

# PLANNING COMMISSION AGENDA

## ***REGULAR MEETING***

**Date: October 8, 2009**

**Time: 6:30 P.M.**

### COMMISSION MEMBERS

Chris Elvert, Chair

Joline Bell Hahn, Vice Chair

Stephen James, Commissioner

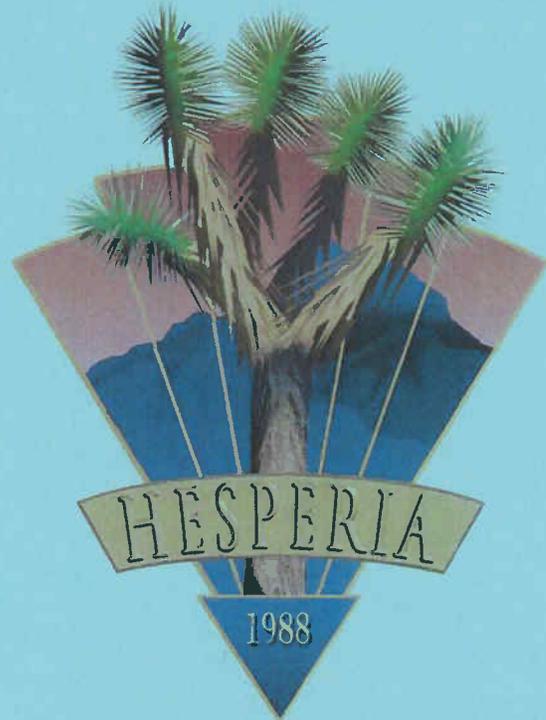
Julie Jensen, Commissioner

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.

October 8, 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: September 10, 2009 Planning Commission Meeting Draft Minutes

-1-

**PUBLIC HEARINGS**

- 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). 1-1
- 2. Consideration of Development Code Amendment (DCA09-10265), regarding recycling facilities (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Lisette Sanchez-Mendoza). 2-1
- 3. Consideration of Development Code Amendment (DCA09-10177), regarding alternative energy technologies (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Stan Liudahl). 3-1

**PRINCIPAL PLANNER'S REPORT**

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

- E. DRC Comments
- F. Major Project Update

4-1

**PLANNING COMMISSION BUSINESS OR REPORTS**

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

**ADJOURNMENT**

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

I, Eva Heter, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, October 1, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter  
Planning Commission Secretary

HESPERIA PLANNING COMMISSION  
REGULAR MEETING  
September 10, 2009  
DRAFT MINUTES

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

**CALL TO ORDER 6:30 p.m.**

Pledge of Allegiance to the Flag – Vice Chair Hahn

Invocation – Commissioner Muller

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

Present: Five.

**JOINT PUBLIC COMMENTS**

**CONSENT CALENDAR**

Approval of Minutes: August 13, 2009 Planning Commission Meeting Draft Minutes  
Motion by Stephen James to approve the August 13, 2009 Planning Commission Meeting Minutes.

Seconded by Chris Elvert, passed with the following roll call vote:

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

**PUBLIC HEARING**

1. Consideration of Conditional Use Permit (CUP09-10131), and Variance (VAR09-10192) to construct a 75-foot high wireless communications facility in lieu of the 35-foot height limitation at Timberlane Park (Applicant: Royal Street Communications California, LLC; APN: 0411-234-12) (Staff Person: Lisette Sanchez-Mendoza).

**Planner, Lisette Sanchez-Mendoza** gave a brief staff report. She also introduced a green sheet item (See Attachment 1).

**Commissioner Jensen** questioned the number of properties that were noticed within the 375 foot radius.

**Planner, Lisette Sanchez-Mendoza** stated that there were 45 to 50 properties within the 375 foot radius that had received notification of the project.

**Commissioner Jensen** questioned the height of existing poles in the area.

**Chair Elvert opened the Public Hearing: 6:43 PM**

**Maree Hager, Royal Street Communications Representative** addressed Commission concerns.

**Commissioner James** questioned if the surrounding area was looked at for possible co-locatable sites on Edison Towers.

**Maree Hager, Royal Communications Representative** reviewed the surrounding area, indicating that there were no co-locatable sites available that would give the coverage necessary.

**Chair Elvert closed the Public Hearing: 6:50 pm**

**Commissioner Jensen** stated a concern with the mono-pine being the tallest in the area.

**Doug Haubert, Assistant City Attorney** stated that Commissioner Hahn was going to abstain from the Public Hearing due to involvement with a client within the vicinity of the mono-pine.

**Motion by Stephen James to adopt Resolution Nos. PC-2009-30 and PC-2009-31, as presented, approving Conditional Use Permit (CUP09-10131) and Variance (VAR09-10192). Seconded by Chris Elvert, passed with the following roll call vote:**

**AYES:** Chris Elvert, Stephen James, and William Muller  
**NOES:** and Julie Jensen  
**abstain:** Joline Bell Hahn.

2. [Consideration of Conditional Use Permit \(CUP09-10125\), to establish a purification product facility on the southern portion of a 10.0 gross acre lot zoned General Industrial located 660 feet west of "I" Avenue on the south side of Hercules Street \(Applicant: LA Water, LLC; APN: 0410-072-01\) \(Staff Person: Daniel S. Alcayaga\).](#)

**Senior Planner, Daniel Alcayaga AICP** gave a brief staff report.

**Commissioner James** questioned the amount of trips on the rail line.

**Principal Planner, Dave Reno AICP** stated that there were two trips a day.

**Commissioner James** questioned the additional trips that approval would cause.

**Senior Planner, Daniel Alcayaga AICP** referred Commissioner James to the Applicant.

**Commissioner James** questioned the distance to residential.

**Commissioner Hahn** stated that there needed to be sufficient footing on the fencing if slats were going to be put in place. She also discussed the circulation around the site. She stated that transporting of volatile material down Main Street was not a good idea.

**Senior Engineer, Tom Thornton PE** referred Commissioner Hahn's question to the Applicant.

**Commissioner Muller** questioned the number of cars coming into the area at build out, the noise from the rail cars, and the need for additional police protection.

**Principal Planner, Dave Reno AICP** stated that with any new structure, the development impact fee would cover additional public services.

**Commissioner James** questioned if Fire was capable of handling a major chemical spill.

**Senior Planner, Daniel Alcayaga AICP** stated that the County Fire did review the project and there were no concerns regarding the ability to handle a chemical spill.

**Chair Elvert** questioned the paving on site.

**Chair Elvert opened the public Hearing: 7:31 PM**

**Mel Blaine, Director of Water for LA Water**, reviewed concerns presented by the Commission. He reviewed rail schedules, precautions for chemical pills, truck routes, products hauled, fencing, drainage, size of tanks, cranes, power, parking, paving, and rail traffic.

**Chair Elvert** questioned the safety history of the company.

**Chair Elvert closed the Public Hearing: 7:57 PM**

**Chair Elvert reopened the Public Hearing: 7:58 PM**

**Commissioner James** questioned future expansion.

**Mel Blaine, Director of Water for LA Water** discussed the demand for the product and the hope for future expansion.

**Chair Elvert closed the Public Hearing: 7:59 PM**

**Motion by Joline Bell Hahn to I move to adopt Resolution No. PC-2009-41, as presented, approving Conditional Use Permit (CUP09-10125).  
Seconded by Julie Jensen, passed with the following roll call vote:**

**AYES: Chris Elvert, Joline Bell Hahn, Julie Jensen, and William Muller  
NOES: and Stephen James**

**PRINCIPAL PLANNER'S REPORT**

Principal Planner, Dave Reno AICP gave a brief update of major projects and DRC Comments.

- E. Major Project Update  
**No Action Required.**
  
- F. DRC Comments  
**No Action Required.**

**PLANNING COMMISSION BUSINESS OR REPORTS**

**No Comments to Consider.**

**ADJOURNMENT**

**Chair Elvert Adjourned the meeting to October 8, 2009: 8:02 PM**

Attested:

Chris Elvert  
Planning Commission Chair

\_\_\_\_\_  
Eva Heter,  
Commission Secretary

# ATTACHMENT 1

75 foot wireless communications facility

September 9, 2009

Dear Lisette Sanchez-Mendoza

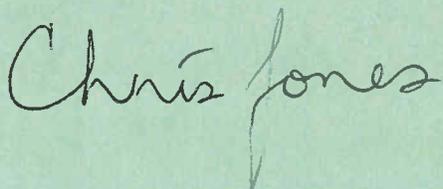
My name is Chris Jones, I am a resident voicing my concerns regarding Conditional Use Permit CPU 09-10131 and Variance VAR 09-10192. My fellow neighbors and I have a few concerns about the 75 foot tall wireless communications facility to be built at Timberlane Park.

