia logo at the top of the structure.

We have met with several Council Members and explained the City of Hesperia will be able to advertise city information (City events, City Council meetings, public service announcements, etc) on a rotation of the sign which represents approximately $70,000- $80,000 per year in free advertising. In addition the City of Hesperia will receive 2.5% of the revenue of the sign. Of the Council Members that we have met with, all would be willing to support the digital messaging board. We have also met with Mark Kirk and Russ Blewett who are both running for City Council and both agreed that this would be a positive thing for the city and would support the idea. In addition we have met with the both the Chief of Police, Lance Clark and the Fire Chief, Tim Russell and explained to them that the sign would have its own wireless IP address which would allow both departments to have direct access to the sign for any emergencies (amber alerts, fire information, emergency information). Chief Clark felt that it would be a valuable tool for the Police Department and Chief Russell expressed that it would be an extremely valuable tool for the Fire Department.

We are providing in the package testimonials from other law enforcement agencies (FBI, local sheriffs and chiefs) about this powerful new technology to help them locate fugitives and to locate missing persons. There are currently over 11,000 digital messaging centers in Los Angeles and Los Angeles County. There are digital messaging centers in San Bernardino County as well as a few along the I-15 corridor. Our proposal to upgrade our existing sign is unique in the benefits that it provides to the City of Hesperia.

Very Sincerely,

W. Thomas Lunnen

Capistrano Business Plaza ◆ 30220 Rancho Viejo Road ◆ Suite A ◆ San Juan Capistrano, California 92675 3-5
Tel 949.661.8150 ◆ Fax 949.496.0836 ◆ www.lunnen.com

PLANNING COMMISSION

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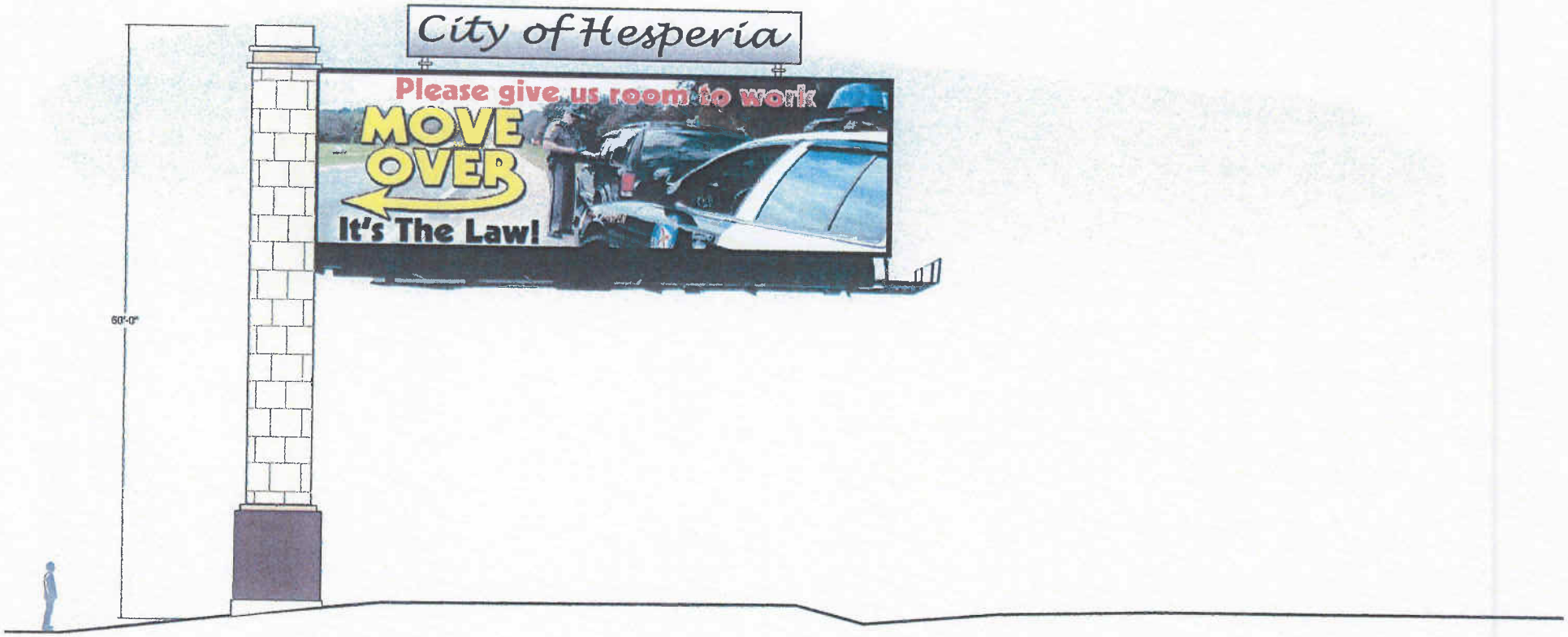
Google
Image © 2007 DigitalGlobe
Tuxko Ave
Mariposa Rd
Short St
15
N
E
W

Sun City Apple Valley
by Del Webb®
THIS EXIT, TURN RIGHT TO APPLE VALLEY RD.
LAMAR


City of Hesperia
Please give us room to work
MOVE OVER
It's The Law!
60'-0"

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

RICHARD D. WILES
CHIEF OF POLICE

CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEJANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN, JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

OFFICE OF THE CHIEF OF POLICE

December 3, 2007

Mr. John Campbell
Director, Right of Way Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2488

Dear Mr. Campbell:

As Chief of Police I support electronic displays on billboards. I commend TX DOT's recent decision to consider allowing the use of such displays in Texas. Our local experience with these displays has clearly demonstrated the safe and effective use of this technology. In addition, I have included my comments before TX DOT on Wednesday November 28 for your review.

Good Morning. Richard Wiles, Chief of Police of El Paso.

Texas - - and I don't know if anybody noticed, but Mr. Smith and I are actually color coordinated. I just caught that.

Anyway, I'd like to read into the record a letter from the Honorable Mayor of El Paso, John Cook, and then say just a couple of words:

"The City of El Paso looked into the issue of billboards several years ago. As a result, we had a comprehensive rewrite of the ordinance regarding off-premise signage. Subsequently, we examined the potential for improving the image billboards had in our community, and amended the ordinance to allow for electronic billboards.

We have found that they are not only accepted by the community, but are more attractive than other technologies. As Mayor of the sixth largest city in Texas, I would certainly encourage other cities to consider modernizing their off-premise sign ordinances.

911 N. RAYNOR • EL PASO, TX 79903 • (915) 564-7000 • WWW.EPPD.ORG

As a result of our experience, the City of El Paso supports TxDOT's efforts to allow us to expand our program to those highways under state jurisdiction."

That's from Mayor Cook. In regards to the Police Department's stance on this issue, there's two major issues that I see. One is the issue of safety. Certainly traffic crashes and the injuries and fatalities that are related to those are of great concern to me as a law enforcement professional. And I would not want to have something on the roadway that would distract the drivers.

But I have to tell you that in my conversations with the deputy chief in charge of our traffic units, certainly over the last five years that we've done research, we have found no instances of traffic collisions being caused as a result of inattentiveness for billboards.

And as Mr. Smith mentioned, the electronic billboards have gone up on city streets, eight of them, and since they've been up over the last several months, we have had no instances that they have contributed to any driver inattention that has resulted in a collision. So I don't believe that that's an issue. Certainly not within the City of El Paso.

And the second issue is in regards to the support that these billboards can give to law enforcement in times of crisis. As you're well aware, when an Amber Alert occurs, TxDOT flashes information on their electronic message boards, but it's all -- there's no photos, it's all writing.

And the problem with that is, the information does not catch the attention of the traveling motorist many times and it's not -- and because human beings are visual animals, it is not as -- it doesn't give us the same impact as if we can put up a photo of the missing a child, of a vehicle involved, of the subject that's involved.

So we think these billboards will be a great asset to any community, certainly in El Paso, by providing our community with information related to crises such Amber Alerts or other emergencies that could occur within the city. Thank you very much.

Yours truly,

Richard D. Wiles
Chief of Police

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Pennsylvania Mayor Endorses Digital Billboards as Good for the Community

Mayor Ed Pawlowski of Allentown, Pennsylvania, enthusiastically supported "OOS" a St. Louis based company of the installation of a digital billboard in downtown Allentown because he saw it as a way to revitalize the inner city and promote safety. **"Due to the ability to rapidly change and deliver information,"** Mayor Pawlowski wrote in a letter explaining his support for digital billboards, "electronic message boards have assisted local law enforcement with AMBER Alerts, emergency information about public safety and traffic information."

"Osservare Outdoor has allowed our agency the complimentary use of their billboards to **display photos and names of violent criminals, missing persons, or to solicit secret witness information.** It is not only important in the event of a **fleeing felon, but when we have abducted children or missing Alzheimer patients, time is crucial for success.** The resource could be a lifeline for some of our most vulnerable citizens.

