

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: December 10, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

Joline Bell Hahn, Vice Chair

Stephen James, Commissioner

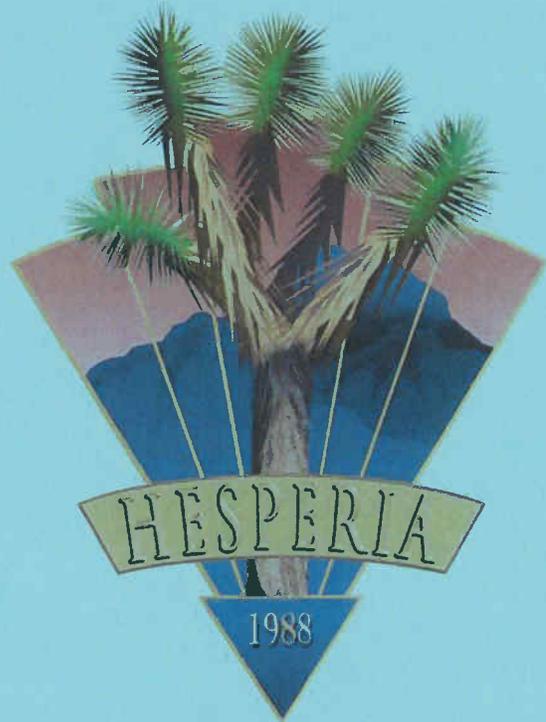
Julie Jensen, Commissioner

William A. Muller, Commissioner

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

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.

December 10, 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

- D. Approval of Minutes: October 8, 2009 Planning Commission Meeting Draft Minutes

-1-

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit (CUP09-10255), to construct a two-story, three-bay, 17,531 square foot multi-tenant industrial park including an automotive dismantling/recycling facility with outdoor storage area on 13 gross acres zoned General Manufacturing located on the north side of Lilac Street, approximately 1,000 feet west of G Avenue (Applicant: Deaton Investment, Inc.; APN: 0415-244-08) (Staff Person: Lisette Sanchez-Mendoza). **1-1**
- 2. Consideration of Conditional Use Permit (CUP09-10280), to construct a wireless communications facility within the roof parapet of an existing medical office building designed on 1.5 gross acres zoned C-1 located at 12021 Jacaranda Avenue (Applicant: Royal Street Communications; APNs: 0399-144-21 & 22) (Staff Person: Lisette Sanchez-Mendoza). **2-1**
- 3. Consideration of Variance (VAR09-10226), to allow a covered barbeque and accessory building to encroach within the required side and rear setbacks located at 13045 Newport Street (Applicant: Ramsey Najor; APN: 3046-311-32) (Staff Person: Daniel Alcaiyaga, AICP). **3-1**
- 4. Consideration of Variance (VAR09-10252), to allow signs in excess of the number, height, and area restrictions for a temporary sales trailer marketing Tract-14744, located on the south side of Ranchero Road between Topaz Avenue and Primrose Avenue (Applicant: Century Crowell Communities, LP; Area APNs: 0405-115-07 & 0405-134-01) (Staff Person: Stan Liudahl, AICP). **4-1**

- 5. Consideration of Development Code Amendment (DCA09-10301), regarding animals allowed in R-3 and Multi-family residential districts (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Stan Liudahl, AICP). 5-1

PRINCIPAL PLANNER'S REPORT

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

- E. DRC Comments

6-1

- F. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

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

- G. Reorganization of the Planning Commission

- 1. Election of Chair
- 2. Election of Vice Chair

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, December 3, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION
REGULAR MEETING
October 8, 2009
DRAFT MINUTES**

The Regular Meeting of the Planning Commission was called to order at 6:00 p.m. by Chair Elvert in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

CALL TO ORDER 6:30 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call: Chair Chris Elvert; Vice Chair Joline Bell Hahn; Commissioner Stephen James; Commissioner Julie Jensen; Commissioner William Muller

Motion by Commissioner Stephen James to excuse the absence of Commissioner Julie Jensen, Seconded by Vice Chair Joline Bell Hahn. The motion passed with the following roll call vote:

**AYES: Chris Elvert, Joline Bell Hahn, Stephen James, and William Muller
NOES: None
absent: Julie Jensen.**

Present: Four.

JOINT PUBLIC COMMENTS

No Comments to Consider.

CONSENT CALENDAR

D. Approval of Minutes: September 10, 2009 Planning Commission Meeting Draft Minutes

Motion by Joline Bell Hahn to approve the September 10, 2009 Planning Commission Meeting Minutes, Seconded by Stephen James, passed with the following roll call vote:

**AYES: Chris Elvert, Joline Bell Hahn, Stephen James, and William Muller
NOES: None
absent: Julie Jensen.**

PUBLIC HEARING

1. Consideration of a Conditional Use Permit (CUP09-10253) to establish a 1,649 square foot dental office within an existing commercial building zoned Neighborhood Commercial located at 14101 Main Street, Suite 104 (Applicant: Hesperia-Main Street, LLC.; APN: 3057-121-16) (Staff Person: Lisette Sanchez-Mendoza).

Planner, Lisette Sanchez Mendoza gave a brief staff report.

Commissioner James questioned the parking.

Chair Elvert opened the **Public Hearing: 6:37 PM**

Robert Ozel, Applicant introduced himself and stated that he was available for any questions.

Chair Elvert closed the **public hearing: 6:38 pm**

Motion by Joline Bell Hahn to adopt Resolution No. PC-2009-43, as presented, approving Conditional Use Permit (CUP09-10253). , Seconded by Chris Elvert, passed with the following roll call vote:

AYES: Chris Elvert, Joline Bell Hahn, Stephen James, and William Muller
NOES: None
absent: Julie Jensen.

2. [Consideration of Development Code Amendment \(DCA09-10265\), regarding recycling facilities \(Applicant: City of Hesperia; Area Affected: Citywide\) \(Staff Person: Lisette Sanchez-Mendoza\).](#)
Planner, Lisette Sanchez-Mendoza gave a brief staff report.

Commissioner Muller questioned if there could be a similar facility as the Maple and Main at Target.

Vice Chair Hahn verified the facilities within the City Limits and questioned if items could be dropped off and left at the site.

Commissioner James questioned if the larger recycling facilities within the City would be affected.

Chair Elvert questioned the number of CRV facilities within the City. He also questioned regulation of allowable facilities.

Vice Chair Hahn questioned the zoning.

Principal Planner, Dave Reno AICP reviewed the zoning and designations for the facilities.

Chair Elvert questioned if the Amendment was to simply regulate the facilities.

Principal Planner, Dave Reno AICP reviewed State requirements and the proposed ordinance.

Vice Chair Hahn questioned the distance between facilities.

Commissioner James questioned if the distance between facilities being set by the State or the City.

Commissioner Muller questioned reverse vending machine being placed within the City.

Principal Planner, Dave Reno AICP discussed small collection facilities and reverse vending machine.

Chair Elvert opened the Public Hearing: 6:54 PM

No Comments to Consider.

Chair Elvert closed the Public Hearing: 6:54 pm

Chair Elvert stated his concerns with the facilities.

Motion by William Muller to I move to adopt Resolution No. PC-2009-42, as presented, recommending that the City Council introduce and place on first reading an ordinance approving Development Code Amendment (DCA09-10265). , Seconded by Stephen James, passed with the following roll call vote:

AYES: Chris Elvert, Joline Bell Hahn, Stephen James, and William Muller
NOES: None
absent: Julie Jensen.

3. [Consideration of Development Code Amendment \(DCA09-10177\), regarding alternative energy technologies \(Applicant: City of Hesperia; Area Affected: Citywide\) \(Staff Person: Stan Liudahl\).](#)
Senior Planner, Daniel Alcayaga AICP gave a brief staff report.

Chair Elvert questioned the 30,000 square foot lot size and the zoning. He also questioned the number of lots in the designations that would allow the windmills.

Commissioner James questioned the cost of a revised site plan review. He also questioned if a revised site plan review would be required.

Principal Planner, Dave Reno AICP stated that 30,000 sq. ft. was the minimum lot size. He also reviewed the application process.

Commissioner James questioned solar panels being parallel to the roof.

Principal Planner, Dave Reno AICP discussed the variations of roof mounted solar panels.

Vice Chair Hahn referenced comments on page 3-11 of the Agenda, stating that the Commission had discussed windmills being placed on 2 - 2 1/2 acres and she questioned how the Commission's comments were taken into consideration.

Principal Planner, Dave Reno AICP stated that staff felt that the proposed minimum lot size would capture the concerns regarding the windmills.

Chair Elvert opened the Public Hearing: 7:11 pm

No Comments to Consider.

Chair Elvert closed the Public Hearing: 7:11 pm

Chair Elvert stated concerns regarding the minimum lot size.

Commissioner Muller read a newspaper article, generated out of Phoenix AZ regarding windmills. He stated concerns about the visual esthetics.

Commissioner James stated concerns about the esthetics. He also stated he would like to see the designation changed to the A-1 or 2 1/2 acre min.

Motion by Stephen James to adopt Resolution No. PC-2009-29 as amended, recommending that the windmills be limited to lots 2 acre gross or larger in agriculture and residential zones, recommending that the City Council introduce and place on first reading an ordinance approving Development Code Amendment (DCA09-10177). , Seconded by Chris Elvert, passed with the following roll call vote:

AYES: Chris Elvert, Joline Bell Hahn, Stephen James, and William Muller
NOES: None
absent: Julie Jensen.

PRINCIPAL PLANNER'S REPORT The Principal Planner or staff may make announcements or reports concerning items of interest to the Commission and the public.

E. [DRC Comments](#)

Principal Planner, Dave Reno AICP commented briefly on DRC Projects.

F. [Major Project Update](#)

No Comments to Consider.

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.

No Planning Commission Business to Report.

ADJOURNMENT

Chair Elvert adjourned the meeting: 7:26 PM

Chris Elvert
Planning Commission Chair

By: Eva Heter,
Commission Secretary



DATE: December 10, 2009
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner *DR*
BY: *SL FOR LSM*
Lisette Sánchez-Mendoza, Assistant Planner
SUBJECT: Conditional Use Permit CUP09-10255; Applicant: Deaton Investment, Inc.; APN: 0415-244-08.

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-46, approving CUP09-10255.

BACKGROUND

Proposal: A Conditional Use Permit to construct a two-story, three-bay, 17,531 square foot multi-tenant industrial park including an automotive dismantling/recycling facility with outdoor storage area on 1.3 gross acres (Attachment 1).

Location: On the north side of Lilac Street approximately 1,000 feet west of G Avenue.

Current General Plan, Zoning and Land Uses: Industrial/Commercial (IND/COM) General Plan Land Use designation and within the General Manufacturing (I-2) zone. The surrounding land is designated and zoned as noted on Attachments 2 and 3. The project site is vacant. The properties to the north, south and west contain industrial development, and the property to the east is vacant (Attachment 4).

ISSUES/ANALYSIS

The project is a multi-use development where the storage and dismantling of vehicles will occupy the main portion of the project site. The project includes an 8,108 square foot warehouse and 9,424 square feet of office/commercial space. Salvaged vehicles will be placed on storage racks, up to 3 cars high. The racks will be a maximum of 20 feet high. The racks will be on the rear of the property along the site perimeter and adjacent to employee parking. The proposed chain like fencing with slats along the perimeter of the site will help minimize visual impact. The warehouse will serve as a dismantling area and the suites located on the first floor will house the recycled or refurbished parts. The second floor of the building will be used for the day to day office use of Deaton Investments Inc. Any unused square footage within the first and second floors will be available for lease.

The site is accessible by two driveways on Lilac Street. A total of 41 parking spaces are required and have been provided. The proposed building architecture meets the City's architectural guidelines, including varying vertical and horizontal building planes as well as material variation as shown on Attachment 5.

Drainage: On-site drainage to the level of a 100 year storm will be retained in an underground retention system.

Water and Sewer: The developer is required to connect to the existing 12" water line along Lilac Street. The developer is required to provide one new six (6) inch fire hydrant assembly. The developer is not required to connect to sewer lines unless the proposed septic system cannot meet the Lahontan Regional Water Quality Board requirements. The project shall be in compliance with the California Plumbing Code in respect to the number of plumbing fixtures.

Street Improvements: The project will be required to construct curb, gutter and sidewalks, along the frontage of Lilac Street, as well as two commercial drive approaches.

Traffic: No significant traffic impacts will be generated as the traffic generated by this use has been considered as part of the City's Main Street and Freeway Corridor Specific Plan Environmental Impact Report and General Plan's Program Environmental Impact Report.

Environmental: This project is exempt from the California Environmental Quality Act (CEQA), per Section 15332, In-Fill Development Projects, since the net area of the project is less than five acres and the site is substantially surrounded by development.

Conclusion: The project conforms to the policies of the City's General Plan and meets the standards of the Development Code.