1. Main concern is how this facility will affect our property values.
2. How hard will it be for residents to sell their houses, especially if it is directly behind their house?
3. The obstruction of our view with such a large pole directly looking down on our back yards.
4. Will it make the neighborhood less desirable to live in?
5. Will it add more to the already large issues of security, by promoting more people to loiter in the park at night?
6. To illuminate the facility will our homes be consumed by the light coming from there?(i.e.. shining into my bedroom window at night while trying to sleep)
7. Will it promote unsafe areas for children to be playing, such as at the base of this pole, or to hop the fence to get to the pole and climb it? (being that kids already hop our fences just to get into the park)
8. I was told residence within 300 feet of the pole were to receive this letter regarding a public hearing, how come only one other residence has received this letter?
9. Why couldn't you choose a different area such as Live Oak Park, which isn't a residential area and has plenty of vacant land around it?
10. It doesn't serve to beautify the neighborhood.
11. It takes away a part of the park that families use, where kids play
12. What will it do to my tv reception?

Ask yourself this question, "Would you like to walk out in your backyard and see this behind your house, especially if you are one of the residence in the area trying to sell your house?"

Sincerely

Chris Jones



**RECEIVED**

SEP 09 2009

CITY OF HESPERIA  
COMMUNITY DEVELOPMENT

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**DATE:** October 8, 2009  
**TO:** Planning Commission  
**FROM:** Dave Reno, AICP, Principal Planner  
**BY:** Lisette Sánchez-Mendoza, Assistant Planner  
**SUBJECT:** Conditional Use Permit CUP09-10253; Applicant: Hesperia-Main Street, LLC, APN: 3057-121-16.

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### RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-43, approving Conditional Use Permit CUP09-10253.

### BACKGROUND

**Proposal:** A Conditional Use Permit to establish a 1,659 square foot dental office within an existing commercial building (Attachment 1).

**Location:** 14101 Main Street, Suite 104.

**Current General Plan, Zoning and Land Uses:** The site is within the Planned Mixed Use (PMU) General Plan Land Use designation and the Neighborhood Commercial (NC) District of the Main Street and Freeway Corridor Specific Plan. The surrounding land is designated and zoned as noted on Attachments 2 and 3. The site is presently developed with a multi-tenant commercial building. The properties to the north, south and east are vacant. The properties to the west are developed with commercial uses (Attachment 4).

### ISSUES/ANALYSIS

**Land Use:** The project involves the establishment of a 1,659 square foot dental office specializing in orthodontics (Attachment 5). The Neighborhood Commercial Zone District of the Main Street and Freeway Corridor Specific Plan requires approval of a conditional use permit prior to the establishment of medical and dental facilities. The CUP is required primarily to make a determination that medical facilities are well suited to the proposed site, specifically to address issues regarding parking, hours of operation, and the compatibility of the use with existing businesses.

The orthodontic office is proposed within an existing multi-tenant commercial building. The tenants include retail, restaurants, a supermarket, and a dialysis center. The project's tenant improvements include examination rooms, a waiting area, a reception area, and a small lounge. The proposed use is compatible with its surroundings as it promotes diversity in services within the site and to the surrounding community. The dental office will have business hours similar to those of the surrounding businesses.

**Parking:** The site was constructed with a surplus of 123 parking spaces and can accommodate the proposed use. The center was required to provide parking at 4 spaces per 1000 square feet for a total of 361 required spaces and the site includes 484 parking spaces. The proposed project requires 5 parking spaces for every 1000 square feet, which requires just two additional spaces. The site was designed to accommodate a variety of businesses and the proposed use is compatible with the existing range of uses, which includes a dialysis treatment facility.

**Conclusion:** The project is consistent with the City's General Plan, as well as the Main Street and Freeway Corridor Specific Plan, and staff recommends approval.

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

**Street Improvements:** All required improvements were completed when the center was developed.

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

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

## **FISCAL IMPACT**

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

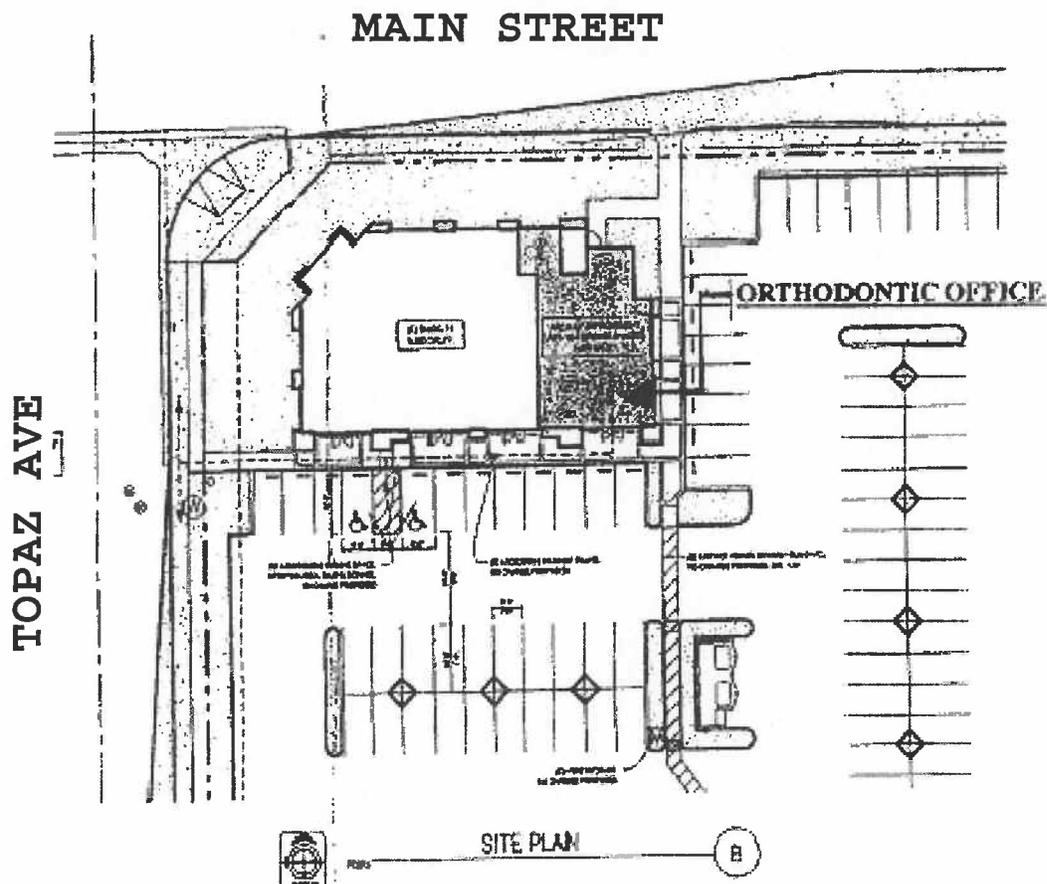
## **ALTERNATIVE(S)**

Provide alternative direction to staff.

## **ATTACHMENTS**

1. Site plan
2. General Plan land use map
3. Zoning map
4. Aerial photo
5. Floor plan
6. Resolution No. PC-2009-43, with list of conditions