This is an exciting partnership that will allow us to move fast and efficiently if we need to sweep for information. **The use of these billboards are a growing trend in law enforcement, ranging from the FBI to local Sheriff's and Chiefs, with impressive results. The posting on the boards contribute to an environment where the criminal feels pressure that they have no where to go."**

Michael Haley.

SACRAMENTO, Calif. (KABC) -- Governor Schwarzenegger wants to use message boards, usually used for Amber Alerts and other emergencies, as billboards. He says by selling ads, the state could raise cash. California drivers know them as the Amber Alert or traffic delay message boards.

They are often blank.

CalTrans is toying with the idea, proposed by Clear Channel Outdoor, of selling advertising space on the state's nearly 700 roadside billboards.

Story continues belowAdvertisement

"I think when you look at the state of California's transportation system and the need for repairs and rehabilitation to that system, we've got to figure out different ways to provide resources to accomplish that rehabilitation," said CalTrans Director Will Kempton.

High fuel prices are forcing Californians to drive less, so the state isn't collecting as much gas tax to fund road projects.

CalTrans estimates ad space could bring in tens of millions of dollars a year.

The lawmaker who wrote the bill creating the Amber Alert System says it's a great opportunity to upgrade the boards without taxpayer money.

The money could lead to upgrades like color-coded traffic alerts and the actual pictures of the child and car involved in an abduction.

"It's a much better way to engage the public in regards to those Amber Alert signs, helping them know what they are looking for," said State Senator George Runner (R-Lancaster).

California would need a federal waiver for what will be a new use of freeway signs.

- Get more L.A. breaking news, weather, traffic and sports

- Have a news tip? Send your tips, video, or pictures

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jim lunnen <jameslunnen@gmail.com>

(no subject)

1 message

Neumann, James <jimn@oosinv.com> Mon, Aug 25, 2008 at 5:25 AM
To: jim lunnen <jameslunnen@gmail.com>

Billboards and the Fight Against Crime

Digital billboards have become a significant part of efforts to fight crime around the country. Donated boards are used by local police departments as well as the FBI to put pictures of wanted suspects and fugitives in front of the mass audience digital billboards reach.

Based on the success of a pilot project in Philadelphia, the FBI has expanded its use of digital billboards coast to coast. FBI officials say the program has lead to the direct apprehension of wanted suspects, while boosting morale and public safety.

Local law enforcement officials have also been quick to take advantage of this powerful new technology, to help find fugitives and locate missing persons.

As digital inventory increases, so will the law enforcement and emergency preparedness applications. Already, some states are entering into agreements with outdoor advertising companies to display severe weather warnings, and plans

are underway in other localities to do even more. Digital billboards are becoming a vital part of efforts to make communities safer.

Jim Neumann
President

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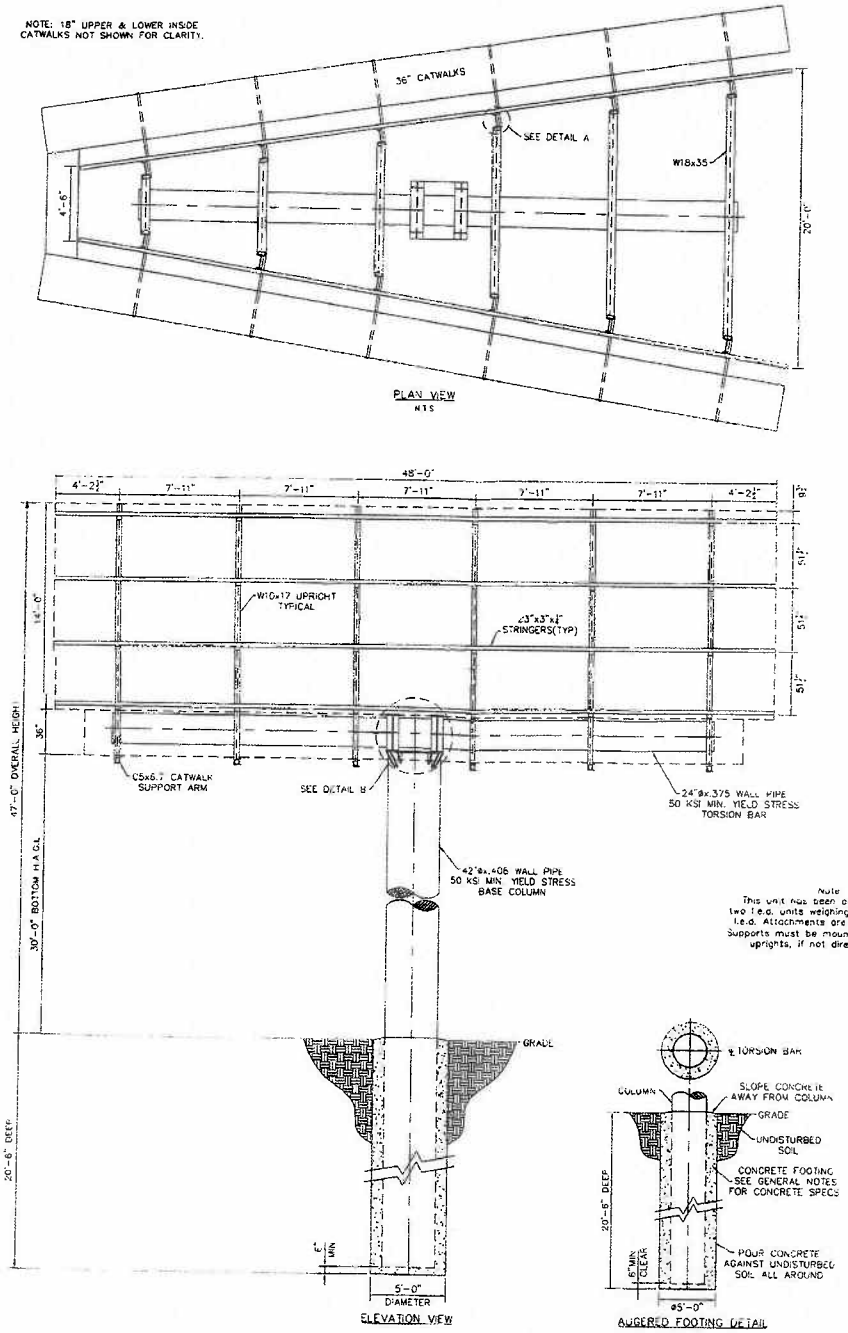
1-636-580-1717 1-636-580-1770 C-630-292-3347
jim@observ.com www.observaroutdoorsign.com

Observare OUTDOOR SIGN, LLC

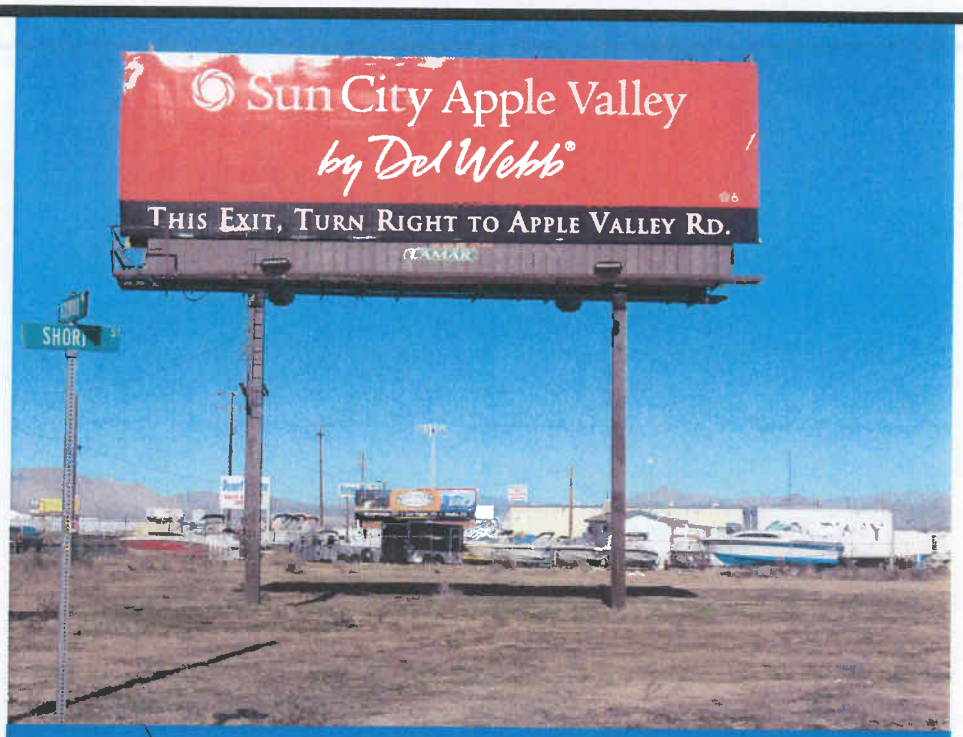
ATTACHMENT 3



APPELLANT(S): LUNNEN DEVELOPMENT	**FILE NO(S):** APP-2008-01
LOCATION: ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET	**APN(S):** 3072-251-04
PROPOSAL: CONSIDERATION OF ADMINSTRATIVE APPEAL APP-2008-01, TO REPLACE AN EXISTING TWO-SIDED, 40-FOOT HIGH, 672 SQUARE FOOT BILLBOARD WITH A TWO-SIDED, 47-FOOT HIGH, 672 SQUARE FOOT DIGITAL BILLBOARD	**N** ↑