FISCAL IMPACT

None

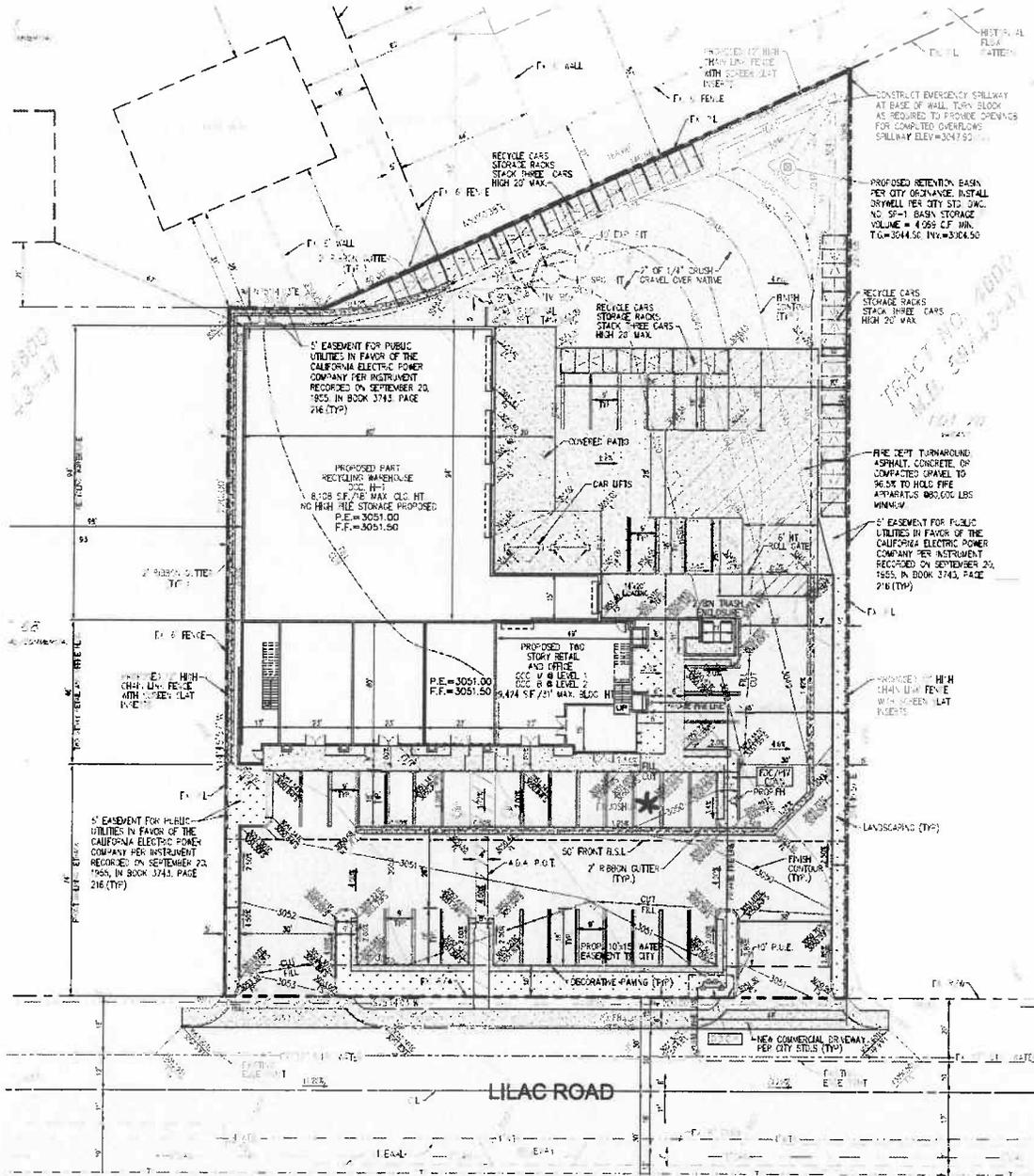
ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. General Plan Land Use map
3. Zoning map
4. Aerial photo
5. Architectural Elevations
6. Resolution No. PC-2009-46, with list of conditions

ATTACHMENT 1



APPLICANT(S):
DEATON INVESTMENTS

FILE NO(S):
CUP09-10255

LOCATION:
ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF
G AVENUE

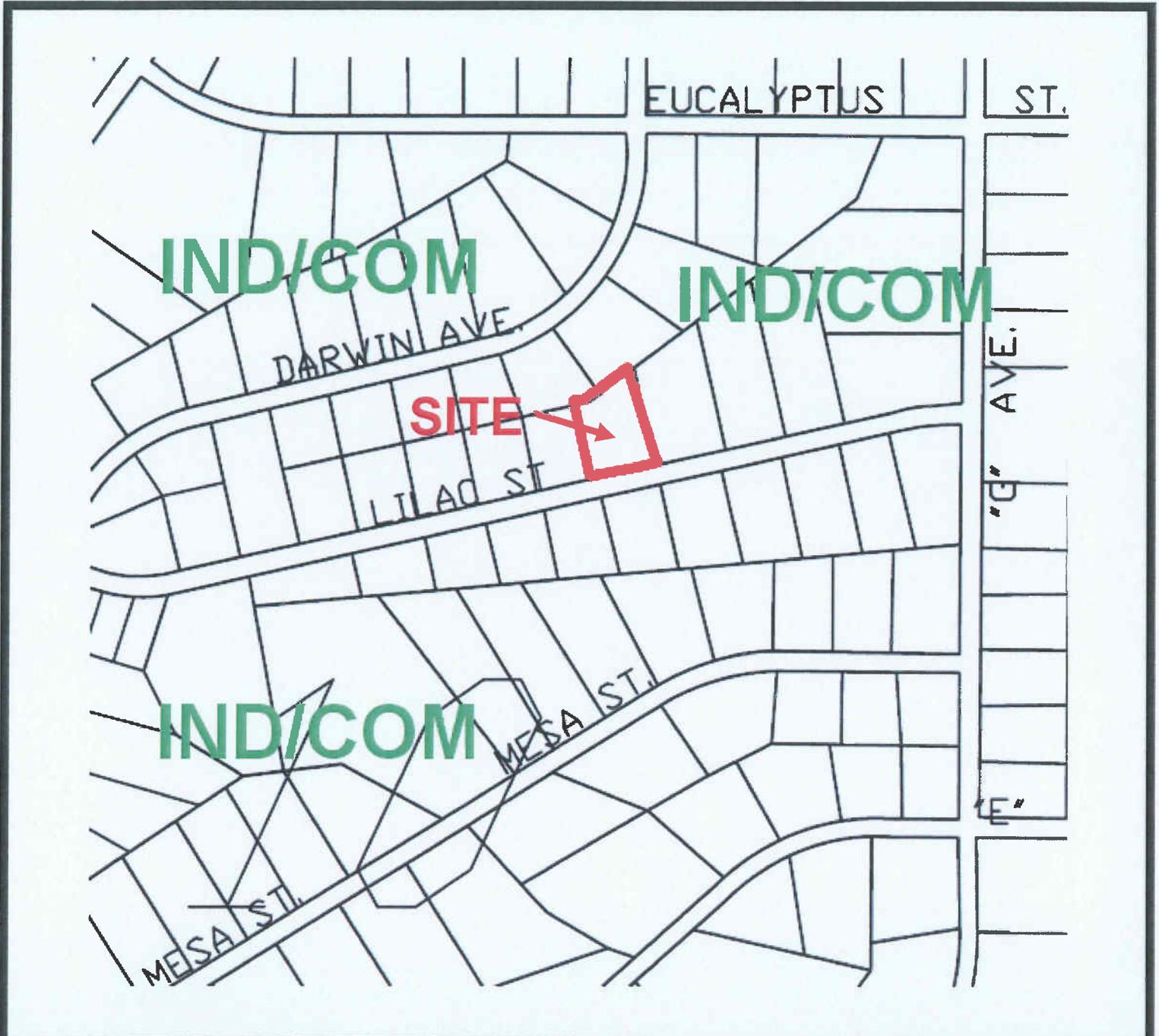
APN(S):
0415-244-08

PROPOSAL:
TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT
INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY
WITH OUTDOOR STORAGE



SITE PLAN

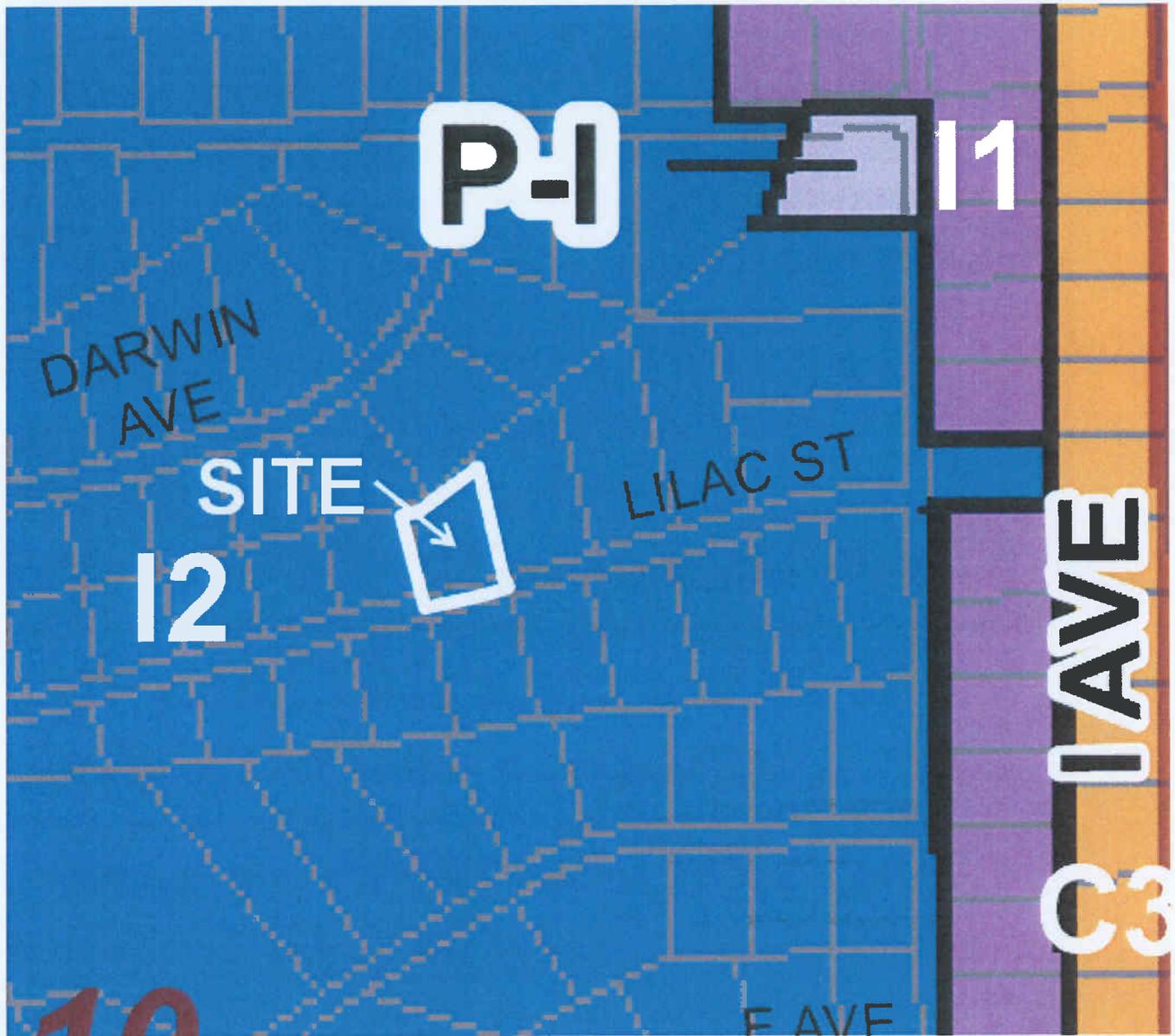
ATTACHMENT 2



| | |
|--|-----------------------------------|
| APPLICANT(S):
DEATON INVESTMENTS | FILE NO(S):
CUP09-10255 |
| LOCATION:
ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF G AVENUE | APN(S):
0415-244-08 |
| PROPOSAL:
TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY WITH OUTDOOR STORAGE | N
↑ |

GENERAL PLAN

ATTACHMENT 3



APPLICANT(S):
DEATON INVESTMENTS

FILE NO(S):
CUP09-10255

LOCATION:
ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF G AVENUE

APN(S):
0415-244-08

PROPOSAL:
TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY WITH OUTDOOR STORAGE

N
↑

ZONING

ATTACHMENT 4



APPLICANT(S):
DEATON INVESTMENTS

FILE NO(S):
CUP09-10255

LOCATION:
ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF
G AVENUE

APN(S):
0415-244-08

PROPOSAL:
TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT
INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY
WITH OUTDOOR STORAGE



AERIAL PHOTO

ATTACHMENT 5



APPLICANT(S):
DEATON INVESTMENTS

FILE NO(S):
CUP09-10255

LOCATION:
ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF
G AVENUE

APN(S):
0415-244-08

PROPOSAL:
TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT
INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY
WITH OUTDOOR STORAGE



ELEVATIONS

ATTACHMENT 6

RESOLUTION NO. PC-2009-46

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A TWO-STORY, THREE-BAY, 17,531 SQUARE FOOT MULTI-TENANT INDUSTRIAL PARK INCLUDING AN AUTOMOTIVE DISMANTLING/RECYCLING FACILITY WITH OUTDOOR STORAGE ON 1.3 GROSS ACRES LOCATED ON THE NORTH SIDE OF LILAC STREET APPROXIMATELY 1,000 FEET WEST OF G AVENUE (CUP09-10255)

WHEREAS, Deaton Investments, Inc. has filed an application requesting approval of Conditional Use Permit CUP09-10255 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a vacant lot within the General Manufacturing (I-2) Zone District, located on the north side of Lilac Street approximately 1,000 feet west of G Avenue and consists of Assessor's Parcel Number 0415-244-08; and

WHEREAS, the Application, as contemplated, proposes to construct a two-story, three-bay, 17,531 square foot multi-tenant industrial park including an automotive dismantling/recycling facility with outdoor storage area; and

WHEREAS, the subject site is presently vacant. The property to the east is vacant and the properties to the north, south, and west contain industrial uses; and

WHEREAS, the subject property and surrounding properties are currently designated Industrial/Commercial (IND/COM) on the City's General Plan Map; 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 15332, In-Fill Development Projects; and

WHEREAS, on December 10, 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 December 10, 2009 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use because the site can accommodate all proposed improvements in conformance with the development code.