# ATTACHMENT 1



**APPLICANT(S):**  
 HESPERIA-MAIN STREET, LLC

**FILE NO(S):**  
 CUP09-10253

**LOCATION:**  
 14101 MAIN STREET

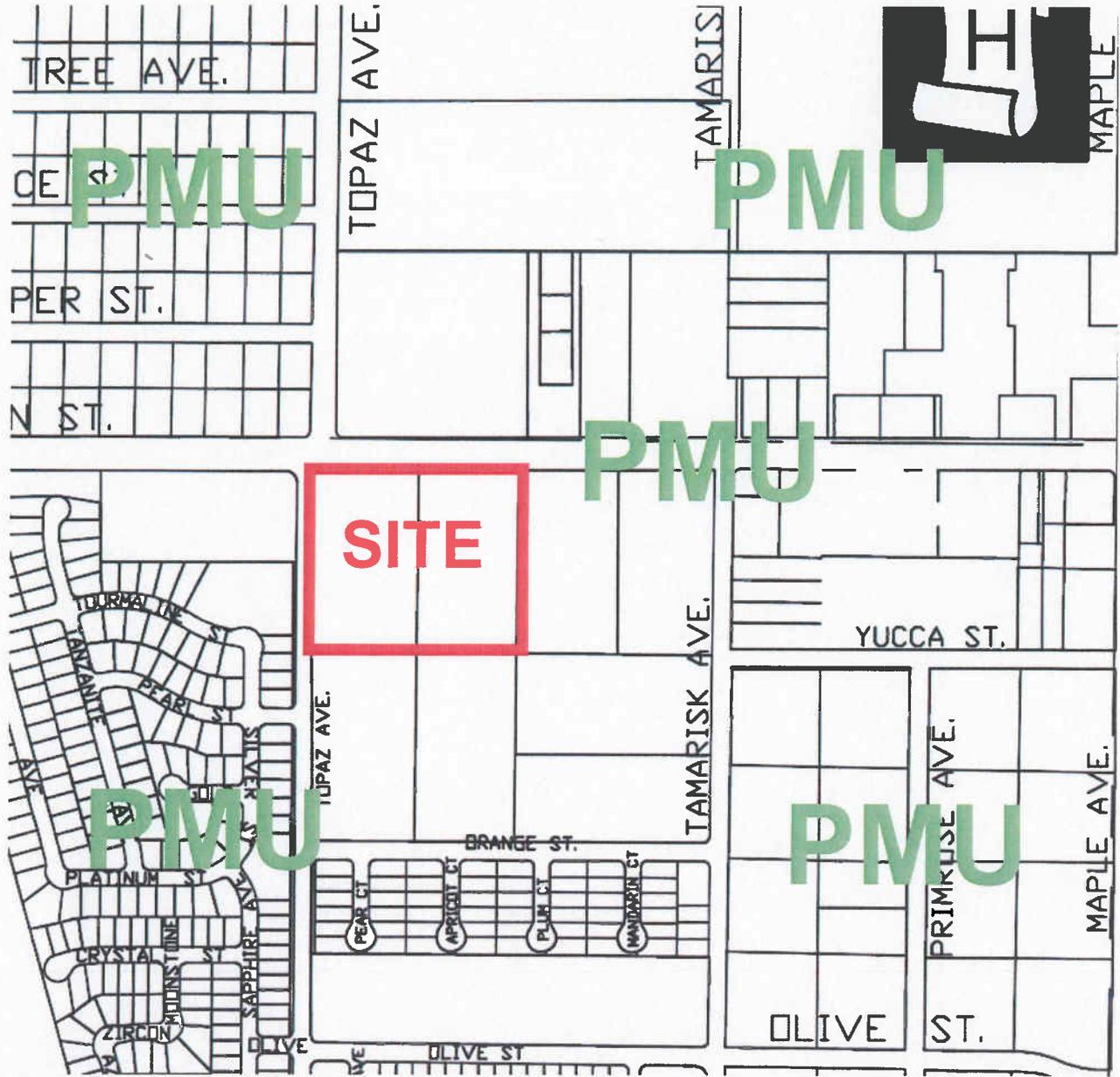
**APN(S):**  
 3057-121-16

**PROPOSAL:**  
 TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING  
 COMMERCIAL BUILDING



## SITE PLAN

# ATTACHMENT 2



**APPLICANT(S):**  
 HESPERIA-MAIN STREET, LLC

**FILE NO(S):**  
 CUP09-10253

**LOCATION:**  
 14101 MAIN STREET

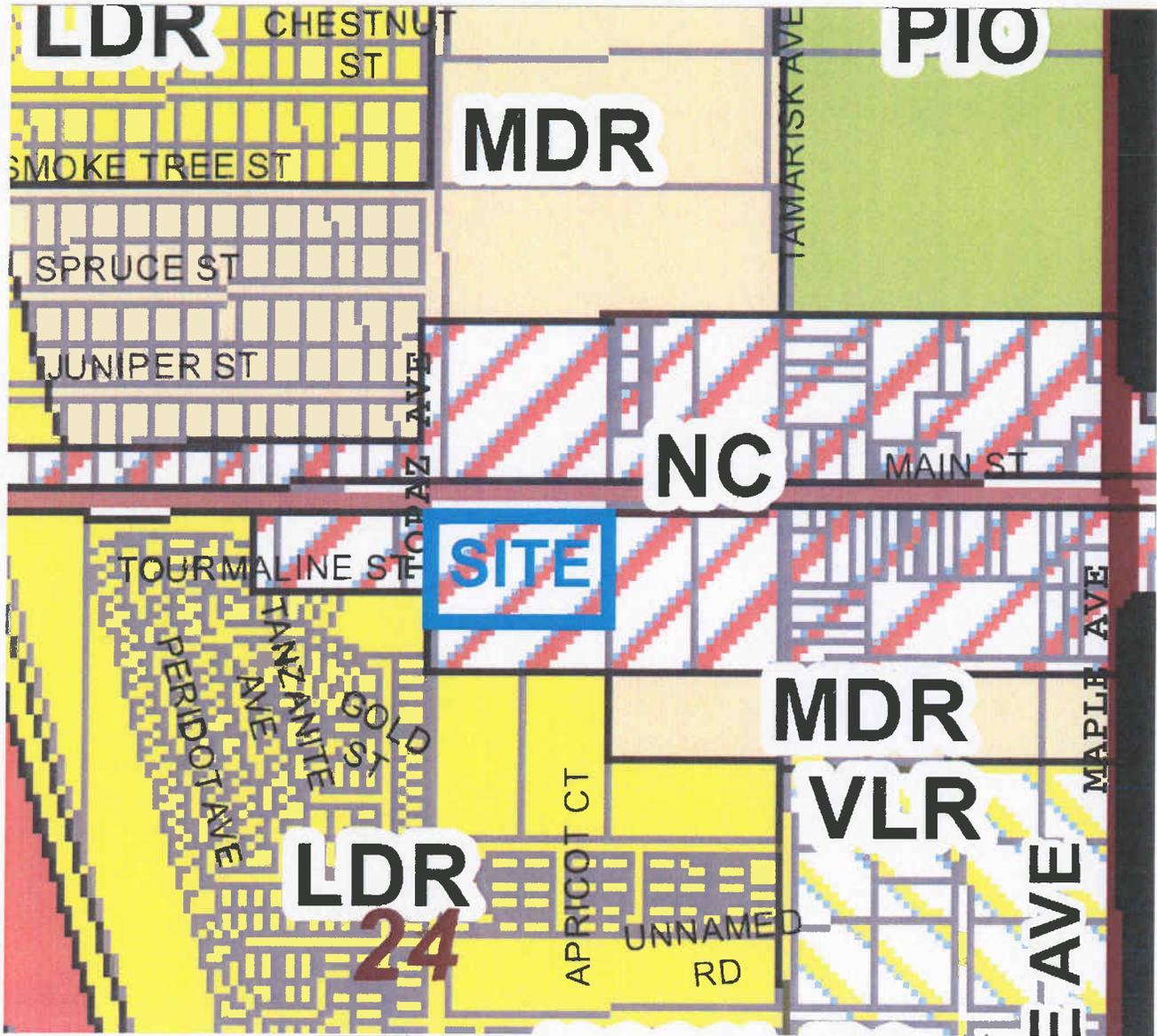
**APN(S):**  
 3057-121-16

**PROPOSAL:**  
 TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING  
 COMMERCIAL BUILDING



## GENERAL PLAN

# ATTACHMENT 3



**APPLICANT(S):**  
 HESPERIA-MAIN STREET, LLC

**FILE NO(S):**  
 CUP09-10253

**LOCATION:**  
 14101 MAIN STREET

**APN(S):**  
 3057-121-16

**PROPOSAL:**  
 TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING COMMERCIAL BUILDING



## ZONING MAP

# ATTACHMENT 4



**APPLICANT(S):**  
HESPERIA-MAIN STREET, LLC

**FILE NO(S):**  
CUP09-10253

**LOCATION:**  
14101 MAIN STREET

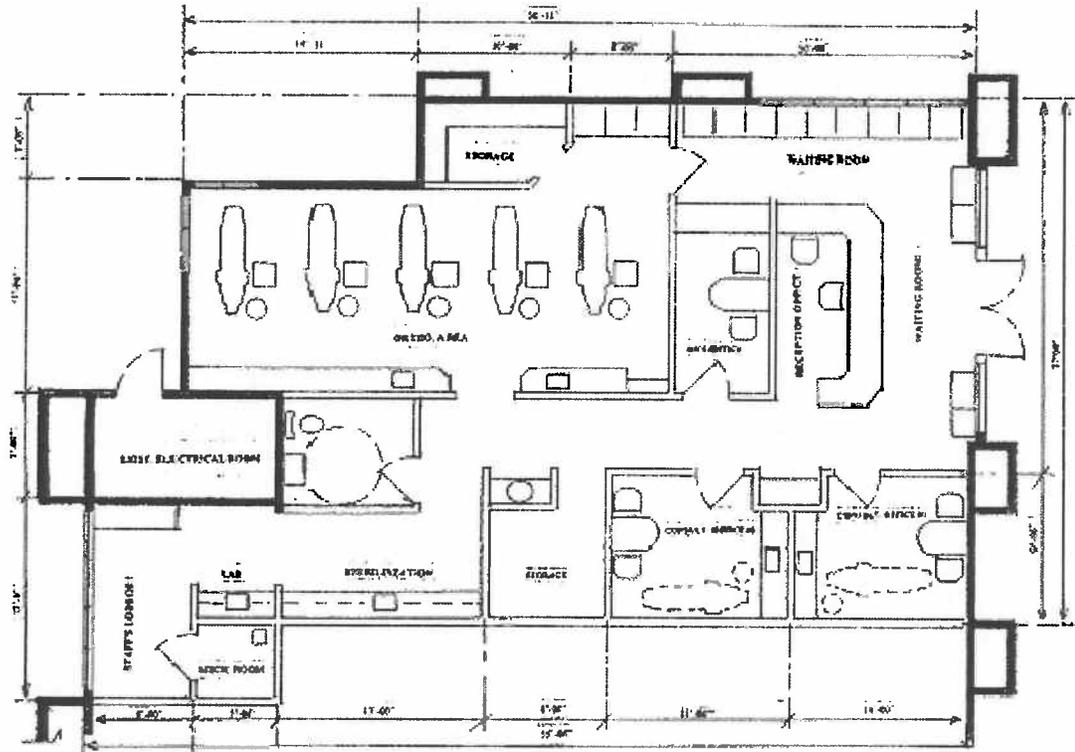
**APN(S):**  
3057-121-16

**PROPOSAL:**  
TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING  
COMMERCIAL BUILDING



## AERIAL PHOTO

# ATTACHMENT 5



**FLOOR PLAN**  
SCALE: 1/8" = 1'-0" (100% SH.)

**APPLICANT(S):**  
HESPERIA-MAIN STREET, LLC

**FILE NO(S):**  
CUP09-10253

**LOCATION:**  
14101 MAIN STREET

**APN(S):**  
3057-121-16

**PROPOSAL:**  
TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING COMMERCIAL BUILDING

**N**



# ATTACHMENT 6

## RESOLUTION NO. PC-2009-43

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH A 1,659 SQUARE FOOT DENTAL OFFICE WITHIN AN EXISTING COMMERCIAL BUILDING ZONED NEIGHBORHOOD COMMERCIAL AT 14101 MAIN STREET, SUITE 104 (CUP09-10253)

**WHEREAS,** Hesperia-Main LLC has filed an application requesting approval of Conditional Use Permit CUP09-10253 described herein (hereinafter referred to as "Application"); and

**WHEREAS,** the Application applies to an existing multi-tenant commercial building within the Neighborhood Commercial zone district at 14101 Main Street and consists of Assessor's Parcel Number 3057-121-16; and

**WHEREAS,** the Application, as contemplated, proposes to establish a 1,659 square foot dental office within and existing multi-tenant commercial building; and

**WHEREAS,** the subject site is presently developed as a multi-tenant commercial building. The properties to the north east, and south are vacant. The property to the west contains commercial development; and

**WHEREAS,** the subject property and surrounding properties are currently designated Planned Mixed Use (PMU) on the City's General Plan Map; and

**WHEREAS,** the subject property is zoned Neighborhood Commercial. All surrounding properties are zoned Neighborhood Commercial; and

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

**WHEREAS,** on October 8, 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 October 8, 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. The proposed use would not impair the integrity and character of the Neighborhood Commercial Zone District of the Main Street and Freeway Corridor Specific Plan and is in conformance with all applicable provisions of Section 16.12.120 of the Development Code. The site is suitable for the type and intensity of use that is proposed. The

proposed use is located in an existing commercial building and does not require expansion of the buildings or parking facilities.

- (b) The proposed use will not have a substantial adverse effect on abutting properties.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Main Street and Freeway Corridor Specific Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia. Further, the project is consistent with the regulations allowing dental offices in the Neighborhood Commercial zone with the approval of this conditional use permit.
- (d) The site for the proposed use will have adequate access based upon the existing shared commercial approach along Main Street and these improvements are consistent with the City's Circulation Element.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP09-10253, 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 8<sup>th</sup> day of October 2009.

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Chris Elvert, Chair, Planning Commission

ATTEST:

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Eva Heter, Secretary, Planning Commission

**ATTACHMENT 'A'**

**List of Conditions for CUP09-10253**

**Approval Date: October 8, 2009**  
**Effective Date: October 20, 2009**  
**Expiration Date: October 20, 2011**

This list of conditions apply to a Conditional Use CUP09-10253, to establish a 1,659 square foot dental office within an existing commercial building zoned Neighborhood Commercial at 14101 Main Street, Suite 104. (Applicant: Hesperia-Main Street LLC; APN: 3057-121-16).

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. **Fire Sprinkler – Modification** Any modification of the Fire Sprinkler system shall require review, approval and a Permit from the San Bernardino County Fire Department. (F)
  