PROPOSED BILLBOARD PLANS

ATTACHMENT 4



APPELLANT(S): LUNNEN DEVELOPMENT	**FILE NO(S):** APP-2008-01
LOCATION: ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET	**APN(S):** 3072-251-04
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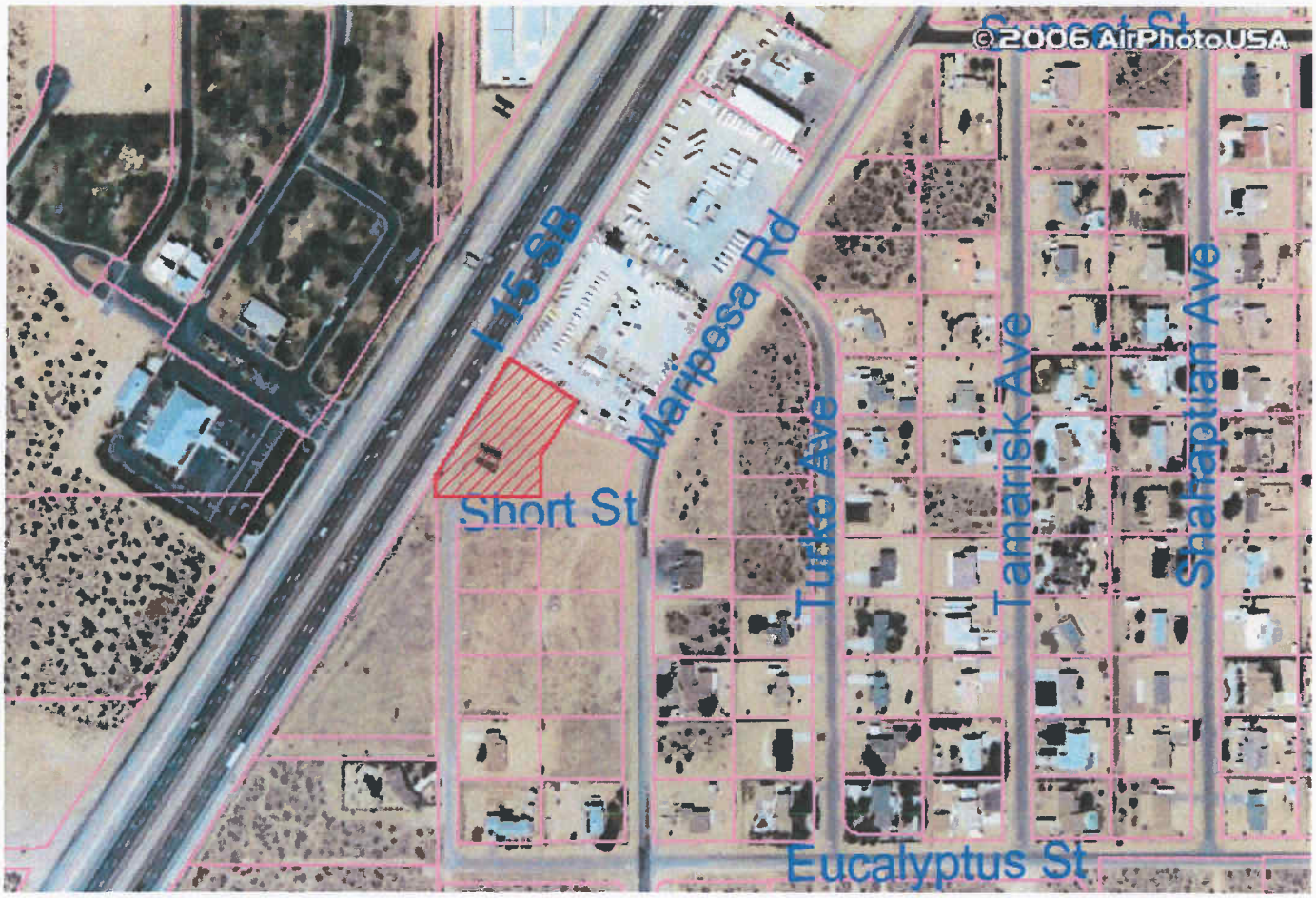
PHOTOS OF THE EXISTING BILLBOARD

ATTACHMENT 5



APPELLANT(S): LUNNEN DEVELOPMENT	**FILE NO(S):** APP-2008-01
LOCATION: ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET	**APN(S):** 3072-251-04
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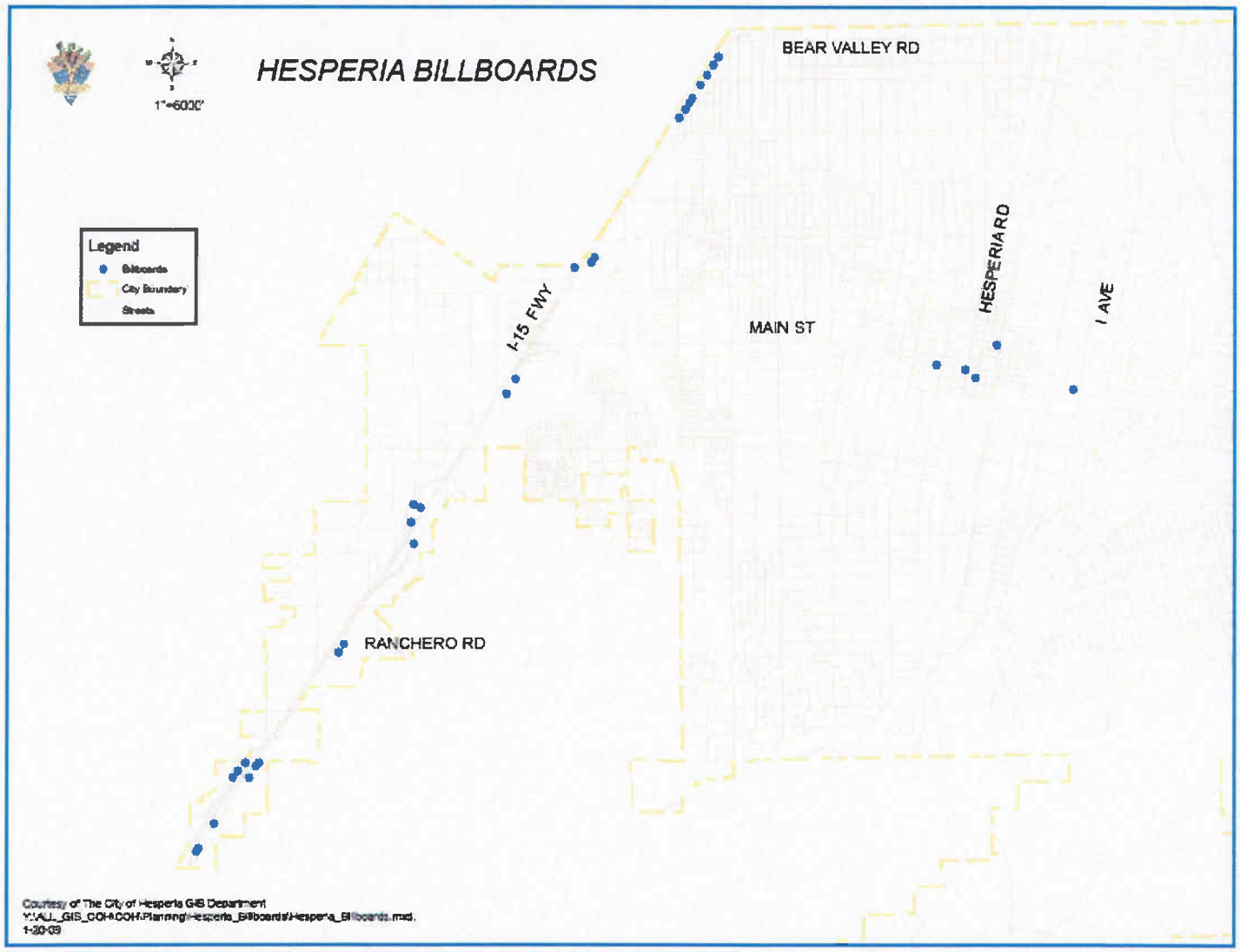
AERIAL PHOTO

ATTACHMENT 6



APPELLANT(S): LUNNEN DEVELOPMENT	**FILE NO(S):** APP-2008-01
LOCATION: ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET	**APN(S):** 3072-251-04
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MAP OF EXISTING BILLBOARDS WITHIN THE CITY