- (b) The proposed use will not have a substantial adverse effect on abutting properties as all surrounding properties are developed with similar uses.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the General Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia. Further, the project is consistent with the regulations allowing automotive dismantling/recycling facilities in the General Manufacturing zone.
- (d) The site for the proposed use will have adequate access based upon the commercial approaches along Lilac Street and proposed improvements are consistent with the City's Circulation Element.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP09-10255 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 10th day of December 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Site Plan Review CUP09-10255:

Approval Date: December 10, 2009
Effective Date: December 22, 2009
Expiration Date: December 22, 2012

This list of conditions apply to a Conditional use permit to construct a two-story, three-bay, 17,531 square foot multi-tenant industrial park including an automotive dismantling/recycling facility with gravel outdoor storage area on 1.3 gross acres zoned I-2, located on the north side of Lilac Street approximately 1,000 feet west of G Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Deaton Investments, Inc.; APN: 0415-244-08).

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 (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee at least thirty (30) days prior to the expiration date.

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

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- 1. Drainage Study. The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)
2. Geotechnical Report. The Developer shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)
3. Title Report. The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)
4. NPDES. The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)
5. Storm Water Pollution Prevention Plan. The Developer shall provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off control during construction. (E)
6. Utility Non-interference / Quitclaim Document(s). The Developer shall provide non-interference and or quitclaim letter(s) from any applicable

utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **The improvement plans will not be accepted without the required documents and approval from the affected agencies.** (E)

- _____ 7. **Plan Check Fees.** Along with improvement plan submittal, the Developer shall pay applicable plan-checking fees. **Improvement Plans and requested studies shall be submitted as a package.** (E)
- _____ 8. **Irrevocable Offer Of Dedication.** The Developer shall submit an "Offer of Dedication" to the City's Engineering Department for review and approval. At time of submittal the developer shall complete the City's "application for document review" and pay all applicable fees. (E)
- _____ 9. **Easement, (Water, Sewer and Storm Drain).** The Developer shall submit a "Grant of Easement" to the City's Engineering Department for review and approval if needed. At time of submittal the developer shall complete the City's "application for document review" and pay all applicable fees. (E)
- _____ 10. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)
- _____ 11. **Building Construction Measures.** Noise Attenuation. All buildings within the development shall be constructed with walls and windows with the minimum STC rating to provide noise attenuation to result in a maximum noise level of 45 dB(A). (B,P)
- _____ 12. **Percolation Test.** The applicant shall submit a percolation test, performed by a California licensed civil or soils engineer, and approved by the San Bernardino County Department of Environmental Health Services for the required private sewage disposal systems. Should the applicant agree in writing to use the most restrictive percolation test for a site in close proximity to the subject property in designing the sewage disposal systems, then a percolation test shall not be required to be performed on-site. The applicability of any percolation test for use in designing the sewage disposal systems shall be subject to review and approval by the Building and Safety Division. In the event a tract map or parcel map has previously been recorded on the project site, the City of Hesperia has a percolation test on file, and no unusual conditions apply, this requirement may be waived by the Building and Safety Division. (B)
- _____ 13. **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 GROUND DISTURBING ACTIVITY:

- _____ 14. **Approval of Improvement Plans.** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)

- _____ 15. **Dedication(s).** The Developer shall grant to the City an Irrevocable Offer of Dedication for any part of the Path of Travel located behind any commercial drive approaches that encroach onto private property. It is the Developer's responsibility to obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City. **Corner cut-off right of way dedication per City standards is required at all intersections, including interior roadways.** (E)

- _____ 16. **Grant of Easement for Double Detector Check Valve.** The Developer shall grant to the City an easement for *any* part of a required double-detector check valve that encroaches onto private property. (E)

- _____ 17. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **Grading permits will not be issued until the required documents are reviewed and approved by all applicable agencies. Any fees associated with the required documents are the Developer's responsibility.** (E)

- _____ 18. **NPDES.** The Developer shall provide a copy of the approved original NPDES (National Pollutant Discharge Elimination System) permit from the Regional Water Quality Control Board and provide a copy of fees paid. The copies shall be provided to the City's Engineering Department. (E)

- _____ 19. **Storm Water Pollution Prevention Plan.** All of the requirements of the Storm Water Pollution Prevention Plan shall be incorporated and be in place prior to issuance of a grading permit. (E)
- _____ 20. **Grading Plan.** The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw), top of footing (tf), and the finish grade (fg) elevations. (E)
- _____ 21. **Off-Site Grading Letter(s).** It is the Developer's responsibility to obtain signed Off-Site Grading Letters from *any* adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)
- _____ 22. **Drainage Acceptance Letter(s).** It is the Developer's responsibility to obtain signed Drainage Acceptance Letters from *any* adjacent property owner's who are affected by concentrated off-site storm water discharge from any on-site retention basins and storm water runoff. The Acceptance letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)
- _____ 23. **On-site Retention.** The Developer shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter elements. All dry wells / injection wells shall have a minimum depth of 30' with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Developer shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems.** (E)
- _____ 24. **Street Improvement Plan.** The Developer shall design street improvements in accordance with City standards and as indicated below. (E)
- _____ 25. **Lilac Road.** Saw-cut (2-foot min.) and match-up asphalt pavement on Lilac Road across the project frontage, based on City's 60-foot Roadway Standard. The curb face is to be located at 20' from the approved centerline. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the

project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Commercial driveway approaches per City standards.
- F. Pavement transitions per City Standards.
- G. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 8 and per the soils report.
- H. Cross sections every 50-feet per City standards.
- I. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- J. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards. It is also the Developer's responsibility to obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City.
- K. Relocate any existing overhead utilities to underground. The Developer shall coordinate with affected utility companies.
- L. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

_____ 26. **Utility Plan.** The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. **Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development shall be removed / replaced or relocated and shall be constructed per City standards at the Developer's expense. (E)**

- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
- B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the existing 12" DIP water line in Lilac Road per City Standards.
- C. The Developer is not required to install sewer lines unless the proposed septic system cannot meet the La Honton Regional Water Quality Board's requirements or the City of Hesperia's EDU requirements
- D. Complete V.V.W.R.A.'s "Wastewater Questionnaire for Commercial / Industrial Establishments" and submit to the Engineering Department. Complete the "Certification Statement for Photographic and X-ray Processing Facilities" as required. **The Wastewater Questionnaire is only required if the project is required to connect to sewer.**

_____ 27. **Cultural Resources.** If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources

discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)

- _____ 28. **Pre-construction Survey.** A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)
- _____ 29. **Protected Plants.** Three copies of a protected plant plan shall be submitted to the Planning Division showing the present location and proposed treatment of species in the Dalea and Spinosa (smoketree); Agavaceae (century plants, nolin, and yuccas, including Joshua Trees); Prosopis (mesquites); Larrea (Creosote rings ten feet or greater in diameter); and all plants protected by the State Desert Native Plants Act, which shall be handled in accordance with the provisions of the Development Code and State law. The grading plan shall be consistent with the approved protected plant plan. Ground disturbing activities shall not commence until the protected plant plan is approved and the site is inspected and approved for clearing. (P)
- _____ 30. **Pre-construction Meetings.** Pre-construction meetings shall be held between the City, the Developer, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, P)
- _____ 31. **Design for Required Improvements.** Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this site plan review application with the following revisions made to the improvement plans: (E, P)
- _____ 32. **Access.** The development shall have a minimum of **TWO** points of vehicular access. These are for fire/emergency equipment access and for evacuation routes.
- A. **Single Story Road Access Width.** All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions. (F)
- B. **Multi-Story Road Access Width.** Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. (F)
- _____ 33. **Turnaround.** An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12 % grade and have a minimum of forty (40) foot radius for residential turns and forty five (45) for non-residential turns. (F)

- _____ 34. **Water System Commercial.** A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. The applicant is required to provide a minimum of one new six (6) inch fire hydrant assembly with two (2) two and one half (2 1/2) inch and one (1) four (4) inch outlet. All fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than one hundred fifty (150) feet from any portion of a structure. (F)

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

- _____ 35. **Construction Waste.** The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)
- _____ 36. **Landscape Plans.** The Developer shall submit four sets of landscape and irrigation plans to the Building Division with the required application fees. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number, size, type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)
- _____ 37. **Fencing.** The Developer shall submit four sets of plans to the Building Division with the required application fees for all proposed fencing and walls. An approved 12 foot high wall with decorative cap may be substituted for the fence provided its height is in accordance with the Development Code. (P)
- _____ 38. **Development Fees.** The Developer shall pay required development fees as follows:
- A. School Fees (B)
- _____ 39. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
- _____ 40. **Light and Landscape District Annexation.** Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 41. **As-Built Plans.** The Developer shall provide as-built plans. (E)
- _____ 42. **Public Improvements.** All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 43. **Development Fees.** The Developer shall pay required development fees as follows:
- A. Development Impact Fees (B)
 - B. Utility Fees (P)
- _____ 44. **Utility Clearances.** The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. (B)
- _____ 45. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The building shall be designed consistent with the design shown upon the approved materials board and color exterior building elevations identified as Exhibit "A." Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)
- _____ 46. **Specialty Plans.** The following additional plans/reports shall be required for businesses with special environmental concerns: (B)
- A. Hazardous materials management plans (HMMP) shall be required for businesses handling hazardous materials. Plans shall be submitted to and approved by the Hesperia Fire Division.
 - B. Floor Plans shall be submitted in accordance with the California Plumbing Code in respect to the number of plumbing fixtures.
- _____ 47. **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)

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 |

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DATE: December 10, 2009
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Lisette Sánchez-Mendoza, Assistant Planner
SUBJECT: Conditional Use Permit CUP09-10280; Applicant: Royal Street Communications California, LLC; APN'S: 0399-144-21 & 22.

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-47, approving Conditional Use Permit CUP09-10280.

BACKGROUND

Proposal: A Conditional Use Permit to construct a wireless communications facility designed within the roof parapet of an existing medical office building (Attachment 1).

Location: The property is located at 12021 Jacaranda Avenue.

Current General Plan, Zoning and Land Uses: The site is within the Commercial (C) General Plan Land Use designation and within the Neighborhood Commercial Zone District (C-1). The surrounding land is designated and zoned as noted on Attachments 2 and 3. The site is presently developed with a medical office building. The surrounding properties are presently vacant to the north, south, and west. The land to the east is partially developed with a mini-storage (Attachment 4).

ISSUES/ANALYSIS

Land Use: Metro PCS, the service provider, has been working on establishing a service area in the City. The Planning Commission has previously approved nine wireless communications facilities by the same applicant. The proposed facility, as well as the previously approved facilities, will provide the necessary network to begin providing adequate service in the City. A service plan was submitted to show the existing and proposed communications coverage in the area (Attachment 5). The facility's equipment will be housed within a suite of the building, occupying approximately 181 square feet (Attachment 6). The antennae will be adequately camouflaged as they have been designed to be mounted on the building's roof parapet (Attachment 7).

Based on the service plans submitted to the City, staff has determined that the proposal would provide good to fair coverage in the service area, while meeting the City's policy of using stealth technologies. The proposed facilities are consistent with the General Plan land use and zoning standards.

Drainage: The proposed project will not interfere with the current drainage flow of the site as the project involves construction of a wireless communications facility on the roof of an existing building.

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 is consistent with the City's intent to locate new wireless facilities within existing facilities, to conceal their appearance through the use of stealth technologies. 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.

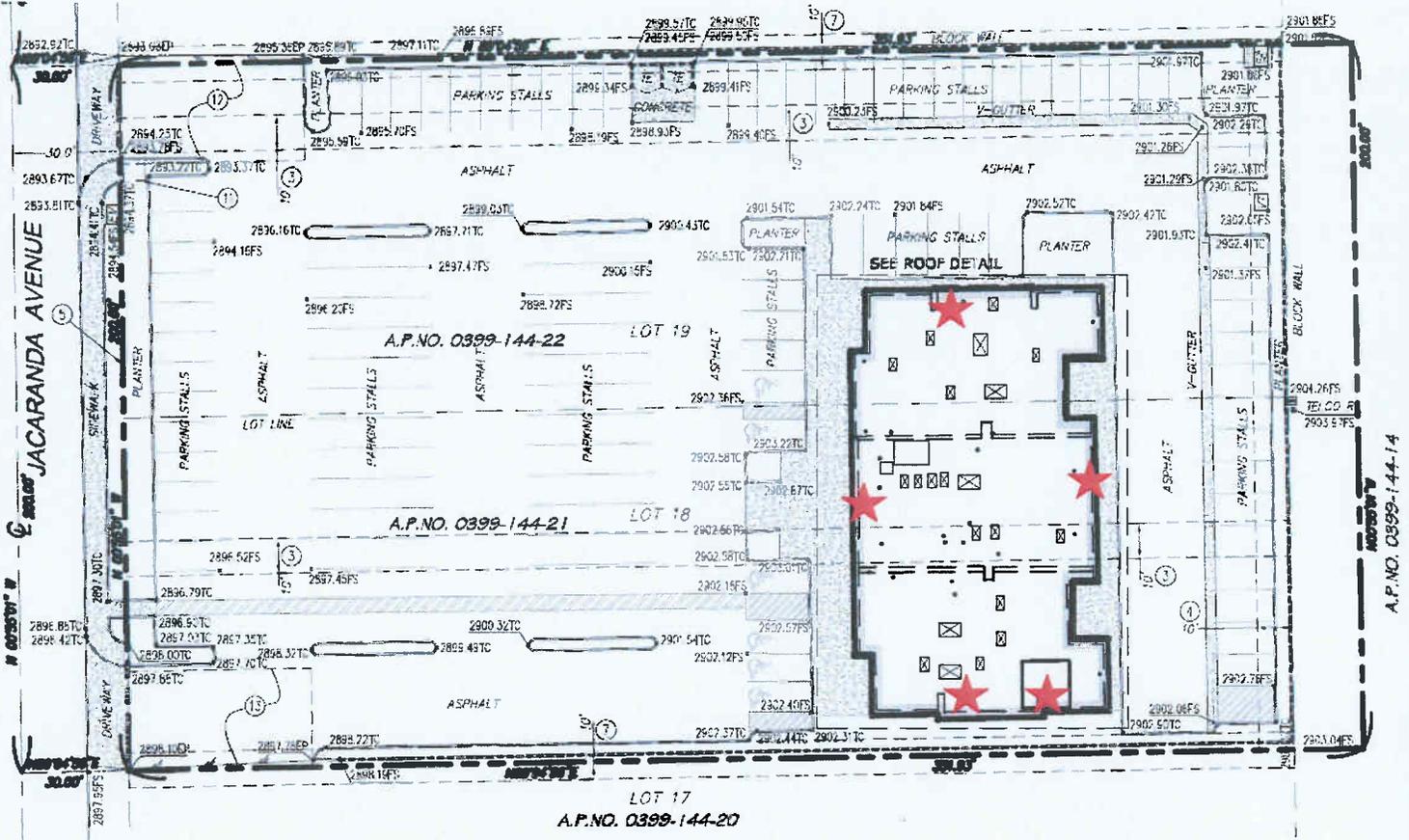
ALTERNATIVE(S)

Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. General Plan land use map
3. Zoning map
4. Aerial photo
5. Service plan
6. Floor Plan
7. Elevations
8. Resolution No. PC-2009-47, with list of conditions

ATTACHMENT 1

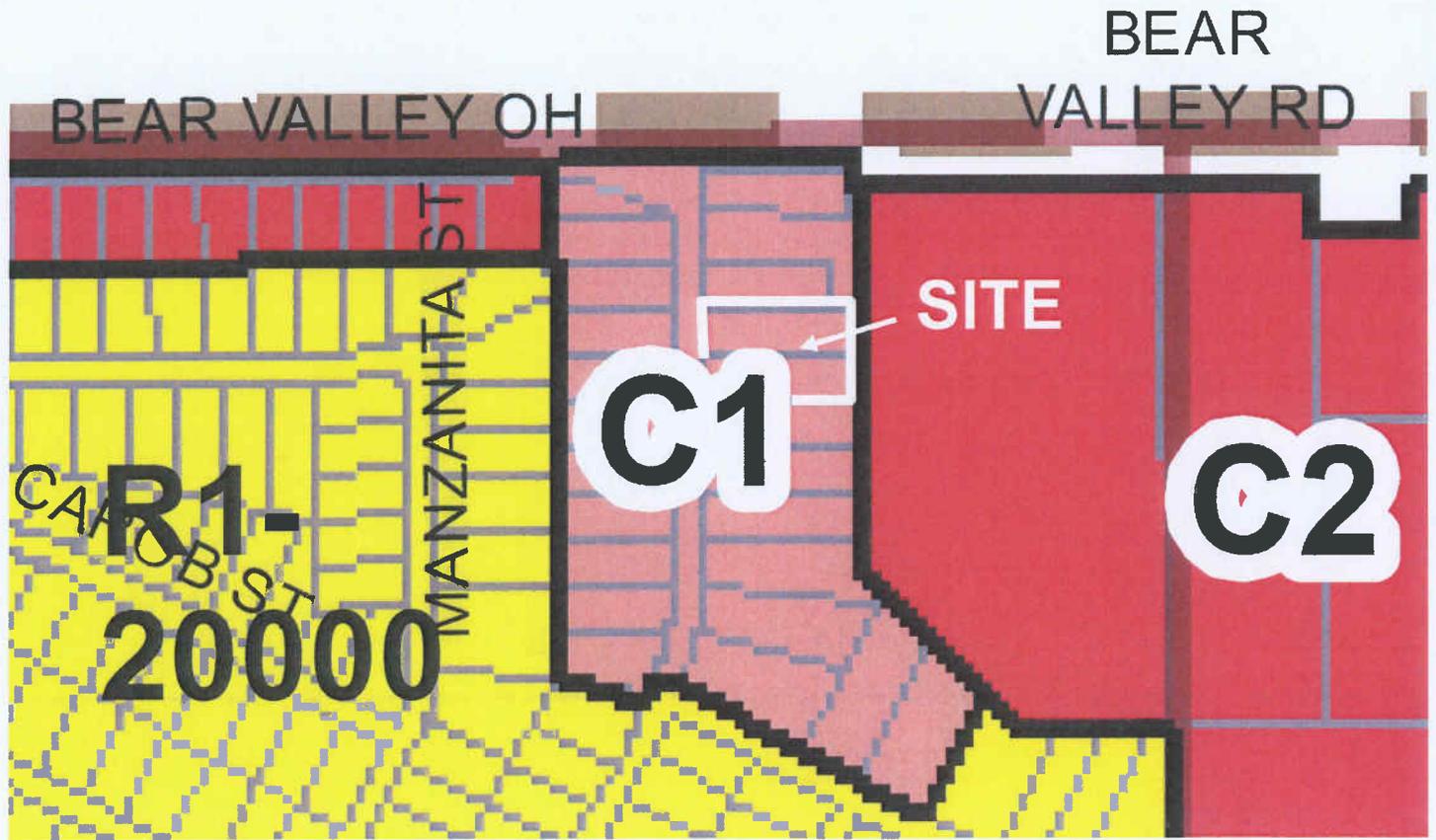


 Roof Mounted Antennae

| | | |
|--|--|---|
| APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC. | | FILE NO(S):
CUP09-10280 |
| LOCATION:
12021 JACARANDA AVENUE | | APN(S):
0399-144-21 & 22 |
| PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING | |  |

SITE PLAN

ATTACHMENT 3



APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC.

FILE NO(S):
CUP09-10280

LOCATION:
12021 JACARANDA AVENUE

APN(S):
0399-144-21 &
22

PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF
PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING

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ZONING

ATTACHMENT 4



APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC.

FILE NO(S):
CUP09-10280

LOCATION:
12021 JACARANDA AVENUE

APN(S):
0399-144-21

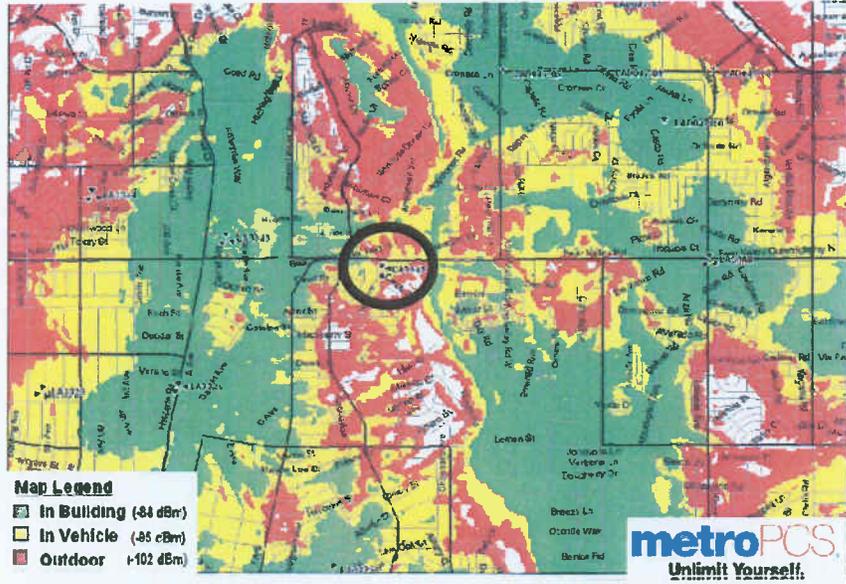
PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF
PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING



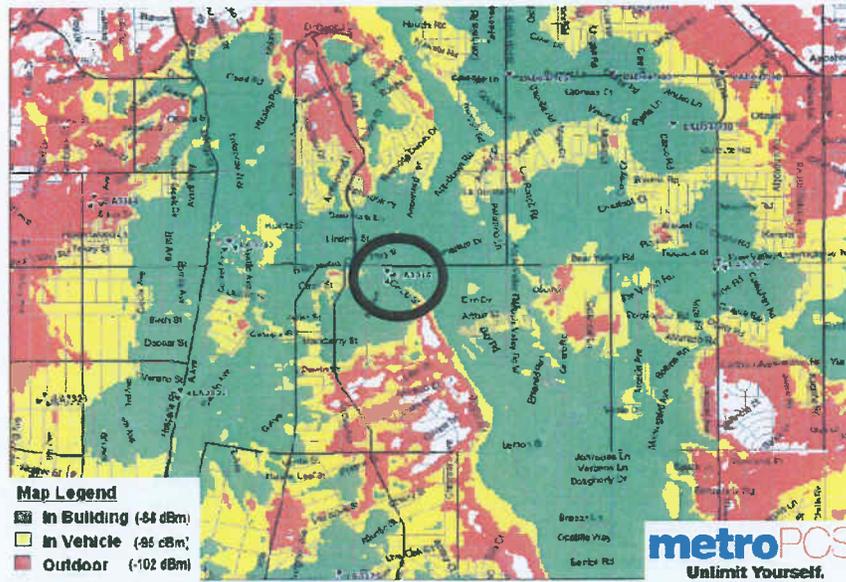
AERIAL PHOTO

ATTACHMENT 5

Without Facility



With Facility



APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC.

FILE NO(S):
CUP09-10280

LOCATION:
12021 JACARANDA AVENUE

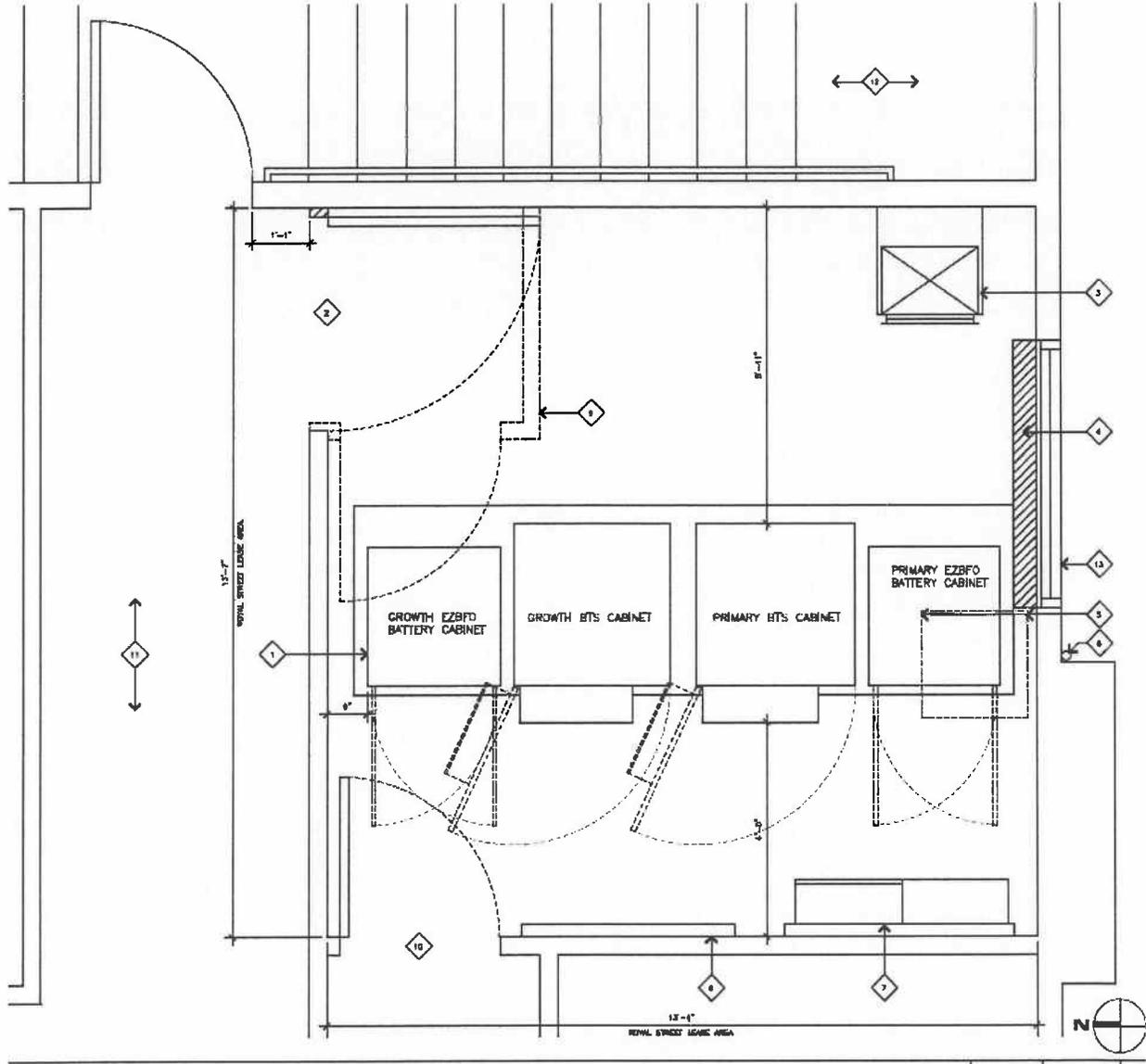
APN(S):
0399-144-21 &
22

PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF
PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING



COVERAGE

ATTACHMENT 6



APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC.