- \_\_\_\_\_ 3. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
  
- \_\_\_\_\_ 4. **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)

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

<b>(P)</b>	<b>Planning Division</b>	<b>947-1200</b>
<b>(B)</b>	<b>Building Division</b>	<b>947-1300</b>
<b>(E)</b>	<b>Engineering Division</b>	<b>947-1474</b>
<b>(F)</b>	<b>Fire Prevention Division</b>	<b>947-1603</b>
<b>(RPD)</b>	<b>Hesperia Recreation and Park District</b>	<b>244-5488</b>



**DATE:** October 8, 2009  
**TO:** Planning Commission  
**FROM:** *LRM* Dave Reno, AICP, Principal Planner  
**BY:** Lisette Sánchez-Mendoza, Assistant Planner  
**SUBJECT:** Consideration of Development Code Amendment DCA09-10265 amending recycling facility regulations; Applicant: City of Hesperia; Area affected: Citywide

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### RECOMMENDED ACTION

It is recommended that the Planning Commission approve Resolution No. PC-2009-42, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10265.

### BACKGROUND

The California Department of Conservation is authorized under the California Beverage Container Recycling & Litter Reduction Act, to make recommendations for cities and businesses to incorporate ways in which to facilitate recycling. The Act designates areas, "convenience zones", within cities that would serve the recycling needs of a community, and provides new regulations for businesses which sell significant amounts of recyclables. These convenience zones are designated around supermarkets as shown on Attachment 1.

### ISSUES/ANALYSIS

Currently, the City's Recycling Facility Ordinance already includes several of the recommendations within the Act. This amendment will also enable the City to regulate aesthetics, providing staff the ability to determine if a project is compatible with its surroundings. It will also clarify the allowable types of material and activities for recycling facilities.

The City has received several requests for locating a small collection facility within the Target Super Center site. According to the applicant and the State, the Target Center would be an ideal location for this type of facility, specifically because the state has designated the site as a convenience zone as depicted on Attachment 1. A convenience zone is defined as "the area within a one-half mile radius of a supermarket". Although Target has been designated as a convenience zone, the act does not obligate cities to allow recycling facilities within a convenience zone. The act does regulate the business and requires it to allow for recycling activities, either outside or, within the store. The State can impose a daily fine on the business until a recycling facility is established within the convenience zone. Although the site is within a convenience zone, staff does not support locating a recycling facility within the center. This center is highly visible from Interstate 15 and Main Street. Establishment of a recycling facility within this site will not meet the architectural standards of the Main Street and Freeway Corridor Specific Plan. In order to maintain high quality development while accommodating recycling activities, staff is proposing to add regulations that will ensure that recycling facilities will not

have a negative visual impact upon the host site. A typical small collection facility is shown on Attachment 2.

Recycling facilities are currently allowed within commercial and industrial zones. Collection facilities with a host business and less than five hundred square feet in area are permitted with a special use permit. Large facilities are subject to approval of a conditional use permit. This amendment will include regulations that allow the City to properly locate small recycling facilities within appropriate and compatible sites. This ordinance will clarify that collection of scrap metal is not allowed within small and large collection facilities, limiting them to California Retail Value materials only such as cans and bottles. Also, the requirement of landscape and architectural enhancements will help minimize the visual impact of any proposed recycling facility. In addition, staff is proposing minor revisions to bring the Ordinance into consistency with the Main Street and Freeway Corridor Specific Plan.

The following summarizes the proposed overall amendments to the Development Code:

- Recycling facilities will be designed consistent with the architecture of the host business, including exterior materials, color, and landscaping.
- Three foot landscape planters will be required at the sides and rear of recycling facilities.
- Recycling facilities will be located outside the view of streets and public right of way or screened by a decorative architectural feature.
- Recycling facilities will be setback a minimum of 50 feet from any right of way.
- Scrap metal is prohibited in small and large collection facilities.
- Permitted commercial and industrial zones have been revised to be consistent with the Main Street and Freeway Corridor Specific Plan.