ATTACHMENT 7

RESOLUTION NO. PC-2009-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING AN ADMINISTRATIVE APPEAL TO REPLACE AN EXISTING TWO-SIDED, 40-FOOT HIGH, 672 SQUARE FOOT BILLBOARD WITH A TWO-SIDED, 47-FOOT HIGH, 672 SQUARE FOOT DIGITAL BILLBOARD LOCATED ON THE EAST SIDE OF INTERSTATE 15, NORTH OF SHORT STREET (APP-2008-01)

WHEREAS, Lunnen Development has filed an application requesting approval of Administrative Appeal APP-2008-01 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an existing billboard on 1.5 gross acres located on the east side of Interstate 15, north of Short Street and consists of Assessor's Parcel Number 3072-251-04; and

WHEREAS, the Application, as contemplated, proposes to replace an existing two-sided, 40-foot high, 672 square foot billboard with a two-sided, 47-foot high, 672 square foot digital billboard on the subject property; and

WHEREAS, the 1.5 gross acre site is currently vacant, with the exception of the billboard. A recreational vehicle sales and rental facility exists to the north and the property to the west, beyond Interstate 15 contains a cemetery. The properties to the south and east are vacant; and

WHEREAS, the subject property is currently designated Planned Mixed Use (PMU) General on the City's Land Use map. The properties to the north, south, and east are also designated Planned Mixed Use (PMU). The properties to the west across Interstate 15 are within the City of Victorville; and

WHEREAS, the subject property is within the Regional Commercial district of the Main Street and Freeway Corridor Specific Plan. The properties to the north, south, and east are within the same district. The properties to the west across Interstate 15 are within the City of Victorville; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on May 14, 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 the Planning Commission during the above-referenced May 14, 2009 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The proposed project is inconsistent with and contrary to the goals and policies of the General Plan.

(b) The proposed project does not conform to the regulations of the Development Code and all applicable City Ordinances.

Section 3. The Planning Commission hereby finds that although there will be no significant environmental impacts resulting from the project, it recommends denial.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Administrative Appeal APP-2008-01.

Section 5. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 14th day of May 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

City of Hesperia
STAFF REPORT

DATE: May 14, 2009

TO: Planning Commission

FROM: Thomas K. Harp, Deputy Director, Development Services, C/D

BY: Dave Reno, AICP, Principal Planner

SUBJECT: Billboard Issues and Options

RECOMMENDED ACTION

That the Planning Commission provides direction regarding revising the City's regulations regarding billboards.

BACKGROUND

At the March 14 and April 9 Planning Commission meetings, staff presented information regarding existing billboards in the City, billboard replacement or relocation, development proposals involving existing billboards and legal issues concerning billboards. Staff also discussed options developed for the Commission's consideration. The goal is to formulate a recommendation for the City Council. The staff report, as well as the minutes from the previous meetings is attached to this report.

Staff has notified all parties who have an interest in this issue, as well as all property owners in the City where a billboard is located. Staff has also drafted options, based on input received from the public and the Commission during the previous two meetings.

ISSUES/ANALYSIS

Staff is initiating action on this issue for three reasons. First, the City removed the Commercial Resort (CR) Zone from the zoning map upon adoption of the Main Street and Freeway Corridor Specific Plan in September 2008. This means that the City's current Sign Regulations (Development Code Chapter 16.36) are inconsistent with the zoning map.

Second, 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 has 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 has continued this hearing to this meeting.

Third, Lamar Advertising has proposed an agreement to upgrade, relocate and modify 10 billboards. 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. For digital displays, this would mean that 1/5 of the advertising during this allotted time would be for the public service messages. 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. Finally, Lamar has requested that the City revise its sign code to designate any relocated billboard as a permitted use.

Staff has revised the draft ordinance based on input from the Commission and research on the various issues. The consensus from the Commission centered on options 3 (no additional billboards allowed and incorporate digital technology) and 4 (consider relocation agreements to reduce the number of billboards when possible). Commissioner James did mention his preference to pursue amortization to remove billboards in the downtown areas and to not convert billboards to digital displays as that would be a distraction to drivers. The remainder of the Commission did not comment on the issue.

Staff has developed an option to restrict billboards in the downtown area to prevent their conversion to digital displays. This may be consistent with keeping development in the downtown area (in the Neighborhood Commercial, Office Commercial, Pedestrian Commercial and Mixed Use zones) of a lesser intensity than what is intended along the freeway corridor (in the Regional Commercial, Office Park and Commercial Industrial Business Park zones).

Staff has also incorporated the sports facility provisions for the Commission's consideration. Commissioner Elvert expressed support for this concept. Staff has also removed reference to the deleted Commercial Resort (CR) zone.

The draft ordinance (Attachment 4) includes a provision for a billboard owner to remove other billboards at a ratio of 3 sign faces to 1. Where this is not possible, other conditions may be considered, such as increased time for public service messages, construction of entry monuments or payments to the City. These new sign regulations would address spacing (1,000 feet), changeable copy (no moving images and any copy cannot change more than every 12 seconds) and the brightness of the reader boards (they must be dimmed at night). These regulations are consistent with the recommendations from the Outdoor Advertising Association of America, as well as other jurisdictions that have adopted billboard regulations. Finally, all relocated or reconstructed billboards must utilize solar or wind power to completely offset their energy use.

CONCLUSION

The discussions with the Planning Commission clearly point toward capping the number of billboards at their current number and removing them when possible. Relocation agreements with billboard owners allow for the possibility of utilizing digital technology to the advantage of both the City and advertisers. The draft ordinance includes restrictions on the brightness, movement, flashing and changeable copy to minimize distractions to drivers. Prohibiting digital displays in the Neighborhood Commercial and other downtown zones will be consistent with the intent for development in the downtown area.

ALTERNATIVES:

As mentioned above, staff has developed two options, based on the Commission's discussions:

1. The City may revise the code to include a prohibition of digital displays within the Neighborhood Commercial and other downtown zones (Main Street and Freeway Corridor Specific Plan) and the other commercial and industrial zones in the balance of the City outside of the Specific Plan area.

2. The City may revise the sign regulations permitting reader boards to allow advertising of sponsors for specific uses, such as sports facilities.

3. Provide alternative direction to staff.

ATTACHMENTS:

1. Staff Report to the Planning Commission dated March 12, 2009
2. Minutes of the Planning Commission meeting dated March 12, 2009
3. Minutes of the Planning Commission meeting dated April 9, 2009
4. Resolution PC-2009-17, with draft Billboard Regulations

City of Hesperia

ATTACHMENT 1

STAFF REPORT

DATE: March 12, 2009

TO: Planning Commission

FROM: Thomas K. Harp, Deputy Director, Development Services, C/D

BY: 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.

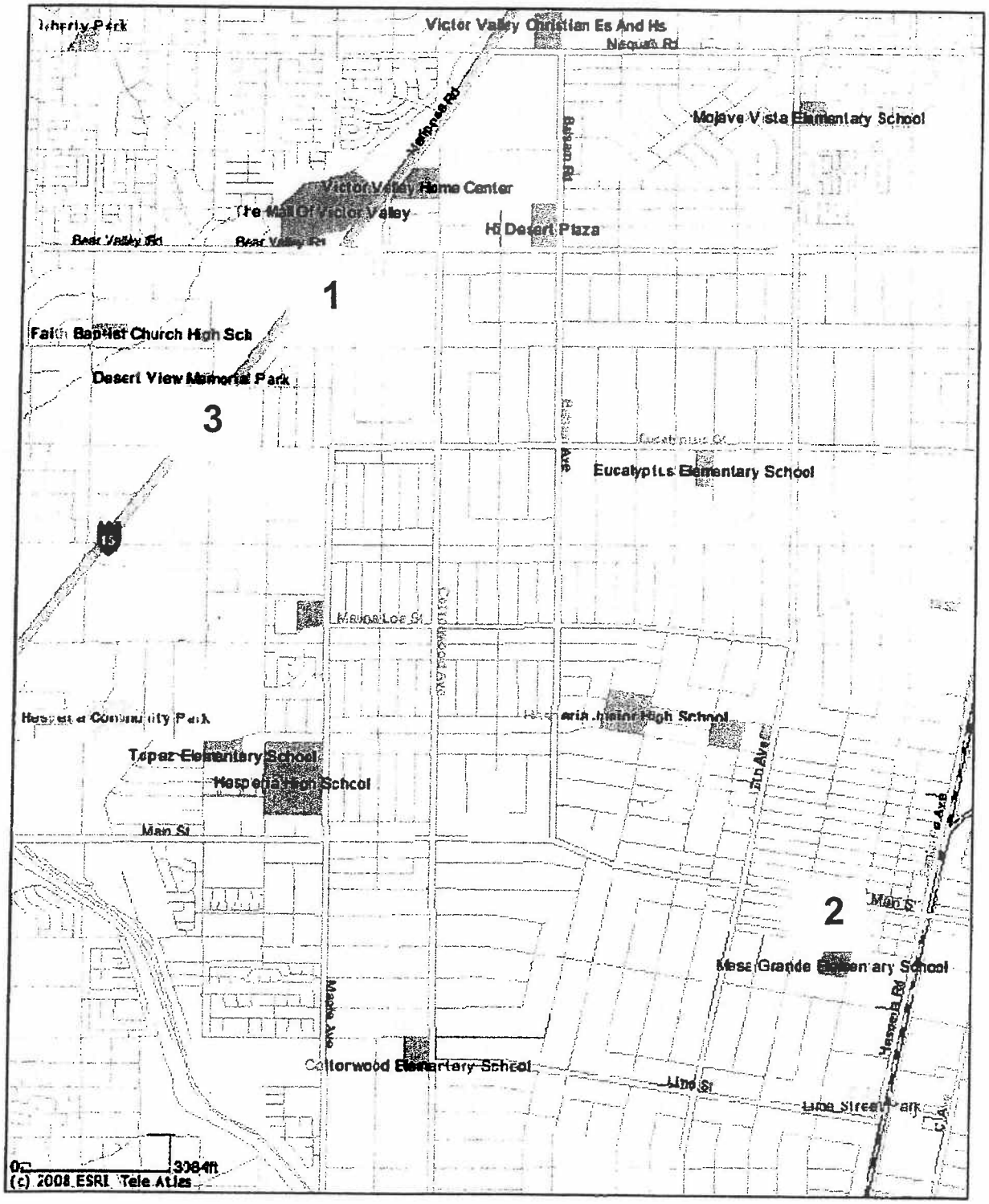
7. Provide alternative direction to staff.