FILE NO(S):
CUP09-10280

LOCATION:
12021 JACARANDA AVENUE

APN(S):
0399-144-21 &
22

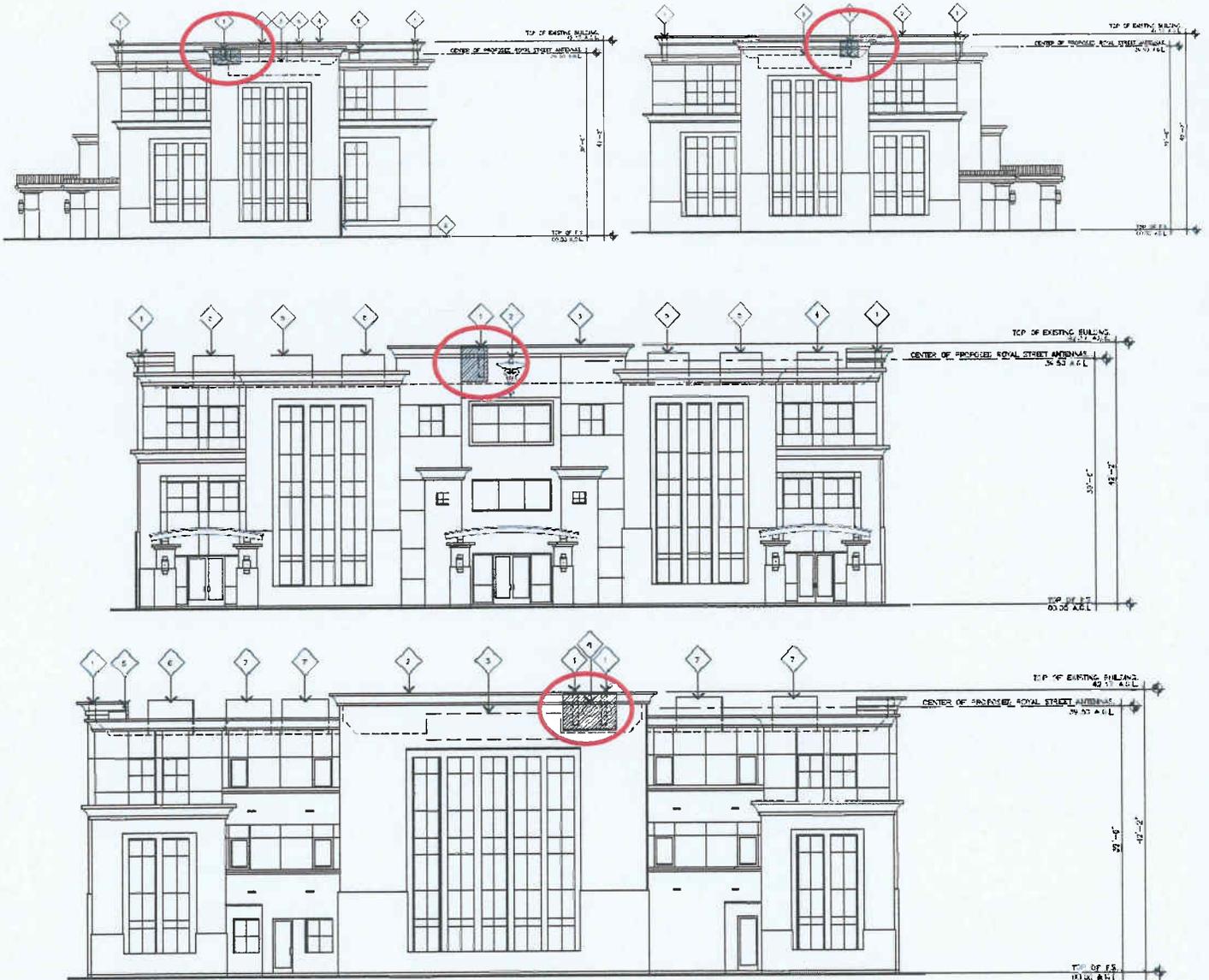
PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF
PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING

N



FLOOR PLAN

ATTACHMENT 7



APPLICANT(S):
ROYAL STREET COMMUNICATIONS, LLC.

FILE NO(S):
CUP09-10280

LOCATION:
12021 JACARANDA AVENUE

APN(S):
0399-144-21 &
22

PROPOSAL:
TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF
PARAPET OF AN EXISITNG MEDICAL OFFICE BUILDING

ELEVATIONS

ATTACHMENT 8

RESOLUTION NO. PC-2009-47

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A WIRELESS COMMUNICATIONS FACILITY WITHIN THE ROOF PARAPET OF AN EXISTING MEDICAL OFFICE BUILDING LOCATED AT 12021 JACARANDA AVENUE (CUP09-10280)

WHEREAS, Royal Street Communications California, LLC has filed an application requesting approval of Conditional Use Permit CUP09-10280 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to 1.5 net acres within the Neighborhood Commercial zone district, located at 12021 Jacaranda Avenue and consists of Assessor's Parcel Number 0399-144-21 & 22; and

WHEREAS, the Application, as contemplated, proposes to construct a wireless communications facility located at 12021 Jacaranda Avenue; and

WHEREAS, the subject site is presently developed as a medical office building. The site is surrounded by vacant land to the north, south, and west. The land to the east is partially developed with a mini-storage; and

WHEREAS, the subject property is designated Commercial on the City's General Plan Map. The properties surrounding the site are also designated Commercial; and

WHEREAS, the subject property, and surrounding properties to the north, south, and west are zoned Neighborhood Commercial (C-1). The properties to the east are zoned General Commercial (C-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 December 10, 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 December 10, 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 wireless communications facility. The proposed facility is consistent with the physical surroundings of the site.
- (b) The site is physically suitable for development, because the proposed antennae will be mounted on the roof parapet of an existing building, and required equipment will be housed within the building. All Development Code regulations required for the permitted uses can be met.
- (c) The design of the wireless communications facility 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 wireless communications facility 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 CUP09-10280, 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 10th day of December 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP09-10280:

Approval Date: December 10, 2009
Effective Date: December 22, 2009
Expiration Date: December 22, 2012

This list of conditions apply to a Conditional Use Permit to construct wireless communications facility within the roof parapet of an existing medical office building located at 12021 Jacaranda Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Royal Street Communications California, LLC; APN: 0399-144-21 & 22).

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.

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

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

Init Date

- 1. Building Construction Plans. Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)
2. Facility Requirements. The facility shall be designed in accordance with the approved plans. (P)
3. Specialty Plans. The following additional plans/reports shall be required for businesses with special environmental concerns: (B)
A. Any battery equipment used in conjunction with the telecommunications facility shall comply with the provisions of Article 64 and 80 of the California Fire Code. (F)
4. Utilities. All wireless communications facilities shall be connected to required services independently of the medical facility and shall be separately metered. (B, P)
5. 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)

- _____ 6. **Access Easement to the Wireless Communications Facility.** Access easement to the wireless communications facility shall be provided. (P)

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

- _____ 7. **Maintenance of the Facility.** The facility and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (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 | 947-1623 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |

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DATE: December 10, 2009
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner *DR*
BY: Daniel S. Alcayaga, AICP, Senior Planner *DA*
SUBJECT: Variance VAR09-10226; Applicant: First Class Properties, LLC (Ramsey Najor);
APN: 3046-311-32

RECOMMENDED ACTION

It is recommended that the Planning Commission approve Resolution No. PC-2009-48, denying Variance VAR09-10226.

BACKGROUND

Proposals: A variance to allow a covered barbeque and accessory building to encroach within the required side and rear setbacks (Attachments 1).

Location: 13045 Newport Street

Current General Plan, Zoning and Land Uses: Planned Mixed Use (PMU) General Plan Land Use designation and zoned Single-family Residence (R-1). The property is within the Mission Crest residential development located west of Escondido Avenue and south of Sultana Street. The site as well as surrounding properties are developed with single-family residences (Attachment 2).

ISSUES/ANALYSIS

The proposed variance would allow an existing covered barbeque and accessory building, which were constructed without permits, to encroach within the required side and rear setbacks. The Variance application was filed as result of code enforcement action. The Hesperia Development Code requires a covered barbeque and accessory building to have a five foot setback along the side and rear property lines. The covered barbeque located on the southeast portion of the property was constructed with a zero setback on the side and six inches away from the rear property line (Attachment 3). The accessory building located on the southwest portion of the property was constructed 18 inches away from the side property line and eight-inches from the rear property line (Attachment 4).

The applicant stated that the property was purchased with the barbeque cover and accessory building already in place and paid additional money for the house because of these improvements. The applicant stated that removal of these improvements will pose an additional financial burden on the owner. Staff has explained to the applicant that any violation of the Development Code and Building Code runs with the property and the current property owner is responsible for any violations on the property.

The Hesperia Development Code allows a variance to be granted if the findings of fact that are outlined in Section 16.12.235 can be made. These findings include:

- There is an unusual circumstance applicable to the property that does not generally apply to other properties in the vicinity;
- The applicant is deprived of privileges enjoyed by other property owners in the same zone;
- The enforcement of the code would result in a physical hardship;
- The granting of the variance will not constitute a grant of a special privilege; and
- The granting of the variance will not be detrimental to the public health, safety, and welfare to properties in the vicinity.

Staff has concluded that the required findings cannot be made as there is no unusual circumstance or condition applicable to the property. The property is relatively flat and rectangularly shaped with a lot width of approximately 65 feet and depth of 100 feet. The property size, shape, and topography are nearly identical to surrounding properties. The applicant is also not deprived of privileges enjoyed by other property owners in the same zone as setbacks standards are uniformly applied on all properties in this area. There is also no physical hardship by enforcing the setback standards as the covered barbeque and accessory building could be properly located in the rear yard while maintaining the required setbacks. The rear yard is approximately 1,200 square feet (18.5' x 65') and similar to rear yards of surrounding properties.

On October 6, 2009, the City Council approved an Ordinance pertaining to Projections into Yards. Staff did not recommend additional projections into yards for covered barbeques and accessory buildings because they would create visual issues and safety concerns. In a residential area, building setbacks are designed, in part, to maintain a distance from property lines, as it has the potential to interfere with the adjacent property owner's enjoyment of their property. Buildings and structures located on property lines would extend above the fence and create a visual nuisance to adjacent properties.

The location of the covered barbeque and accessory building are also in violation of the California Building Code. These buildings/structures, as built, are required to be a minimum of three feet away from property lines. If the covered barbeque and accessory building catches fire, the required setbacks could potentially minimize damage to the adjacent properties, while reduced setbacks could increase potential damage.

Because the buildings/structures were constructed close to property lines, all construction material within three feet of property lines must be one-hour fire resistive construction. The covered barbeque and accessory building include materials that are not approved as one-hour fire resistive construction. The roof material and fascia board on the accessory building and the wooden material underneath the roof for the barbeque cover are not approved materials. Also, the building code does not allow openings within three feet of property lines. The accessory building has a roof vent that is considered an opening and is not allowed.

Other building and safety violations include:

- No plumbing permits were obtained for the sink, spa, water heater, and barbeque.
- No electrical permits were obtained for any the electrical work.
- The water heater must be relocated five feet away from the side property line.
- The swimming pool must be relocated to an approved location.

The granting of the variance has the potential to be detrimental to the public safety and welfare as construction of the covered barbeque and accessory building close to the property lines pose a safety risk to adjacent properties.

In conclusion, the primary reason for staff's recommendation is that the setback reduction reduces fire safety. Staff has also determined that the findings required to approve the proposed variance cannot be made as no unusual circumstances applicable to the property exist. The property is similar in shape and size to surrounding properties. Also, the applicant is not being deprived of privileges enjoyed by other property owners as surrounding properties are also subject to the same side and rear setback requirements. Finally, the setback restrictions would not result in a physical hardship to the property owner since there is ample space in the back yard to properly locate a covered barbeque and accessory building. Staff recommends the proposed variance be denied and the setback requirements be fully enforced.

FISCAL IMPACT

None.