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

#### **FISCAL IMPACT**

None

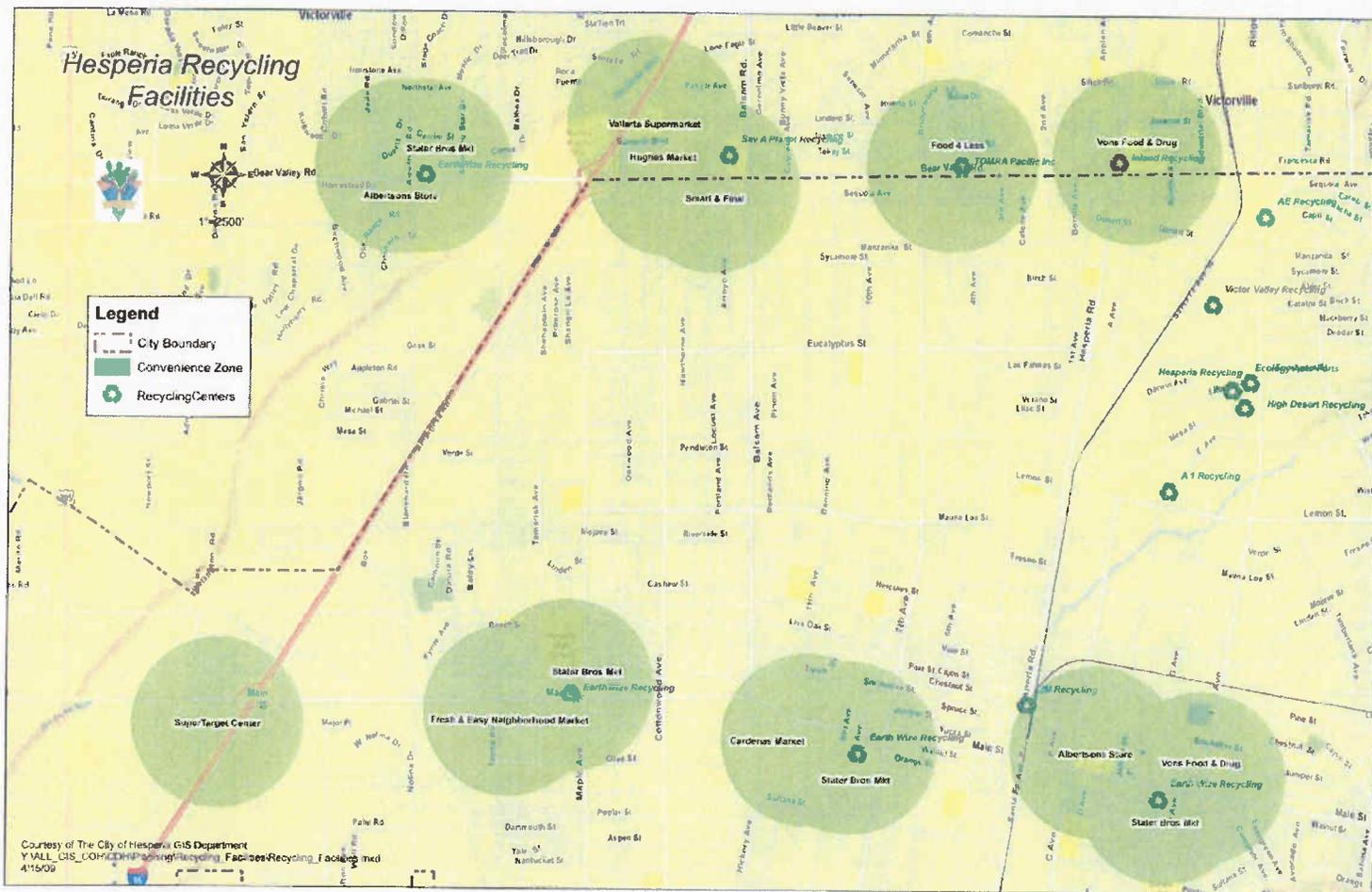
#### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

#### **ATTACHMENTS**

1. Hesperia Convenience Zones and Recycling Facilities Map
2. Small Recycling Facility
3. Resolution No. 2009-42, Exhibit "A"

# ATTACHMENT 1



**APPLICANT(S):**  
CITY OF HESPERIA

**FILE NO(S):**  
DCA09-10265

**LOCATION:**  
CITYWIDE

**APN(S):**

**PROPOSAL:**  
A DEVELOPMENT CODE AMENDMENT TO AMEND RECYCLING FACILITY REGULATIONS



## CONVENIENCE ZONES AND RECYCLING FACILITIES

# ATTACHMENT 2



**APPLICANT(S):**  
CITY OF HESPERIA

**FILE NO(S):**  
DCA09-10265

**LOCATION:**  
CITYWIDE

**APN(S):**

**PROPOSAL:**  
DEVELOPMENT CODE AMENDMENT TO AMEND RECYCLING FACILITY REGULATIONS

**N**

## SMALL RECYCLING FACILITY

# ATTACHMENT 3

## RESOLUTION NO. PC-2009-42

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE AMENDING RECYCLING FACILITY REGULATIONS (DCA09-10265)

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

**WHEREAS**, The City of Hesperia Development Code regulations pertaining to recycling facilities requires modification; and

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

**WHEREAS**, It is the City's intent to promote recycling facilities without creating a negative impact upon the visual character of properties; and

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

**WHEREAS**, On October 8, 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 DCA09-10265, amending Title 16 as shown on Exhibit "A."

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

**ADOPTED AND APPROVED** on this 8<sup>th</sup> day of October 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.

## 16.16.070 Recycling facilities.

A. Requirements. No person, corporation or legal entity shall place or permit the placement and/or operation of any recycling facility, including a reverse vending machine, collection facility or processing facility without first obtaining any permits required pursuant to the provisions set forth in this chapter. Recycling facilities may be permitted as set forth in the following table.

TABLE INSET:

Type of Facility Permitted	Zones/Land Use Districts	Permit Required
Reverse Vending Machine(s) up to 50 sq. ft.	All Commercial and All Industrial	None
Small Collection Facility up to 500 sq. ft.	All Commercial and All Industrial	Special Use Permit
Large Collection Facility over 500 sq. ft.	All <del>Commercial except CN &amp; C1</del> <u>Industrial</u>	<u>CUP</u>
<del>and All Industrial</del>	<del>Site Approval</del>	
Light Processing Facility up to 4,500 sq. ft.	I-1, I-2, <u>CIBP, GI</u>	<del>Site Approval</del> <u>CUP</u>
Heavy Processing Facility over 4,500 sq. ft.	I-1, I-2, <u>GI</u>	<del>Site Approval</del> <u>CUP</u>

All facilities including reverse vending machines having an area of fifty (50) square feet or less may in addition to other designated permits be subject to the special use permit as specified in Section 16.12.005(A)(3) and/or health permits as may be required by city or county laws.

B. Criteria and Standards. Recycling facilities subject to site approval and/or special use permit, shall meet the applicable criteria and standards listed below; provided, that the director of planning, building official, planning commission or city council, as the case may be, may relax such standards or impose stricter standards at their discretion upon a finding that such modifications are reasonably necessary in order to implement the general intent of this chapter and the purposes of this title. The criteria and standards for recycling facilities are as follows:

1. Reverse Vending Machines. Reverse vending machines do not require any permits under this title.

2. Small Collection Facilities.

a. Facility shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes and shall not occupy more than five hundred (500) square feet of floor space and within a convenience zone;

i. One recycling facility, capable of redeeming all forms of recyclable materials as provided herein shall be permitted in each convenience zone. A "convenience zone is defined as the area within one-half mile of a supermarket. In the event two or more

permit applications are received for a convenience zone which does not possess a recycling facility, the Director of Community Development may, in his/her discretion, choose which application best meets the needs of the community based on those factors including, but not limited to, convenience of use pedestrian and vehicular traffic safety, aesthetic and site compatibility.

b. Recycling facilities shall be conveniently accessible to pedestrians and vehicles and shall be designed to include safety provisions for separating pedestrian and vehicular traffic (ie., special walkways, drive aisles, bollards, safety lighting, etc.).

c. Recycling facilities shall be designed in a manner consistent with the architecture and site plan of the associated commercial use, including but not limited to exterior materials, color and landscaping.

d. Recycling facilities shall be designed with a landscape planter at least three (3) feet in width (inside dimension) along the sides of the recycling facility if one of the following conditions is not met:

i. The recycling facility is located under the building canopy of the associated commercial use;

ii. The recycling facility is within the area behind the associate commercial use and not visible from any public right of way;

iii. The recycling facility is within a landscaped area of the associated commercial use;

e. Each facility shall be located so as not to be viewable from any public street right of way, or shall be screened from view by decorative masonry walls at least six feet in height, and/or by an overhead trellis or arbor, and/or with a landscaped planter having an inner dimension of at least three (3) feet in width which includes plant material no less than four (4) feet in height.

~~f~~b. Containers shall be constructed and maintained with durable, waterproof and rustproof material and shall be covered and secured from unauthorized removal of material, and shall be of a capacity sufficient to accommodate materials collected and the collection schedule

g. Containers shall be clearly marked to identify the type(s) of recyclable(s) which may be deposited and shall accept only CRV labeled glass, metal or plastic containers, paper and reusable items; Scrap material is not allowed at any collection facility.