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

LAMAR

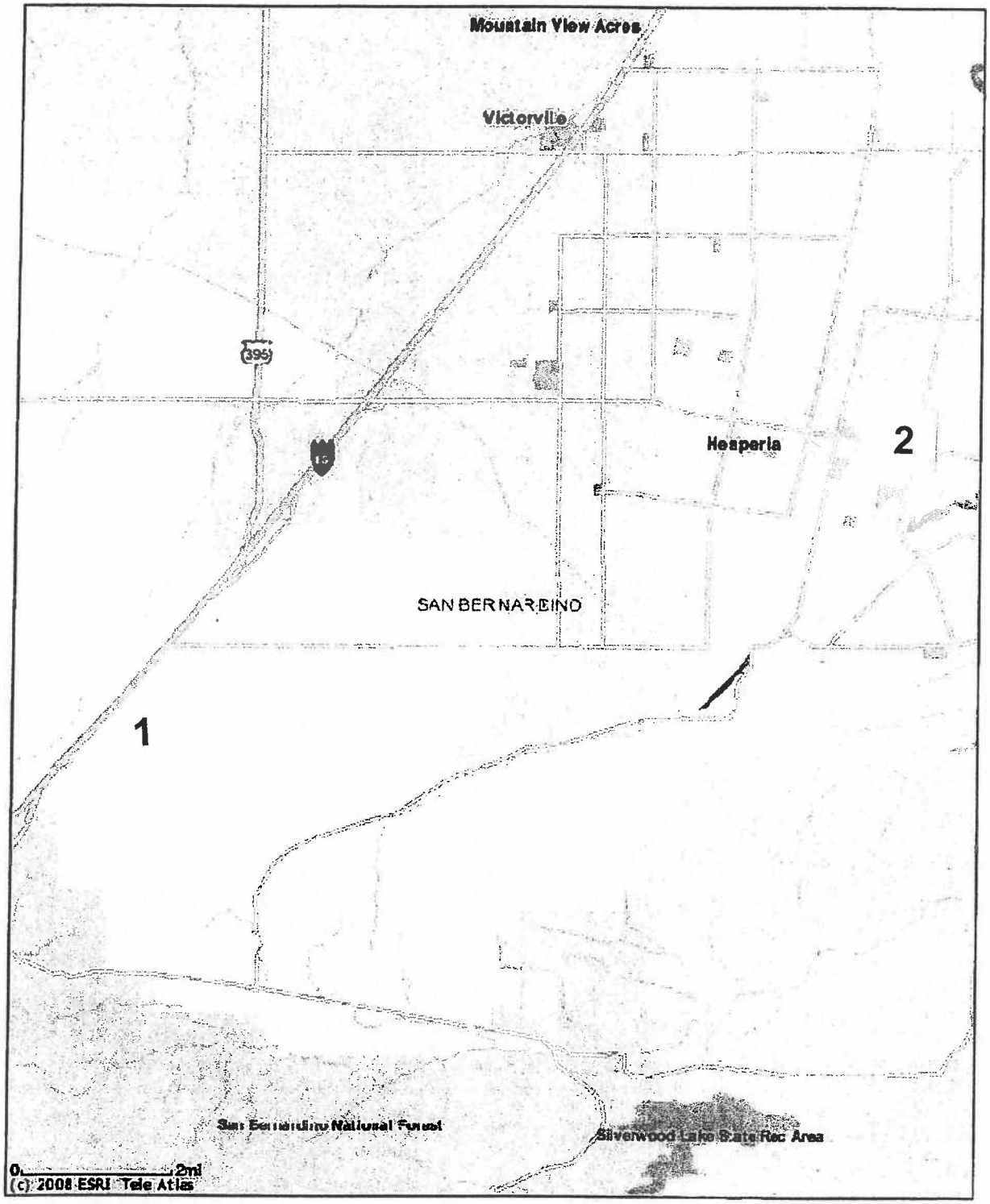
BILLBOARDS PROPOSED TO BE REMOVED



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

LAMAR

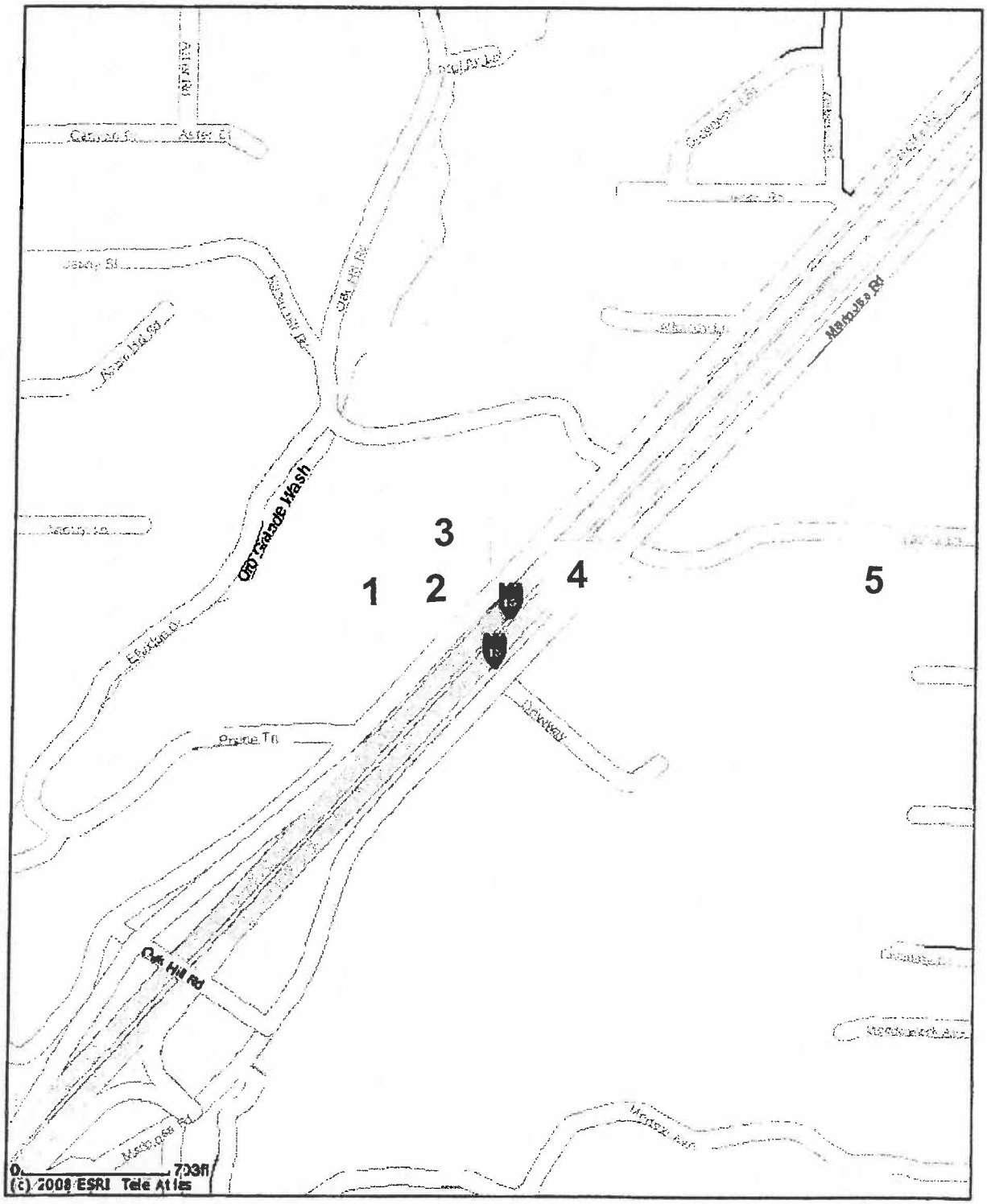
BILLBOARDS TO BE CONVERTED TO DIGITAL DISPLAYS