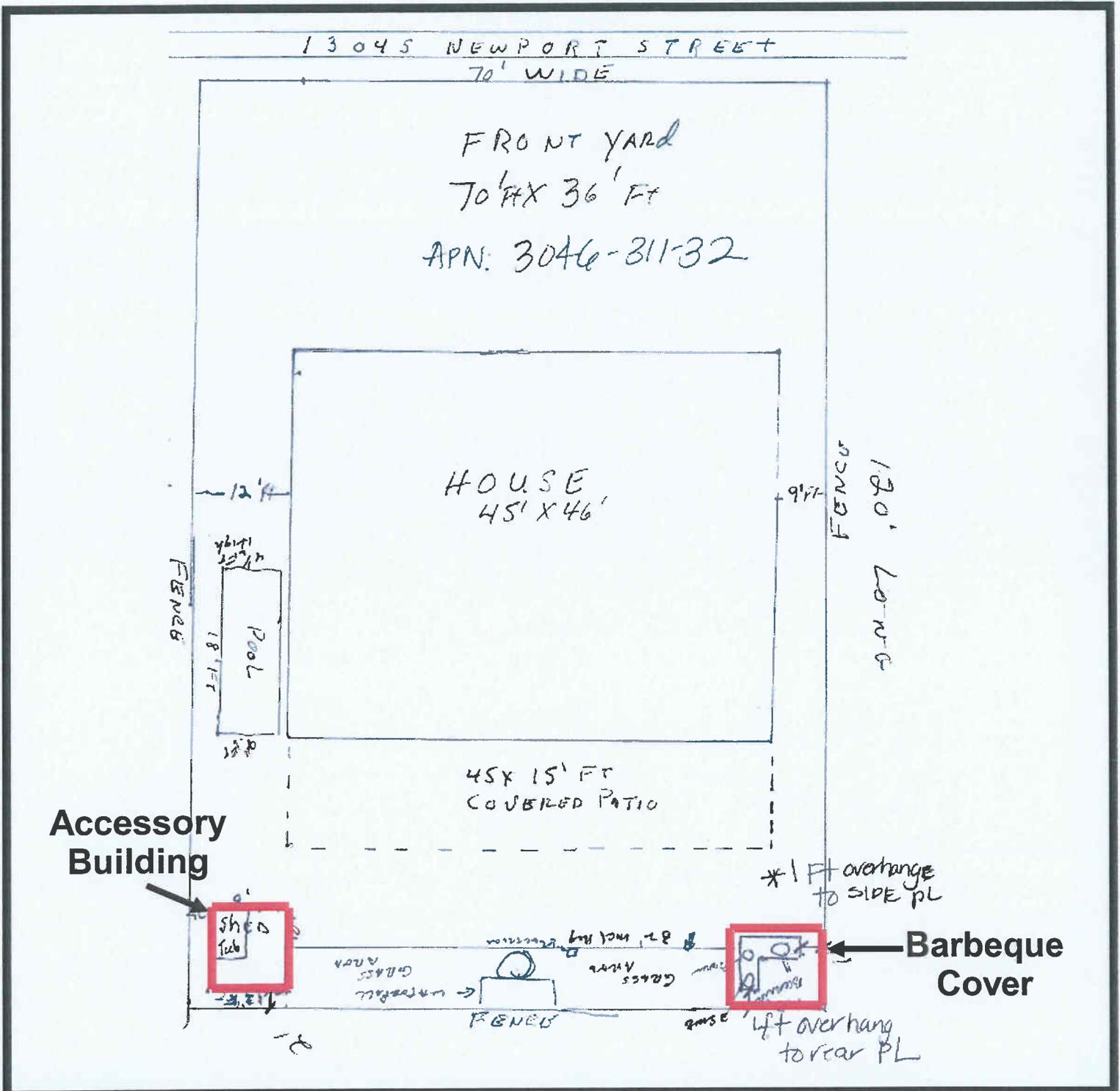
ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Site Plan
2. Photo Aerial
3. Photos of Barbeque Cover
4. Photos of Accessory Building
5. Resolution No. PC-2009-48, denying Variance VAR09-10226

ATTACHMENT 1



| | |
|---|-----------------------------------|
| APPLICANT(S):
FIRST CLASS PROPERTIES, LLC | FILE NO(S):
VAR09-10226 |
|---|-----------------------------------|

| | |
|--|-------------------------|
| LOCATION:
13045 NEWPORT STREET | APN: 3046-311-32 |
|--|-------------------------|

| | |
|--|---------------------|
| PROPOSAL:
A VARIANCE TO ALLOW A COVERED BARBEQUE AND ACCESSORY BUILDING TO ENCROACH WITHIN THE REQUIRED SIDE AND REAR SETBACKS | N
↑
24 |
|--|---------------------|

SITE PLAN

PLANNING COMMISSION

ATTACHMENT 2



★ Location of property

APPLICANT(S):
FIRST CLASS PROPERTIES, LLC

FILE NO(S):
VAR09-10226

LOCATION:
13045 NEWPORT STREET

APN: 3046-311-32

PROPOSAL:
A VARIANCE TO ALLOW A COVERED BARBEQUE AND ACCESSORY BUILDING TO ENCROACH WITHIN THE REQUIRED SIDE AND REAR SETBACKS



AERIAL PHOTO

ATTACHMENT 3



Front of Barbeque Cover (looking south)



Side of Barbeque Cover (looking east)

APPLICANT(S):
FIRST CLASS PROPERTIES, LLC

FILE NO(S):
VAR09-10226

LOCATION:
13045 NEWPORT STREET

APN: 3046-311-32

PROPOSAL:
A VARIANCE TO ALLOW A COVERED BARBEQUE AND ACCESSORY BUILDING TO ENCROACH WITHIN THE REQUIRED SIDE AND REAR SETBACKS

PHOTOS OF BARBEQUE COVER

ATTACHMENT 4



Side of accessory building (looking west)



(looking southwest)



Front of accessory building (looking south)

APPLICANT(S):
FIRST CLASS PROPERTIES, LLC

FILE NO(S):
VAR09-10226

LOCATION:
13045 NEWPORT STREET

APN: 3046-311-32

PROPOSAL:
A VARIANCE TO ALLOW A COVERED BARBEQUE AND ACCESSORY BUILDING TO ENCROACH WITHIN THE REQUIRED SIDE AND REAR SETBACKS

PHOTOS OF ACCESSORY BUILDING

ATTACHMENT 5

RESOLUTION NO. PC-2009-48

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING A VARIANCE TO ALLOW A COVERED BARBEQUE AND ACCESSORY BUILDING TO ENCROACH WITHIN THE REQUIRED SIDE AND REAR SETBACKS LOCATED AT 13045 NEWPORT STREET (VAR09-10226)

WHEREAS, First Class Properties, LLC has filed an application requesting approval of Variance VAR09-10226 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to single-family property within the Single-family Residence (R-1) Zone District located at 13045 Newport Street and consists of Assessor's Parcel Number 3046-311-32; and

WHEREAS, the Application, as contemplated, proposes to legalize a covered barbeque, which was constructed up to the side property line and six-inches away from the rear property line. The proposal also involves legalizing an accessory building constructed one-foot, six-inches away from the side property line and eight-inches from the rear property line; and

WHEREAS, the subject property as well as surrounding properties are developed with single-family residences; and

WHEREAS, the subject property as well as surrounding properties are currently designated Planned Mixed Use (PMU) General Plan Land Use designation; and

WHEREAS, the subject site as well as surrounding properties are currently zoned Single-family Residence (R-1); and

WHEREAS, the project is statutorily exempt from the requirements of the California Environmental Quality Act by Section 15270(a), for Projects Which Are Disapproved; and

WHEREAS, on December 10, 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 December 10, 2009, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would not result in practical difficulties or unnecessary physical hardships. The covered barbeque and accessory building were constructed without permits and within the required side and rear setbacks, which prompted the filing of the Variance. There is sufficient room in the rear yard to properly locate the covered barbeque and accessory building outside of the required setbacks.
- (b) There are no exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone. The property is relatively flat and rectangularly shaped with a lot width of approximately 65 feet and depth of 100 feet. The property's size, shape, and topography are nearly identical to surrounding properties. The property does not have a unique physical characteristic that would warrant approving an encroachment within the required setback.
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone. The rear yard is approximately 1,200 square feet (18-½' x 65') and could easily accommodate the accessory building and a covered barbeque structure. Surrounding properties have similar back yards and are subject to the same setback requirements.
- (d) The granting of the variance would constitute a grant of a special privilege inconsistent with the limitations of other properties classified in the same zone because surrounding properties are subject to the 5-foot setback in the side and rear yards. Because surrounding properties in the same zone are identical in size and shape, the setback regulations should be uniformly applied to all the properties in this neighborhood, including to the applicant's property.
- (e) The granting of the Variance has the potential to be detrimental to the public health, safety, or welfare, and may be materially injurious to the property in the vicinity. Setbacks are required in the building code to limit damage by earthquakes and fires. Therefore, the encroachment within the required setbacks poses a potential safety risk to adjacent properties. The covered barbeque and accessory building also have the potential to tower beyond the required height of the fence thereby creating a visual nuisance to adjacent property owners. Also, as the covered barbeque and accessory building deteriorate over time, they will have limited side and rear setbacks to perform maintenance and repairs. Aging buildings or structures without regular maintenance and repairs overtime have a greater potential to become a public nuisance.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Variance VAR09-10226.

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

ADOPTED AND APPROVED this 10th day of December, 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission



DATE: December 10, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner *DR*

BY: *SL* Stan Liudahl, AICP, Senior Planner

SUBJECT: Variance VAR09-10252; Applicant: Century Crowell Communities, LP;
APNs: 0405-115-07 and 0405-134-01

RECOMMENDED ACTION

It is recommended that the Planning Commission approve Resolution No. PC-2009-44, denying approval of VAR09-10252, allowing signs in excess of the number, height, and area restrictions for a temporary sales trailer marketing Tract 14744.

BACKGROUND

Proposal: A Variance to allow signs in excess of the number, height, and area restrictions for a temporary sales trailer marketing Tract 14744.

Location: On the south side of Rancho Road between Topaz Avenue and Primrose Avenue (Attachment 1).

Current General Plan, Zoning and Land Uses: Low density residential (L) General Plan Land Use designation and zoned Single-family Residence (R-1). The surrounding land is designated and zoned as noted on Attachments 2 and 3. The applicant is proposing to place a manufactured office adjacent to an existing parking lot to use for selling the remaining lots within the development. Scattered single-family residences exist to the north, east, and west. The properties to the south are vacant (Attachment 4).

ISSUES/ANALYSIS

Two project identification signs 17.5 feet high and approximately 114 square feet in area have been installed on the south side of Rancho Road (Attachment 5). One is on the corner of Topaz Avenue and the other is on the corner of Primrose Avenue. The Development Code allows one project identification sign not to exceed 10 feet high and 32 square feet in area. The signs were installed some time ago and became known to the City when staff inspected conversion of a model home to a residence. The applicant had also installed three smaller signs off-site, which were removed. The applicant explained that due to the current economic climate, additional signs are necessary to market the properties, especially given its distance from the freeway.

Staff prepared a survey to determine whether the City’s sign regulations for model home complexes are similar to those of the other local communities. Staff surveyed the four High Desert cities and the County as shown below:

| Regulations | Hesperia | Adelanto | Apple Valley | Victorville | County |
|-------------|-------------------|-----------------------|-------------------------|-----------------|------------|
| Sign number | One | 1 per street frontage | 1 per street frontage | Two | One |
| Sign height | Six feet | Six feet | Six feet ¹ | 12 & 8 feet | 12 feet |
| Sign area | 32 sq. ft. | 24 sq. ft. | 16 sq. ft. ² | 72 & 32 sq. ft. | 32 sq. ft. |

Hesperia’s regulations are generally consistent with the other jurisdictions. However, the requested signs are 256 percent larger in area and 192 percent taller than the signage permitted by the Hesperia Development Code and 58 percent larger in area and 46 percent taller than the signs permitted by any of the jurisdictions surveyed.

Drainage: The site is not impacted by drainage.

Environmental: This project is exempt from the California Environmental Quality Act (CEQA), per Section 15303, New Construction or Conversion of Small Structures.

Conclusion: Staff is sensitive to the need to have adequate signage to sell property in the current real estate market. Consequently, staff compared the signage allowed for the four High Desert cities and the County. Based upon the comparison, staff does not believe that the proposed additional number, height and area of signage is warranted.

FISCAL IMPACT

None.

ALTERNATIVE

1. Provide alternative direction to staff.

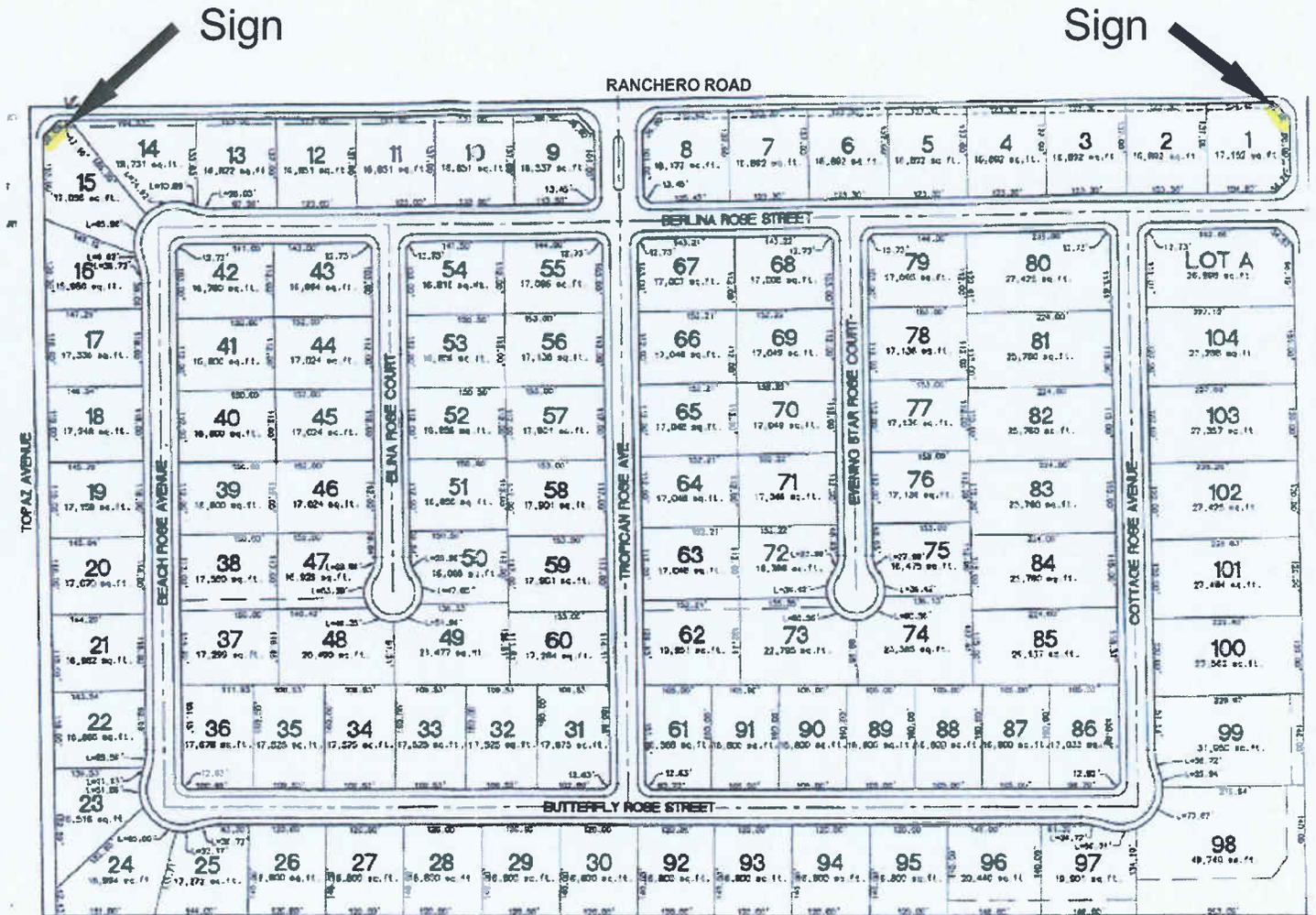
ATTACHMENTS

1. Site plan
2. General Plan Land Use map
3. Zoning map
4. Aerial photo
5. Sign plan
6. Resolution No. PC-2009-44

¹ A 12-foot height limitation is afforded 20-acre and larger subdivisions.