~~h~~d. The fFacility shall be clearly marked to identify the name and telephone number of the facility operator;

~~i~~e. ~~Site shall be swept and maintained in a dust free, litter free condition on a daily basis;~~ Recycling facilities shall be maintained in good repair and the area immediately surrounding the recycling facility shall be maintained in a litter-free condition. All storage of recyclable material shall be within the recycling facility or related enclosed structure.

~~j~~f. ~~The f~~Facility shall be setback at least ~~ten~~ 50 feet from any street-right-of-way and shall not obstruct pedestrian or vehicular circulation;

~~k~~g. The facility shall not impair the landscaping required for any concurrent use by this title or any permit issued pursuant thereto;

~~l~~h. ~~The n~~Noise level shall not at any time exceed sixty-five (60~~5~~) dBA as measured at the property line of residentially zoned or occupied property; and shall not exceed seventy (70) dBA at any ~~point~~ portion of the property line;

~~m~~i. Small collection facilities shall not include power-driven sorting and/or consolidation equipment, such as crushers or bailers, except reverse vending machines;

~~n~~j. Signs may be provided as follows:

In addition to the signs and certificates issued by the local enforcement agency for the California Integrated Waste Management Board, which must be displayed by the operator/processor and the informational signs required by this chapter:

- i. Unattended container not over fifty (50) cubic feet in bulk and not over nine feet in height may have a maximum sign area of four square feet;
- ii. Other containers or units may have one flat-mounted sign per side of container or wall of enclosure of twenty (20) percent of the surface of the side up to a maximum of sixteen (16) square feet.

| ~~ok.~~ Use of the facility for collection of scrap metal, solid wastes or hazardous wastes, as defined in Section 16.08.775 is prohibited;

| ~~pl.~~ If the permit expires without renewal, the collection facility shall be removed from the site on the day following permit expiration;

| ~~qm.~~ Attended facilities located within one hundred (100) feet of a property zoned or occupied for residential use shall be in operation during the hours between nine a.m. and seven p.m., and otherwise during the hours of operation of the host business. Containers for the twenty-four (24) hour donation of materials shall be at least thirty (30) feet from any property zoned or occupied for residential use unless there is a recognized service corridor and acoustical shielding between the containers and the residential use;

| ~~rn.~~ The facility shall conform to all development regulations for the zoning/land use district in which it is located;

| ~~se.~~ Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during the hours when the mobile unit is scheduled to be present;

| ~~tp.~~ Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use unless all of the following conditions exist:

- i. The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation;
- ii. A parking study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site; and
- iii. The permit will be reconsidered at the end of twelve (12) months.

Parking credits in an established parking facility may then be granted as follows:

For a commercial host use:

TABLE INSET:

Number of Available Parking Spaces	Maximum Reduction
0-25	0
26-35	2
36-49	3
50-99	4
100+	5

For a community facility host use:

A maximum five spaces reduction will be allowed when not in conflict with parking needs of the host use.

3. Large Collection Facilities. A large collection facility is one that is larger than five hundred (500) square feet, or is on a separate property not appurtenant to a host use, and may have a permanent building. A large collection facility is permitted in designated ~~commercial and~~ industrial zone/land use districts with ~~a site approval of~~ a conditional use permit; provided the facility meets the following standards:

- a. Facility is located at least one hundred fifty (150) feet from the property line of any lot zoned or planned for residential use;
- b. Facility shall be screened from the public right-of-way by operating in an enclosed building or within an area enclosed by an opaque fence at least six feet in height with landscaping and shall meet all applicable noise standards specified in this chapter;
- c. Setbacks and landscape requirements shall be those provided for the zone/land use district in which the facility is located;
- d. All exterior storage of material shall be in sturdy containers which are covered, secured, and maintained in good condition, or may be baled or placed on pallets. Storage containers for flammable material shall be constructed of nonflammable material. Oil storage must be in containers approved by the building and safety department. No storage excluding truck trailers and overseas containers, shall be visible above the height of the fencing;
- e. Site shall be maintained free of litter, dust, flies and any other undesirable materials, and shall be cleaned of loose debris on a daily basis;
- f. Space shall be provided on site for six vehicles or the anticipated peak customer load, whichever is higher, to circulate and to deposit recyclable materials, except where the planning agency determines that allowing overflow traffic above six vehicles is compatible with surrounding businesses and public safety;
- g. One parking space shall be provided for each commercial vehicle operated by the recycling facility. Parking requirements shall be as provided for in the zone/land use district in which the facility is located; except, that parking requirements for employees may be reduced when it can be shown that parking spaces are not necessary such as when employees are transported in a company vehicle to a work facility;
- h. Noise levels shall not exceed sixty-five (~~60~~5) dBA as measured at the property line of residentially zoned property, and shall not exceed seventy (70) dBA at any ~~point~~ portion of the property line;
- i. If the facility is located within five hundred (500) feet of property zoned, planned or occupied for residential use, it shall not be in operation between seven p.m. and seven a.m.;
- j. Any containers or enclosures provided for after-hours donation of recyclable materials shall be at least fifty (50) feet from any property zoned, planned or occupied for residential use, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secured from unauthorized entry or removal of materials;
- k. Donation areas shall be kept free of litter and any other undesirable material and the containers shall be clearly marked to identify the type of material that may be deposited; facility shall display a notice stating that no material shall be left outside the recycling containers;
- l. Facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation; identification and informational signs shall meet the standards of the zone; and directional signs may be installed with the approval of the planning officer if

necessary, to facilitate traffic circulation or if the facility is not visible from the public right-of-way;

m. Power-driven processing, including aluminum foil and can compacting, baling, plastic shredding, or other light processing activities necessary for efficient temporary storage and shipment of material, may be approved at the discretion of the planning agency if noise and other conditions are met.

n. Use of the facility for collection of scrap metal, solid wastes or hazardous wastes, as defined in Section 16.08.775 is prohibited;

4. Processing Facilities.

a. Facility shall be located at least one hundred fifty (150) feet from property planned, zoned or occupied for residential use and operations shall take place within a fully enclosed building or within an area enclosed by a solid wood or masonry fence at least six feet in height;

b. Setbacks from property lines shall be those provided for the zoning/land use district in which the facility is located, but if less than twenty-five (25) feet, the facility shall be buffered by a landscape strip at least ten feet wide along each property line;

c. If the facility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between seven p.m. and seven a.m. The facility shall be administered by on-site personnel during the hours the facility is open;

d. Noise level shall not exceed sixty-five (60~~5~~) dBA as measured at the property line of residentially zoned or occupied property, and shall not exceed seventy (70) dBA at any point;

e. Sign criteria shall be those provided for the zoning district in which the facility is located and the provisions specified in Chapter 16.36. In addition, the facility shall be clearly marked with the name and phone number of the facility operator and the hours of operation;

f. Any containers or enclosures provided for after hours donation of recyclable materials shall be at least fifty (50) feet from any property zoned or occupied for residential use; shall be of sturdy, rustproof construction; shall have sufficient capacity to accommodate materials collected; and shall be secured from unauthorized entry or removal of materials;

g. Donation areas shall be kept free of litter and any other undesirable material. The containers shall be clearly marked to identify the type of material that may be deposited. Facility shall display a notice stating that no material shall be left outside the recycling containers;

h. No dust, fumes, smoke, vibration or odor above ambient level may be detectable on neighboring properties;

i. Power-driven processing shall be permitted; provided, all noise level requirements are met. Light processing facilities are limited to baling, briquetting, crushing, compacting, grinding, shredding and sorting or source-separated recyclable materials and repairing of reusable materials;

j. A light processing facility shall be no larger than forty-five thousand (45,000) square feet and shall have no more than an average of two outbound truck shipments of material per day and may not shred, compact or bale ferrous metals other than food and beverage containers;

k. A processing facility may accept used motor oil for recycling from the generator in accordance with Section 25250.11 of the California Health and Safety Code;

l. All exterior storage of material shall be in sturdy containers or enclosures which are covered, secured, and maintained in good condition or may be baled or placed on pallets. Storage containers for flammable material shall be constructed of nonflammable material. Oil storage must be in containers approved by the building official. No storage excluding truck trailers and overseas containers shall be visible above the height of the fencing;

- m. Site shall be maintained free of litter and any other undesirable materials, and shall be cleaned of loose debris on a daily basis, and shall be secured from unauthorized entry and removal of materials when attendants are not present;
  - n. Space shall be provided on site for the anticipated peak load of customers to circulate, park and deposit recyclable materials. If the facility is open to the public, space shall be provided for a minimum of ten customers except where the reviewing authority determines that allowing overflow traffic above six vehicles is compatible with surrounding businesses and public safety;
  - o. One parking space shall be provided for each commercial vehicle operated by the processing center. Parking requirements shall otherwise be as mandated by the zone in which the facility is located.
- C. Site Clean-up Required. The operator and host business of any recycling collection or processing facility shall, on a daily basis, remove any and all recyclable materials or solid wastes which have accumulated or are deposited outside the containers, bins, or enclosures intended as receptacles for such materials. Upon the failure to remove said materials, the city may deem them to be abandoned and may enter the site to remove the materials. The property owner(s) of the premises and the operator of the facility shall be liable for the full cost of any such clean up work done by the city.