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

LAMAR

BILLBOARDS TO REMAIN IN PLACE OR BE RELOCATED



FIVE BILLBOARDS LOCATED ALONG THE FREEWAY NEAR OAK HILL ROAD

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 DATE
City of Hesperia

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 2

EXCERPTS FROM APPROVED MINUTES

PLANNING COMMISSION REGULAR MEETING

MEETING OF MARCH 12, 2009

* * * * *

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

Principal Planner, Dave Reno AICP stated that the discussion would be more of a free form discussion. He reviewed the structure of the discussion, stating that property owners had been invited as well as other property owners to speak on the record. He reviewed the number of billboards, giving a brief staff report reviewing billboard issues and options. He reviewed three proposals for billboards within the city and stated that there were a number of individuals in attendance who would speak on the issue; representatives from: Lunnen Development, Tom Lunnen; LAMAR, Todd Porter; Daktronics, Edward Wasserman; and Craftsman Development Company, Gregory Shull. He also reviewed legal issues as well as Amortization and Removal of Existing Billboards. Referencing page 2-14 of the Agenda, Dave reviewed the definitions within the proposal that were new and those that would be stricken from the regulations. He also referenced page 2-15, discussion digital advertising and incorporating a better definition of digital advertising displays according to the current state of technology.

Commissioner Russ stated he felt that if the City decides to not have billboards it was fine; however, there was a comment that there was a goal to advertise public events but not private events. He stated that advertising should be provided for all or not at all. He stated that advertising initiates sales, which creates sales tax revenue; he stated that there was a direct correlation between advertising and getting sales.

Commissioner Hahn stated that she agreed with Commissioner Russ; she stated that allowing for certain purposes were and not for others was something she would not be in favor of.

Principal Planner, Dave Reno AICP stated that it was a question of interpreting the general plan policies. He stated that the primary purpose was to discuss the overall land use intent was for the corridor. He referenced Commissioner Russ' comments on advertising bringing in revenue, stating that the issue could be looked at from that perspective; however, there were many options presented in the report and the meeting was to facilitate discussion to explore more in depth options.

Commissioner Russ stated that maybe the city's objective should include private parties and private businesses. He stated that outside expert advice regarding billboards would possibly be highly beneficial with regards to the generation of revenue within cities. He stated that his company spends the bulk of primary advertising on billboards; name recognition generated through the billboards provided an invaluable source of business.

Chair James stated that he did not get the same feel from the staff report as Commissioner Russ did; he stated that his primary feel from the report was the idea that billboard advertising was to generate business for the city. He stated that he had an overall understanding that the intent was for public advertising as well as the ability for the utilization of the boards for city and safety items.

Principal Planner, Dave Reno AICP stated that the intent was for both public and private use.

Commissioner Hahn stated that she came away with the same feelings as Commissioner Russ.

Principal Planner, Dave Reno AICP stated that the State Law still permits billboards to be contracted between individuals and the City at whatever terms and conditions agreeable between parties; issues for discussion were for billboards to be utilized for public service, messages, emergency events, and revenue. He stated that state law encourages but does not require cities to amend ordinances to enable the issues being addressed before the Commission. He stated that the Council may address issues that are not addressed in the report and add to the recommendation.

Commissioner Russ stated that he likes the idea of digital signs; he also stated that it was a good idea for the City to utilize some of the digital signs.

Principal Planner, Dave Reno AICP stated that there were many issues to be discussed and moving forward, it was understood that the primary purpose of the billboards was for private advertisement.

Chair James stated that many of the concerns of the electronic billboards referred to distractions that were being caused. He stated that the state of California was trying to eliminate distractions created by the billboards.

Principal Planner, Dave Reno AICP referenced Agenda page 2-6; he reviewed alternatives called out in the staff report and the options when permitting new billboards. He also discussed current concerns and expectations with on-site and off-site signage.

Commissioner Hahn questioned the reader boards along the freeway being the same types of signs allowable within the city.

Principal Planner, Dave Reno AICP stated that all signs are limited to the property specifications.

Commissioner Hahn questioned size of the billboards and the proportionate size of the properties as well as content.

Principal Planner, Dave Reno AICP stated that the size of the billboards had not been addressed and that until agreements were made there would be no content control.

Commissioner Hahn questioned if the signs could be utilized for public use, such as Amber Alerts.

Principal Planner, Dave Reno AICP stated that some of the signs could be utilized for public good.

Commissioner Hahn stated that she had also heard that the digital signs were being considered by the state for elimination. She questioned concerns regarding distractions associated with the digital signs.

Principal Planner, Dave Reno AICP stated that due to distraction concerns, there would be specifications such as how often the images on the digital signs change; he reviewed some of the limitations being placed on the digital signs. He also mentioned that he had requested information on the contrast of information placed on a reader board. He clarified that the meeting was not designed for a decision, there were many options to consider and there were individuals who were invited to share their perspectives and concerns in order for the Commission to consider and discuss.

Chair James opened Public Hearing: 6: 11 p.m.

Bruce Haney, LAMAR Representative reviewed the specifications for digital signs; reviewing benefits, emergency alert systems for local, state, and national levels (amber alerts, community, whether, and traffic). He stated that all of LAMAR's billboards were controlled for national level. He stated that LAMAR had no desire to for a proliferation of billboards and that LAMAR was only interested in maintaining and updating the existing structures.

Commissioner Hahn questioned the 10 billboards existing in the area and which would be removed.

Principal Planner, Dave Reno AICP referenced page 2-7, which reviewed the billboards proposed for removal; he stated that the two conversions were shown on page 2-8.

Commissioner Hahn clarified conversions.

Principal Planner, Dave Reno AICP referenced page 2-9, reviewing the billboards in the basic vicinity of Oak Hill Road.

Bruce Haney, LAMAR Representative discussed the relocation of billboards in order to benefit the property owner and the public. The design would be changed to better fit the property and update the structure.

Tom Lunnen, Lunnen Development provided some information for the Commission (See Attachment 1). He referenced page 2-5 of the Agenda, referencing the paragraph beginning, "Billboards do not support land uses along the freeway corridor" He stated that when the City was approached he was told that the billboard was non-compliant and the board would need to be taken down in order to develop the property. He stated that the circumstances were such that the billboard was more valuable than the land; therefore, further development by the company was pursued in Victorville. He proposed that through an agreement with LAMAR and Lunnen Development to relocate and seamlessly upgrade the sign to a digital messaging center; he stated that he had personally met with the Chief of Police, Lance Clark and the Fire Chief, Tim Wessell regarding the digital board to be proposed and the utilization of the board. He discussed the design of the sign that he was proposing for his property. He stated that digital billboards were all over the nation and would be made available to the police department, fire department, and the city; stating that the billboard provided many benefits to the City. He stated that the City's ordinance has a huge effect on the billboards. He reviewed costs of the signs. He requested that item number 3 on Page 2-6 be approved, according to staff recommendation.

Commissioner Russ stated that the one statement within the Staff Report which states, Billboards do not provide sales tax revenue to the city or create local jobs should be restated to include the potential for sales tax, local jobs as a result of the business generation.

Chair James inquired about any statistical data, showing the revenue produced by the use of billboards.

Tom Lunnen, Lunnen Development stated that LAMAR would be able to provide statistical data. He stated that there was ample documentation of billboards, included issues such as traffic; documentation of billboard advertisement for a local business also shows that the sign creates sales potential. He clarified that he was only requesting an upgrade of the existing sign on his property.

Ed Wasserman of Daktronics...stated that Daktroncis was a primary manufacturer of electronic billboards. He reviewed the signs that are seen throughout the state and nation. He stated that

there were many possibilities of the digital signs. He reviewed the differences of on-premise and off-premise signs that may be seen round the City. He stated that before discussing technology, he wanted to mention that local businesses provide and construct the signs, and the signs are controlled by technicians within the city, which provides jobs in the area. He stated that digital boards provided many different benefits for many different locations, providing public and private advertisement, amber alerts and public functions. He stated that he looked through the staff report and he felt that it was accurate. The City and State were not asking for billboards to be done away with; there were only regulations designed for safety issues. He reviewed the sensors that were within the signs, the differences of light and direction, and some of the language within the staff report. He stated that Daktronics designs the boards and no video would be able to be run through the digital sign.

Chair James closed Public Hearing: 7:37 p.m.

Principal Planner, Dave Reno AICP stated that the item could be forwarded to a future Planning Commission Meeting for additional discussion.

Commissioner Russ stated that he was glad to see this item coming before the Commission in the format presented. He stated that it was clear that the City ought to be able to allow some things and deny others and revision was important. He stated that he would not choose number 3; he stated he would lean more toward number 4 (he preferred the language).