² A 64 square foot limitation is afforded 20-acre and larger subdivisions.

ATTACHMENT 1



APPLICANT(S):
CENTURY CROWELL COMMUNITIES, LP

FILE NO(S):
VAR09-10252

LOCATION:
ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND PRIMROSE AVENUE

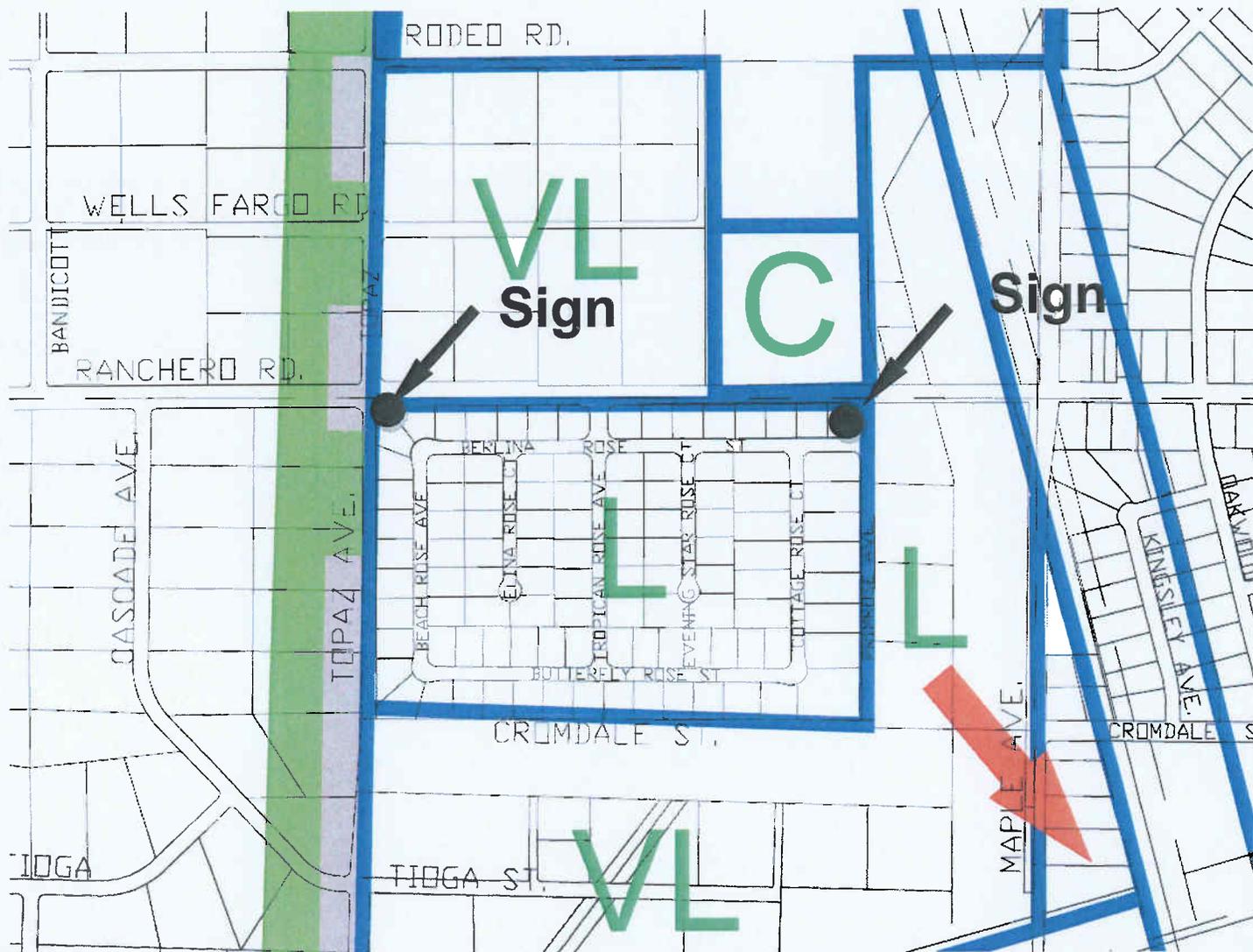
APN(S):
0405-134-08

PROPOSAL:
CONSIDERATION OF A VARIANCE TO ALLOW SIGNS IN EXCESS OF THE NUMBER, HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING TRACT 14744



SITE PLAN

ATTACHMENT 2



APPLICANT(S):
CENTURY CROWELL COMMUNITIES, LP

FILE NO(S):
VAR09-10252

LOCATION:
ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND PRIMROSE AVENUE

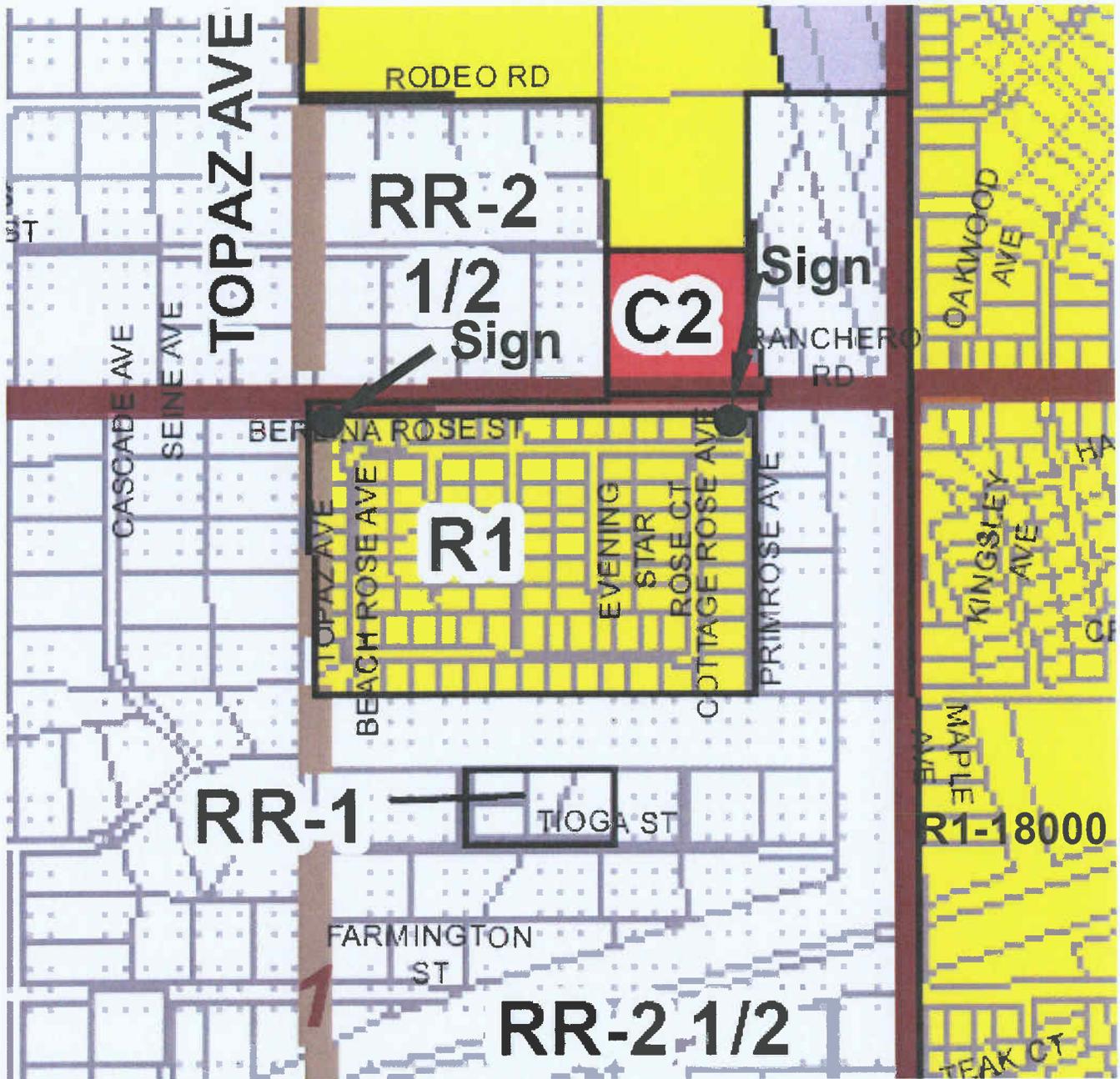
APN(S):
0405-134-08

PROPOSAL:
CONSIDERATION OF A VARIANCE TO ALLOW SIGNS IN EXCESS OF THE NUMBER, HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING TRACT 14744



GENERAL PLAN LAND USE MAP

ATTACHMENT 3



APPLICANT(S):
CENTURY CROWELL COMMUNITIES, LP

FILE NO(S):
VAR09-10252

LOCATION:
ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND PRIMROSE AVENUE

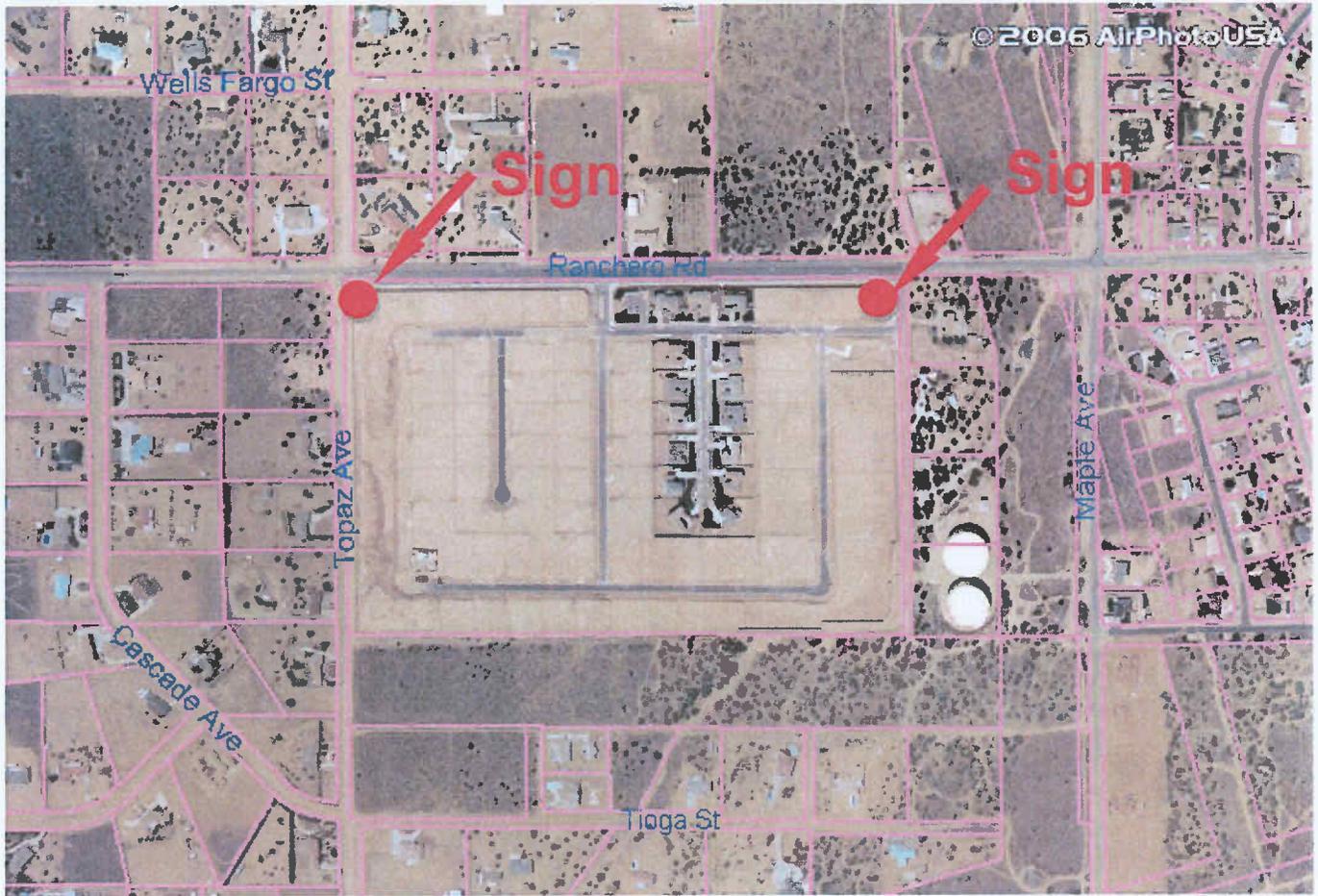
APN(S):
0405-134-08

PROPOSAL:
CONSIDERATION OF A VARIANCE TO ALLOW SIGNS IN EXCESS OF THE NUMBER, HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING TRACT 14744



ZONING MAP

ATTACHMENT 4



APPLICANT(S):
CENTURY CROWELL COMMUNITIES, LP

FILE NO(S):
VAR09-10252

LOCATION:
ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND
PRIMROSE AVENUE