**DATE:** October 8, 2009  
**TO:** Planning Commission  
**FROM:** Dave Reno, AICP, Principal Planner *DR*  
**BY:** *SL* Stan Liudahl, AICP, Senior Planner  
**SUBJECT:** Development Code Amendment DCA09-10177 regarding alternative energy technologies; Applicant: City of Hesperia; Area affected: Citywide

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### RECOMMENDED ACTION

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

### BACKGROUND

This Development Code Amendment is proposed to facilitate installation of windmills and solar energy systems. These technologies will reduce the community's reliance on the regional power grid, leading to increased sustainability. The City is in an area which receives regular wind patterns, due to its proximity to the Cajon Pass and enjoys an average of 283 days of sunlight per year<sup>1</sup>, providing the opportunity to use both technologies.

The Planning Commission continued this ordinance from its May 14, 2009 meeting to allow it to be considered as part of the August 4, 2009 joint Council/Commission workshop as well as to allow staff time to present information regarding windmill bird strikes and the City's location relative to migratory bird patterns (Attachment 1). Staff received one letter, which is in support of this amendment (Attachment 2). The supporter is a promoter of windmills, who requests that the ordinance include the following:

1. Waiver of fees for all entitlements and building permits associated with windmills.
2. Allow windmills on a minimum lot size of 18,000 square feet.
3. A reduction in the setbacks to the minimum building setbacks.
4. Allow all windmills 39 feet and shorter and generating less than 5 kilowatts without a land use application approval.

During the joint workshop, direction was given to expand the ordinance to include regulations regarding the placement of solar energy systems, taking into consideration the impact upon the streetscape. It was also requested that the ordinance establish a minimum lot size requirement for installation of windmills and specific regulations regarding roof-mounted windmills.

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<sup>1</sup> Climate data obtained online at [www.bestplaces.net/city/Hesperia-California.aspx](http://www.bestplaces.net/city/Hesperia-California.aspx).

## Windmills

The five to seven mile per hour average wind speed<sup>2</sup> is advantageous to production of wind energy. Installation of a windmill will reduce the electric bill of the individual purchaser and help reduce the incidence of electric shortages during peak demand for power. When the windmill produces energy, the electric meter will turn slower or may even turn backwards, reducing the electric bill and reflecting that the energy is being input to the electric grid. In addition, state and federal incentive programs are available to reduce the initial cost of these systems. The power output of windmills designed for residential use varies widely, particularly between roof-mounted and tower-mounted systems.

Currently, windmills are only listed as permitted within the Limited Agricultural (A-1) and General Agricultural (A-2) Zone Districts. The Development Code is silent with respect to these structures in all other zone districts. Due to recent developments in wind energy, state and federal incentive programs, and a general trend towards sustainability, staff has processed applications in other zone districts with approval of a site plan review. Staff is forwarding this Development Code Amendment for consideration to formalize a permitting process for windmills in all areas of the City. Staff has included a table comparing the standards for windmills of five other jurisdictions (Attachment 3). The proposed ordinance is similar to that of most of the jurisdictions surveyed with the exception of the Town of Apple Valley, which does not allow windmills on lots less than five acres in size.

Staff has researched data regarding bird strikes caused by windmills and bird migratory routes as requested during the May 14, 2009 Commission meeting. Data collected by Western Ecosystems Technology for the National Wind Coordinating Collaborative (NWCC)<sup>3</sup> in the United States (US) regarding bird deaths suggests that bird strikes from windmills is not as significant as deaths by vehicles, communication and transmission towers, tall buildings, and other hazards as shown below:

Estimated number of bird deaths in the United States by type of hazard				
Buildings & windows	Vehicles	Power lines	Communications towers	Windmills
98 million to 980 million	60 million to 80 million	10,000 to 174 million	4 million to 50 million	10,000 to 40,000

Studies also show that windmill strikes account for just 0.01 to 0.02 percent of the total collision-related bird deaths in the US. It has been discovered that birds alter their flight path 100 to 200 meters from a windmill, enabling them to safely avoid the rotors. Only one in ten thousand bird flights in the nine-windmill wind farm in Blyth, England result in a collision. This equates to just one or two deaths per windmill per year. Staff also reviewed the major bird migratory patterns of the Pacific Flyway. *Hesperia* is located in the vicinity of the southern portion of the major flyway, but is not a significant stopping place. Generally, birds within the migratory route pass over the City at high altitude.

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<sup>2</sup> Wind data obtained online at [www.city-data.com/city/Hesperia-California.html](http://www.city-data.com/city/Hesperia-California.html).

<sup>3</sup> The National Wind Coordinating Collaborative (NWCC) identifies issues that affect the use of wind power, provides a forum for discussion among stakeholders, and initiates activities to support the development of environmentally, economically, and politically sustainable commercial markets for wind power. NWCC members include representatives from electric utilities and support organizations, state legislatures, state utility commissions, consumer advocacy offices, wind equipment suppliers and developers, sustainable energy marketers, environmental organizations, agricultural and economic development organizations, and state and federal agencies.

## **Solar Energy Systems**

With an average of 283 days of sunlight per year experienced in the City, use of solar energy systems is a viable option to traditional gas or electric power. Incentives for solar energy systems currently do not offset increased up front capital and reduced efficiency of a photovoltaic system as compared to a windmill, as identified in a recent report published online.<sup>4</sup> Approximately one kilowatt of energy is produced per 130 square feet of photovoltaic area. This report indicates that a photovoltaic system costs between \$6,000 to \$10,000 per kilowatt with a capacity of between one and 100 kilowatts. In comparison, a windmill with a capacity of between 10 kilowatts and 2 megawatts costs between \$1,500 and \$3,000 per kilowatt. Both wind and solar energy systems are provided a 30 percent federal tax credit.

## **ISSUES/ANALYSIS**

### **Windmills**

The Development Code Amendment will allow windmills on towers as an accessory use within all single-family residential and agricultural lots 30,000 square feet and larger (generally one dwelling unit per acre). Multiple tower-mounted windmills may be allowed only with approval of a conditional use permit and shall be considered similar to a Wind Farm. Tower-mounted windmills would also be allowed as an accessory use within institutional and industrial zone districts. Windmills mounted on towers may be aesthetically incompatible with multiple-family and commercial developments. Therefore, staff recommends that they be allowed in these zones only with approval of a revised site plan review application.

Roof-mounted structures harnessing wind energy would be allowed within institutional, commercial, and industrial zone districts, including these districts within Specific Plan and Planned Developments with approval of a revised site plan review application. Roof-mounted windmills would not be allowed on agricultural or residential districts nor within residential and agricultural districts of Specific Plan and Planned Developments, consistent with direction from the August 4, 2009 joint Council/Commission workshop. The proposed Development Code Amendment also includes definitions, standards, minimum maintenance, and removal provisions in the event that a windmill is in a state of disrepair for 180 or more continuous days. Windmills have been designed with safety features to prevent damage to them during periods of extreme winds. All structures shall be a light gray, white, or other approved non-reflective color to minimize visual disruption of the area. Use of conspicuous colors will be prohibited. Nothing in this Development Code Amendment shall be construed to affect the structural requirements for any windmill, as enforced by the Building and Safety Division.

Based upon comments at the joint workshop, it is recommended that the number of windmills on individual properties be limited to one per gross acre, similar to the standard for cargo containers. Windmills on lots without a principal use designed to provide power to off-site locations are considered a wind farm and would require approval of a conditional use permit. Windmills on towers will be subject to the height restrictions of the zone district, adjusted to include the special height increases within the Development Code, which permits a 50 percent height increase beyond the height limitation of the zone district. Most zone districts contain a 35-foot height limitation. Therefore, most properties would allow a windmill no more than 52.5 feet

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<sup>4</sup> Information obtained online at [www.solarbuzz.com](http://www.solarbuzz.com)

high. Approval of a variance would be required to exceed this height. No portion of the tower, windmills, rotor or any other part of the structure shall exceed this height. To ensure that towers do not negatively impact adjacent properties, staff recommends that all structures on towers be located behind the primary structure on the property and be a minimum of 1.1 times the overall height of the structure from the side and rear property lines. This will ensure that the windmill will not encroach onto an adjacent property if the structure fails. Multiple numbers of roof-mounted wind machines would be subject to approval of a Revised Site Plan Review application.