Commissioner Hahn stated that she understood enough about technology and that the LED would take away the outside glare eliminating distraction. She wanted to see the type of lighting that Ed Wasserman mentioned.

Principal Planner, Dave Reno AICP stated that he would be researching the types of boards and that CEQA documents would require concrete information showing the differences in glare; all of the concerns would be included in either an EIR or an Initial Study.

Commissioner Hahn stated that the lighting would surely be part of state standards.

Principal Planner, Dave Reno AICP stated that in terms of the brightness and the dimming factors as appropriate near the freeways, he posed questions regarding brightness that would be addressed; however, it was a different issue than what was being proposed. He stated that the LAMAR proposal mentioned by Tom Lunnen was being postponed only for the issue and discussion to be resolved.

Chair James stated that he would like additional information; he had a high concern for highway safety. He reviewed some of the statistics regarding the I-15. He would like more information on research associated with billboards. He understood the various safety issues associated with the digital signs. He stated that he also understood the dynamics of a billboard generating revenue. He stated that he would also like to see more on the size and dimensions of the signs being discussed.

Commissioner Russ stated that he did not want zero tolerance where billboards were concerned. He mentioned some of the signs that had been constructed, stating that there was a reasonable size and design for billboards with respect to location.

Motion: Commissioner Russ motioned to keep the public hearing open and forward the item to the April 9, 2009 PC Meeting. Commission Hahn seconded the motion. The motion passed by all commissioners present.

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ATTACHMENT 3

EXCERPTS FROM APPROVED MINUTES

PLANNING COMMISSION REGULAR MEETING

MEETING OF APRIL 9, 2009

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

Principal Planner, Dave Reno AICP gave a brief introduction to the discussion and reviewed the discussion which previously occurred at the March 12, 2009 meeting. He stated that the presentation was for discussion only, in order to obtain information from the Commission in order to form a recommendation for Council. He reviewed the existing billboards within the City, the Development Code, and State Law. He reviewed the various proposals as listed in the Staff Report. He encouraged the Commissioners to look at the General Plan Policies in order to formulate a proposal. He requested that Assistant City Attorney, Douglas Haubert review some of the legal issues that surround the billboard issue.

Assistant City Attorney, Douglas Haubert stated that he wanted to make clear that the review of the billboard issues should not include discussion concerning Agenda Item #3, which had been continued to the May 14, 2009 Planning Commission Meeting; he clarified that the project would not be discussed at that time and he stated that general conversation of the movement of signs would be applicable to the discussion of the City's Sign Regulations, however, under the Brown Act no discussion should occur on Agenda Item #3 due to the continuance. He stated that he was aware that two Commissioners had already been introduced to the issues. He reviewed 1st amendment interest: Anytime the expression of ideas or even adverting is considered, 1st Amendment interests are involved, which include limitations on limiting the 1st Amendment rights. He stated that there were Property Rights, which needed consideration, stating that once a use was established or a right is established, a permit is given, someone has an entitlement, and a structure is placed. He stated that the issues surrounding billboards include both issues. He clarified that a City has the ability to regulate and/or prohibit new signs. He stated that there had been mention of signs that were in the area that were legal/non-conforming (grandfather rule); the exception to the "grandfather rule" is amortization which is designed to ensure that the property owner is not denied their property rights; example, an entire stretch of apartments as Commercial and gave an amortization period of 30 years; therefore, over the next 30 years the owner would be able to keep the use as apartments and after the 30 years the use would no longer be legal and valid and the site would need to be converted to Commercial. Permits were regulated on the site, ensuring that the property owner was aware that if there were any changes to the site within the 30 year period, then conversion to Commercial would need to take place. He stated that amortization was legal and allowed the property owner the right to get the useful life of the building over a period of time. He stated that the City had the ability to regulate signs with the same idea as the amortization example given. He stated that the location, size, and type of sign can be regulated. There are some important government factors: Commercial Speech, which fall out of the Political Speech realm, which government has very few regulations that can be imposed on purely political speech. He clarified that billboards were by design commercial speech and cities have grater ability to regulate billboards because the advertisement would be for services or goods. He stated that the government can regulate the billboard signs, but there still needs to be a reason to regulate; for example, the elimination of blight, or the prevention of blight, or the prevention of traffic problems. He encouraged the Commission to begin to think

about what they would like the regulations to read and to think about what they wanted the future to be; some questions may include: should signs be allowed to continue, does the commission want no new signs, would the Commission like to consider amortization for existing signs. He stated that a common sense approach would be best.

Principal Planner, Dave Reno AICP stated that the reason for initiating the topic was due to the fact that the specific plan caused issues with the zoning of which the signs were located. He stated that there were also proposals being presented to the City and staff would like to address those proposals in a responsive fashion. He reviewed some of the proposed options on page 5-6 of the Agenda.

Chair James reopened Public Hearing: 8:03 p.m.

Tom Lunnen, Lunnen Development stated that he had to disagree with the statement that revenue was not created by the signs; he stated that the signs initiated revenues. He recaptured an issues discussed at the March 12, 2009 Meeting by stating that a disincentive was only created when the board was order to be removed. He stated that the billboards were not Las Vegas billboards and that the light would remain the same with the proposed billboard. He reviewed some of the specifications of his proposal.

Assistant City Attorney, Douglas Haubert stated that the Commission was not discussing his proposal; Tom's proposal was Agenda Item #3, which had been continued and was not to be discussed.

Tom Lunnen, Lunnen Development stated that he had met with several staff members regarding upgrading billboards.

Assistant City Attorney, Douglas Haubert stated that Tom Lunnen was again talking about his item which had been continued to the May 14, 2009 Planning Commission Meeting.

Tom Lunnen, Lunnen Development stated that he billboard companies had been very successful and he requested that the Commissioners consider item #3 on page 5-6 of the Agenda.

Chair James questioned if the address would be kept to the three minutes.

Principal Planner, Dave Reno AICP stated that the presentation by Ed Wasserman would probably take more than three minutes; however, the time limit was entirely at the discretion of the board.

Ed Wasserman, Daktronics, Inc. gave a brief presentation to the Commission with the use of PowerPoint slides (See Attachment 2). He reviewed types of digital signs, on-premise, and off-premise boards. He gave a technology overview and the common concerns that had been alleviated with the electronic reader boards. He reviewed on-premise & off-premise code language. He gave example of the second-holds on the billboards. He reviewed the community benefits, local economic benefits, and local economic benefits. He also reviewed the monitoring of the billboards, and the Federal Government approval of digital billboards.

Commissioner Muller questioned the liability concerns mentioned in the presentation.

Commissioner Jensen questioned inappropriate areas for animation.

Ed Wasserman, Daktronics, Inc. was unable to address the liability concerns Commissioner Muller questioned. He stated that freeways and residential areas were inappropriate areas for animation.

Vice Chair Elvert questioned the possible duration of advertising.

Ed Wasserman, Daktronics, Inc. stated that he would not be the one to regulate advertisement duration.

Principal Planner, Dave Reno AICP stated that public service announcement vs. emergency announcement would be provisions discussed as part the proposal.

Ed Wasserman, Daktronics, Inc. stated that the amber alerts, service announcements and emergency announcements were all negotiable.

Chair James stated that Ed Wasserman mentioned the City of LA several times. He questioned the reasoning of mentioning the City of LA when the City had a citywide billboard ban.

Ed Wasserman, Daktronics, Inc. reviewed some of the concerns surround the City of Los Angeles and billboards.

Greg Shull, Business Owner stated that he had been working on a proposal with Staff and he was the reason for request #6 on page 5-6 of the Agenda regarding a site at Mariposa and Live Oak (Sports Facility). He stated that there was consideration for a certain size of the billboard, on-site, and off-site signs.

Commissioner Hahn questioned if it was for the sports center he was referring.

Greg Shull, Business Owner stated that Commissioner Hahn was correct.

Bruce Haney, LAMAR stated that the public service announcement would be discussed for advertisement slots and that any other concerns would be discussed as part of an agreement.

Vice Chair Elvert questioned if the Chief of Police would have access to the boards and what would be the duration of the signs advertisement of an emergency alert.

Bruce Haney, LAMAR stated that there was 24/7 access to the digital sign; he stated that if a Chief of Police recommended that an amber alert be up for a certain amount of time, LAMAR would always to their best to work with the Chief of Police.

Vice Chair Elvert stated that the amber alert was a state regulation; however, he was concerned about a wanted sign.

Bruce Haney, LAMAR stated that the Chief of Police would be able to utilize the board for such emergency alerts.

Vice Chair Elvert questioned what the duration of the advertisement would be.

Bruce Haney, LAMAR stated whatever the Police Chief recommended would be the time frame; LAMAR would definitely be worked with completely.

Vice Chair Elvert questioned that there would be real time negotiation.

Bruce Haney, LAMAR stated that it would definitely be a case by case basis.

Chair James questioned if the length of time that the ad would be up for rotation was the question or if it was the length of time the ad remained on the board.