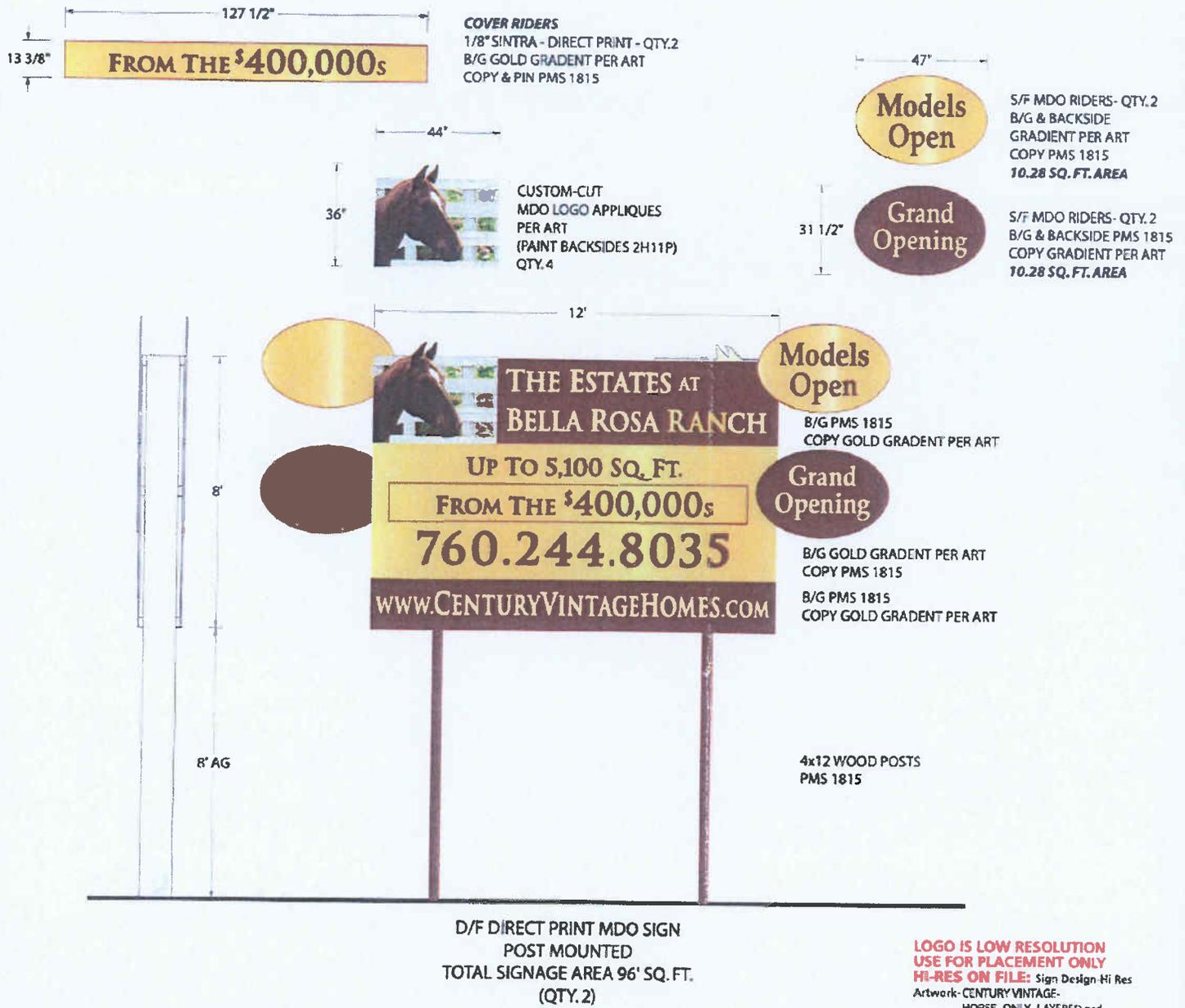
APN(S):
0405-134-08

PROPOSAL:
CONSIDERATION OF A VARIANCE TO ALLOW SIGNS IN EXCESS OF THE NUMBER,
HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING
TRACT 14744



AERIAL PHOTO

ATTACHMENT 5



APPLICANT(S):
CENTURY CROWELL COMMUNITIES, LP

FILE NO(S):
VAR09-10252

LOCATION:
ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND PRIMROSE AVENUE

APN(S):
0405-134-08

PROPOSAL:
CONSIDERATION OF A VARIANCE TO ALLOW SIGNS IN EXCESS OF THE NUMBER, HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING TRACT 14744



SIGN PLAN

ATTACHMENT 6

RESOLUTION NO. PC-2009-44

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING SIGNS IN EXCESS OF THE NUMBER, HEIGHT, AND AREA RESTRICTIONS FOR A TEMPORARY SALES TRAILER MARKETING TRACT 14744, LOCATED ON THE SOUTH SIDE OF RANCHERO ROAD BETWEEN TOPAZ AVENUE AND PRIMROSE AVENUE (VAR09-10252)

WHEREAS, Century Crowell Communities, LP has filed an application requesting approval of Variance VAR09-10252 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to two signs located on the south side of Ranchero Road between Topaz Avenue and Primrose Avenue within Tract 14744, a 57-acre subdivision zoned Single-family Residence (R-1) and containing Assessor's Parcel Numbers 0405-115-07 and 0405-134-01; and

WHEREAS, the Application, as contemplated, proposes to construct two signs in excess of the 32 square foot area and six-foot height limitations; and

WHEREAS, the subdivision is partially developed. Single-family residences exist to the north, east, and west. The properties to the south are currently vacant; and

WHEREAS, the subject property is currently designated Low density residential (L) on the City's Land Use Map. The surrounding adjacent land within the City to the east is also designated L. The properties to the north and south are designated Very Low density residential (VL). One property to the north is designated Commercial (C); and

WHEREAS, the subject property is currently zoned Single-family Residence (R-1). The surrounding adjacent land within the City to the north, south, and east are zoned Rural Residential with a minimum lot size of 2 ½ acres (RR-2 ½). One property to the north is zoned General Commercial (C-2); and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act under Guidelines Section 15270, Projects Which Are Disapproved; and

WHEREAS, on December 10, 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 the Commission, including written and oral staff reports, the Commission specifically finds as follows:

- (a) **The strict or literal interpretation and enforcement of the specified regulations would not result in practical difficulties or unnecessary physical hardships because** the existing sign regulations allow for a 32 square foot sign, which will afford suitable visibility along Rancho Road.
- (b) **There are no exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone because** the current regulations limiting the size of signage for marketing single-family residential development have been applied equally to all developments in the past.
- (c) **The strict or literal interpretation and enforcement of the specified regulation would not deprive the applicant of privileges enjoyed by the owners of other properties in the same zone because** other similar developments have been able to operate with sales trailers and/or model home complexes in accordance with the sign limitations within the Development Code.
- (d) **The granting of the variance would constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zone because** other residential developments are subject to and have complied with the number, height, and area restrictions.
- (e) **The granting of the variance will be detrimental to the public health, safety, or welfare, and will not be materially injurious to properties or improvements in the vicinity,** as the additional number, height, and area will add to sign clutter, reducing the aesthetics while reducing visibility along Rancho Road for motorists.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies approval of Variance VAR09-10252.

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

ADOPTED AND APPROVED this 10th day of December 2009.

ATTEST:

Chris Elvert, Chair, Planning Commission

Eva Heter, Secretary

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DATE: December 10, 2009

TO: Planning Commission

FROM:  Dave Reno, AICP, Principal Planner 

BY:  Stan Liudahl, AICP, Senior Planner

SUBJECT: Development Code Amendment DCA09-10301 regarding animals allowed in R-3 and Multiple-family residential districts; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-45, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10301.

BACKGROUND

This Development Code Amendment is proposed to resolve some recent code enforcement cases. The Development Code currently limits residents of apartments and mobile home parks to one dog and one cat over four months old. Code Enforcement officers have observed that many apartment complexes allow two dogs or two cats as an option to one dog and one cat (Attachment 1). The inflexibility of the current ordinance has posed a problem, as many people prefer not to own a mixture of cats and dogs.

ISSUES/ANALYSIS

The Development Code Amendment will allow two dogs or two cats as well as the current one dog and one cat in an apartment or mobile home. This will codify the animal allowances presumed by many apartment complex management companies and appears as an equitable solution to a problem Code Enforcement is trying to resolve. Inasmuch as the Main Street and Freeway Corridor and the Rancho Las Flores Specific Plan will contain multiple-family developments, this Ordinance will amend both the Multiple-family Residence (R-3) and Multiple-family residential districts and establish a consistent standard throughout the City.

Environmental: Approval of the Development Code Amendment is exempt from the requirements of the California Environmental Quality Act by Section 15061(b)(3) of the CEQA Guidelines. The proposed ordinance does not expand the allowable uses or entitlements already permitted by the Development Code.

CONCLUSION

Staff supports the Development Code Amendment, as it will provide resolution to a specific Code Enforcement issue in an equitable manner.

FISCAL IMPACT

None.

ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. Survey of managers of apartment complexes and mobile home parks regarding animal quantities presumed allowed in R-3 Zone Districts
2. Resolution No. PC-2009-45, with Exhibit "A"

ATTACHMENT 1

R-3 Survey

| Complex | #cats allowed | | # dogs allowed |
|---|----------------------|-----|-----------------------|
| Sunset View -9919 Topaz | 2 | or | 2 |
| Countryside Villas - 8808 C Ave | 2 | or | 2 |
| Sunset Pointe - 16700 Muscatel | 2 | or | 2 |
| Desert View East and West | 2 | or | 2 |
| The Crossings - 8809 C Ave | 2 | or | 2 |
| The Villas | 2 | or | 2 |
| Spring Street | 2 | or | 2 |
| ** All of the above properties are managed by the same company | | | |
| 3 Palms | 2 | or | 2 |
| Rim Apartments (owns 11 properties) | no limit | | 2 |
| Mobile Homes | | | |
| Joshua | 2 | or | 2 |
| Coral Isle | 1 | or | 1 |
| Sage | 1 | and | 1 |
| Juniper Senior Park | 1 | and | 1 |
| High Chaparral | 1 | and | 1 |

Conclusions:

Of 20 Apartment Complexes that allow pets all of them would allow 2 cats or 2 dogs.
1 management company would allow unlimited number of cats

Mobile Home parks seem to be more in tune with our ordinance. When I called and identified myself from the City I was told 1 cat and 1 dog at 3 properties, 1 dog or 1 cat at 1 property and 2 dogs or 2 cats at the fifth.

ATTACHMENT 2

RESOLUTION NO. PC-2009-45

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE REGARDING ANIMALS ALLOWED IN R-3 AND MULTIPLE-FAMILY RESIDENTIAL DISTRICTS (DCA09-10301)

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 has filed DCA09-10301, to amend the Development Code regulations regarding animals allowed in the Multiple-family Residence (R-3) and Multiple-family residential districts; and

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

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Development Code revisions regarding animals allowed in R-3 and Multiple-family residential districts can have a significant adverse effect on the environment; and

WHEREAS, On December 10, 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 DCA09-10301, amending the regulations regarding animals allowed in the Multiple-family Residence (R-3) and Multiple-family residential districts as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 10th day of December 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT "A"

Eliminated text is shown with a ~~strikeout~~ and additions are shown with an underline.

Section 16.16.145 is hereby amended to read as follows:

16.16.145 General uses permitted in R-3 district.

In the R-3 district, the following general uses are permitted:

A. Same as R-1 District, except Section 16.16.080(D);

B. Animals.

1. Dogs and cats not to exceed the keeping of one dog and one cat over four months old, or two dogs or two cats over four months old;

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.
TUESDAY, NOVEMBER 24, 2009

A. PROPOSALS:

1. Fountain West 4, LP (TPM09-10254/PM-19133)

Proposal: To create four parcels and a remainder on 9.1 gross acres within the Neighborhood Commercial District of the Main Street and Freeway Corridor Specific Plan.

Location: Southeast corner of Joshua Street and Outpost Road

Planner: Stan Liudahl

Action: Administrative Approval

2. Hesperia Fire Protection District (SPR09-10295)

Proposal: A Public Facility Review to construct a 2-bay, 3,021 square foot expansion of an existing 2-bay, 4,923 square foot fire station (Station No. 304) on 2.5 gross acres zoned Limited Agriculture (A-1).

Location: 15660 Eucalyptus Street

Planner: Lisette Sanchez-Mendoza

Action: Continued to 12/9/2009 DRC Meeting

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.
TUESDAY, NOVEMBER 10, 2009

A. PROPOSALS:

1. Deaton Investment, Inc. (CUP09-10255)

Proposal: A Conditional Use Permit (CUP09-10255) to construct a two-story, three-bay, 17,531 square foot multi-tenant industrial park including an automotive dismantling/recycling facility with gravel outdoor storage area on 1.3 gross acres zoned I-2.

Location: Located on the north side of Lilac Street, 1,013 feet west of G Avenue

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to Planning Commission

2. Desert Green Villas, LLC (SPR09-10297)

Proposal: A third extension request for Site Plan Review, SPR09-10297 (SPR-2003-25) to construct a two-story, 84 unit apartment complex on 5.6 acres zoned Medium Density Residential.

Location: Located on the east side of Santa Fe Avenue approximately 350 feet south of Sultana Street

Planner: Daniel Alcayaga

Action: Administrative Approval

3. Daniel Shoham, Graco Equities, LLC (SPR09-10296)

Proposal: A first extension of time for Site Plan Review SPR09-10296 (SPR-2006-14) to construct a 32 condominium units on 3.3 gross acres.

Location: Located on the southwest corner of Yucca Street and Maple Avenue.

Planner: Holly Effiom

Action: Administrative Approval