Vice Chair Elvert questioned the length of time the ad would remain on the board and/or the rotation of the alert.

Bruce Haney, LAMAR stated that the alert would be up for as long as it takes to accomplish the need. He also stated that LAMAR has the ability to control their billboards on a local, state, and national level.

Chair James questioned the risk of hackers.

Bruce Haney, LAMAR stated that he would have to do some research to answer Chair James' question.

Commissioner Jensen stated that it would really depend on the hacker and their ability.

Commissioner Muller questioned the advertisement slot that would be agreed upon.

Principal Planner, Dave Reno AICP stated that page 5-10 has some sample language regarding the public service announcement agreements.

Ed Wasserman, Daktronics, Inc. stated that LAMAR will do whatever it takes to assist the local police. He also stated that the ip address was secure, there were thousands of billboards across the United States and not one board had been hacked into.

Chair James questioned the safeguards were in place.

Ed Wasserman, Daktronics, Inc. stated that there were incredible firewalls.

Chair James closed Public Hearing: 8:38 p.m.

Commissioner Hahn questioned the options on page 5-6 of the Agenda. She reviewed the options.

Discussion ensued regarding the options available.

Principal Planner, Dave Reno AICP stated that brightness conditions would be looked; there were definitions of flashing, brightness, and size of the signs. He stated that there were variation on the signs between the day and night. He will be clarifying more information and stated that if there was anything that the Commission wanted additional information on he would also present information in assisting them with their questions.

Commissioner Hahn stated that she would like to see the language in number three also included in number four.

Principal Planner, Dave Reno AICP stated that the last sentence of four raises some concerns and he wanted to have some serious documentation on in order to approve reader boards as part of the new ordinance; he wanted to make sure that a new impact was not being introduced. He stated that, as it was, there was not a new impact of billboards on the City; he just wanted to make sure that the overall movement of billboards did not present a new impact.

Commissioner Hahn stated that she was concerned about the relocation and she would like to see the inclusion of the relocation allowance in item 3.

Assistant City Attorney, Douglas Haubert clarified if Commissioner Hahn did not want to see the billboards grow.

Commissioner Hahn stated that she was opposed to the growth of billboards; however, she wanted the ability to relocate a sign on a parcel

Principal Planner, Dave Reno AICP stated that the sign could still be moved to a different property. He stated that the options were presented and he would like to offer additional information before Commissioners make a decision.

Vice Chair Elvert stated that he would like to see the digital signs; however, he was leaning more towards not adding additional billboards. He stated that he did like number six; he felt that the advertisement was valuable.

Commissioner Jensen stated that there were many things about billboards that she did not like; however, she did like to the idea of notifying the public of Amber Alerts and emergency notices. She felt that it was very important to allow the City's businesses the opportunity to advertise and she felt that it did generate money. She also stated that the liked the digital sign because the sign could be changed remotely. She stated that she agreed with Commission Hahn that somewhere between options 3 and 4; zoning along the freeway for car lots would create need for signs as well, therefore new signs should be allowable.

Principal Planner, Dave Reno AICP clarified that on-site signage would be allowable regardless of the billboard revision.

Commissioner Muller requested clarification on if all advertisement within the City would be subject to the proposed consideration.

Principal Planner, Dave Reno AICP stated that on-site signage was restricted to the business on the site; billboards (off-site) could advertise anything anywhere.

Commissioner Muller questioned if signs on Main Street could be advertising for services or products in Victorville or Apple Valley.

Principal Planner, Dave Reno AICP stated that a billboard could advertise for services or products in Victorville or Apple Valley.

Commissioner Muller questioned the direct benefit. He also questioned advertisement restrictions within the Freeway Corridor.

Principal Planner, Dave Reno AICP reviewed the location of signs and the location with respect to the public right-of-way.

Vice Chair Elvert questioned the size change of 200 square feet to 672 square feet.

Principal Planner, Dave Reno AICP gave examples of signs and the size of the signs in question. He stated that standard billboards were 48 x 45.

Vice Chair Elvert questioned a sign located at Eucalyptus being 672 square feet.
Principal Planner, Dave Reno AICP stated that he believed that the sign at the location in question was 672 square feet.

Chair James questioned land use definitions. He was leaning towards number 1 due to some of his concerns about safety; he was concerned about vandalism of the signs. He would like to see adapting item number 1 with leaving the billboards in existence on the freeway, eliminating the billboards within the City. He stated that he was against digital; he felt that digital imagery was causing distractions to drivers; he felt that the signs were a safety issue. He stated that his

dream of downtown Hesperia was without billboards. He stated that a City without billboards was cleaner and he felt that billboards were a form of blight. He requested more information on amortization.

Commissioner Muller questioned if Chair James would object to a digital entry sign.

Chair James stated that he was under the understanding that the sign was a reader board. He stated that the only thing he would like to see on the reader boards was light standards.

Principal Planner, Dave Reno AICP referred the Commissioners to page 5-15 & 5-17 of the Agenda; which addressed some of the light standards.

Commissioner Hahn stated that the verbiage was already in the report for the light standards.

Commissioner Muller verified that the verbiage was on page 5-11 of the Agenda.

Chair James the language was specific to digital billboards.

Principal Planner, Dave Reno AICP reviewed the direction given by the Commissioners.

Motion: Vice Chair Elvert motioned to keep the public hearing open and forward the item to a future Planning Commission Meeting. Commissioner Hahn seconded the motion. The motion passed by all commissioners present.

Ayes: **Commissioner Hahn, Commissioner Jensen, Commissioner Muller, Vice Chair Elvert, Chair James**

Noes:

Absent:

Abstains:

* * * * *

ATTACHMENT 4

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, April 9 and May 14 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 on May 14, 2009.

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 14th day of May 2009.

_____
Chris Elvert, 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, re-erected, 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. Digital displays may advertise products or services that are or will be available in the premises and/or products or services provided by the principal sponsors of the facility pursuant to an agreement of at least one year duration between the vendor or sponsor and the property owner, facility owner or facility operator.*
5. *Non-conforming billboards owned by the same advertising company within the City boundaries shall be removed prior to issuance of permits for the new sign or upgrade to Digital Advertising Displays at a ratio of 3 sign faces to 1.*

6. *Where removal is not possible, the City may consider other provisions in the relocation agreement, including, but not limited to, as increased public service announcements, construction of City entry monuments or payment to the City.*
7. No billboard or part thereof, including base or apron, supports, supporting structures and trim, may exceed *thirty-five (35)* feet in height. *Any required solar or wind power devices shall not be counted as part of the billboard's height. Taller billboards may be permitted subject to approval of a variance.*
8. All signs shall comply with the appropriate detailed provisions of the *California building codes.*
9. Billboards shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the California Electric Code *and Southern California Edison's development standards*; provided, that in no case shall a billboard be erected closer than ten feet horizontally or vertically from a conductor or public utility guy wire.
10. 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.
11. 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.
12. *Billboards shall only be relocated within the Regional Commercial, Office Park or Commercial Industrial Business Park districts within 660 feet of the freeway.*
13. Billboards shall not be permitted in any historic district or agricultural district.
14. Billboards shall not be permitted on any designated scenic street, road, drive, parkway or highway.
15. 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.
16. Billboards shall not be permitted on or over the roofs of buildings.
17. Billboards shall not be permitted at any bridge crossing or situated to impair any scenic vistas.
18. Billboards shall not be permitted to be stacked over or placed next to any other billboard.
19. No billboard *or Digital Advertising Display* shall depict or simulate any motion or video (i.e., video clips, flashing, etc.). *Any slide (image) shall be displayed for a minimum of 12 seconds and transitions between slides shall not exceed 1 second.*
20. *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). The City may modify or further restrict the intensity of any billboard or digital advertising display should the lighting create a distraction to drivers.*
21. *Generators shall not be used to power any billboards. All relocated or reconstructed billboards shall incorporate solar or wind power to completely offset their energy use.*

CITY OF HESPERIA

CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, APRIL 29, 2009

A. PROPOSALS:

1. Wayne Gresham (SPR09-10136)

Proposal: To construct a two-story, 10-unit apartment complex on 0.8 gross acres zoned (3000)-R3.

Location: On the north side of Sequoia Street, 420 feet west of Ninth Avenue.

Planner: Stan Liudahl

Action: Administratively Approved

2. NV Hesperia Investors, LLC (TT-17916 & VAR09-10153)

Proposal: A Tentative Tract (TT-17916) to create 177 single-family residential lots on 40.17 gross acres and a Variance (VAR09-10153) to create 177 single-family residential lots on 40.17 gross acres, without the 500 square foot per unit common open space required.

Location: Southwest corner of Mojave Street and Topaz Avenue.

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to Planning Commission

3. Victor Valley Transit Authority (MEX09-10169)

Proposal: To allow a 30-foot high free-standing sign in lieu of the 20-foot height limitation at Victor Valley Transit Authority's corporate yard.

Location: 17150 Smoketree Street.

Planner: Paul Rull

Action: Administratively Approved