Windmills shall be subject to the Noise Ordinance, which limits daytime noise at residential property lines to 60 dB (A) and 55 dB (A) in the evening. Since the wind may cause the windmill to operate at any time, staff recommends using the evening noise limitation of 55 dB (A). The Noise Ordinance also allows noise to exceed 55 dB (A) for temporary periods, accounting for sporadic increases in noise such as from construction activity. In addition, the Noise Ordinance allows 5 dB (A) over ambient noise levels, due to wind noise. The specifications for any windmill shall show compliance with the evening noise limitation without consideration for ambient noise. In commercial and industrial areas, windmills shall be subject to the evening noise standard of the receiving zone district. Should any windmill create excess noise as defined in the specifications for the machine, then it shall be setback the additional distance necessary to comply with the noise limitation. The General Plan identifies that although 55 dB (A) is a generally noticeable sound level, it is less than the noise produced by an air conditioner over 100 feet away (60 dB (A)).

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

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

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

### **Solar Energy Systems**

Staff recommends that solar energy systems be allowed on the roof of buildings within residential and agricultural zone districts as an accessory use. Solar panels shall be located on the roof plane not facing a street unless designed approximately parallel to the roof plane or integral to the roof material. Roof-mounted panels facing a street not integral to the roofing shall

only be allowed with approval of a Revised Site Plan Review application. Likewise, a Revised Site Plan Review application shall be approved to allow ground-mounted solar energy systems and only in the rear yard. Solar panels shall be allowed on the roof or as a freestanding structure in commercial, industrial, and institutional zone districts with approval of a Revised Site Plan Review application.

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

## **CONCLUSION**

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

## **FISCAL IMPACT**

None.

## **ALTERNATIVES**

1. The Planning Commission may revise the Development Code Amendment to recommend restricting the zone districts allowing windmills, provide for a larger minimum lot size, and/or require approval of a revised site plan review application for tower-mounted windmills in more than just the multiple-family and commercial zone districts. This alternative may result in reducing the number of properties qualifying for installation of this energy sustainable technology. Staff believes that the minimum 30,000 square foot lot size in residential and agricultural zone districts and minimum setback regulations will provide sufficient safeguards preventing land use incompatibility in all but the multiple-family and commercial zone districts. For this reason, staff recommends that approval of a revised site plan application be required in those two districts. Staff believes that there is not a similar concern in the other zone districts and that windmills should be allowed ministerially. As such, staff does not support this alternative.
2. The Planning Commission may revise the Development Code Amendment to recommend elimination of the Revised Site Plan Review option allowing ground-mounted solar energy systems within the rear yard or solar energy systems on roofs facing a street within residential and agricultural zone districts. Staff does not support this alternative, as elimination of alternative placements would deprive some property owners the ability to use solar power.
3. The Planning Commission may revise the Development Code Amendment to recommend elimination of the proposed regulation requiring removal of windmills due to non-operation or lack of repair. The requirement was taken from other alternative energy ordinances surveyed. The same requirement has been imposed on commercial wireless communications towers providing cell service and ensures that the towers and associated equipment will be removed should the facility be inadequately maintained, become inoperative, and/or the technology becomes obsolete. This regulation would be unique in that it would single out this type of accessory structure for maintenance.

Television, ham radio, and other antennae on towers and other similar accessory structures would not be subject to this regulation. Staff does not support this alternative, as its elimination would result in a potential eyesore to the neighborhood and would hinder enforcement efforts in the event that a windmill was not maintained properly.

4. Provide alternative direction to staff.

#### **ATTACHMENTS**

1. Minutes from the May 14, 2009 Planning Commission Meeting for this item
2. Letter dated September 15, 2009 from George Stanford in support of this item
3. Windmill regulations in specified jurisdictions
4. Resolution No. PC-2009-29, with Exhibit "A"

# ATTACHMENT 1

Hesperia Planning Commission Regular Meeting Draft Minutes  
Date: May 14, 2009  
Page 3

**Chair Elvert** questioned what the City would have to help regulate the facility.

**Principal Planner, Dave Reno AICP** stated that because it was a Conditional Use Permit, the CUP would allow for review if necessary.

**Chair Elvert opened Public Hearing:** 6:43 p.m.

**Evelyn O'Curpriel, Applicant Representative** stated that she was prepared to answer questions by the Commission; she thanked the Planning Staff. She stated that regulations and guidelines were clear and the applicant was prepared to follow the regulations and guidelines set forth by the conditions. She reviewed specifics of the business.

**Chair Elvert** questioned the number of employees that would be hired.

**Evelyn O'Curpriel, Applicant Representative** stated that there would be 6-9 people hired. She reviewed the process and procedures of the business. She stated processes and business policies for sales of the parts. She stated that no one from the public would have access to the vehicles. She stated that vehicles would be dismantled inside the building and all fluids would be drained at that time. She stated that vehicles would not be crushed and stacked onsite; once the vehicle was dismantled the parts would be cleaned and kept onsite and cars would be then taken to the crush yard and would never return to the proposed site. She stated that the lot would be kept clean and clear for emergency vehicles and access. She reviewed the hours of operation and building and property maintenance. She also stated that employees would be trained on safety measures and emergency plans would offer as a guide to operate the business

**Chair Elvert closed Public Hearing:** 6:50 p.m.

**Motion: Commissioner James** motioned to adopt Resolution No. PC-2009-27, as amended, approving Conditional Use Permits (CUP09-10128). Vice Chair Hahn seconded the motion. The motion passed by the following roll call vote:

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

**Noes:**

**Absent:**

**Abstains:**

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

**Senior Planner, Stan Liudahl AICP** gave a brief staff report.

**Commissioner Muller** stated that attachment three surprised him; he questioned who determined the maximum wind speed in the area.

**Senior Planner, Stan Liudahl AICP** stated that there were several weather stations in the area which probably produced figures used for an average.

**Commissioner Muller** questioned the entire City falling in the 5-7 mile per hour wind speed.

**Senior Planner, Stan Liudahl AICP** stated that the 5-7 mph wind speed was probably a conservative figure.

**Commissioner Muller** questioned if there was a limit placed on the number of windmills that could be placed on a single-family dwelling.

**Senior Planner, Stan Liudahl AICP** stated that limits were not placed due primarily to the economic limitations associated with windmills; Staff did not anticipate a family putting a large number of windmills on their roof. He also stated that Staff was open to placing a limit on the number of windmills that could be placed on a dwelling.

**Commissioner Muller** questioned if the city was interested in single-family residence having solar panels verses the roof-mounted windmill.

**Senior Planner, Stan Liudahl AICP** stated that the City would be looking at a potential ordinance for solar panels as well and that ordinance would come before the Commission at a future date.

**Principal Planner, Dave Reno AICP** stated that staff had discussed energy savings. He stated that the roof-mounted windmills can already be placed on the houses and Staff wanted to be open to various ways of saving energy, stating that people will spend the money if they are able. He stated that expecting a proliferation of windmills in A-1 was really an economic issue; he reminded the Commission that windmills were already being permitted in the A-1 designation.

**Commissioner Muller** stated that he didn't have an issue with green technology; however, he had an issue with visual clutter. He stated that he did not see Hesperia as "windmill city".

**Commissioner Jensen** questioned the suitable location for installation of a roof-mounted windmill.

**Senior Planner, Stan Liudahl AICP** stated that the windmill could be placed anywhere on the roof; he stated that conditions could reflect the Commission's concerns regarding placement on the roof.

**Commissioner Jensen** stated that she like windmills. She questioned the distance a windmill would have to be placed from a dwelling for safety purposes.

**Senior Planner, Stan Liudahl AICP** stated that there were building codes for regulation of placement; however, dependent upon setbacks and other variables the windmill could potentially be very close to the house.

**Commissioner Jensen** questioned the placement of a windmill if the property had a second house on site.

**Senior Planner, Stan Liudahl AICP** stated that the windmill would be placed according to the primary dwelling.

**Commissioner James** questioned restrictions on the depth and width of the ½ acre lot.

**Senior Planner, Stan Liudahl AICP** stated that the current ordinance did not require a minimum ½ acre lot for windmill placement; he reviewed the specifications and required set backs for windmill placement on any given lot.

**Commissioner James** stated that he would lean more toward going strictly roof-mounted windmill dependent upon the shape of the lot and the placement of the dwelling on the lot.

**Senior Planner, Stan Liudahl AICP** stated that the ordinance would not restrict someone from having both a roof-mounted and a tower mounted windmill on the property. He reviewed the specifications for placement of the windmill.

**Commissioner James** stated that he had misunderstood the placement specifications.

**Vice Chair Hahn** stated that a windmill could not be mounted on a tile roof; she stated that the roof-mounted windmills could be used on shingle and/or a shake roof. She questioned the vibrations of the windmill on the top of the roof. She stated that a truss load would limit the amount of load that a roof could take. She stated that if the vibration was strong enough, the vibration could collapse a roof, stating that she was concerned and wanted to know the statistics associated with the placement, pitch of the roof, and truss load.

**Senior Planner, Stan Liudahl AICP** stated that the Cities building official had some of the same concerns and the structural integrity was a primary goal for Staff.

**Vice Chair Hahn** stated that wind storms in the area had destroyed tile roofs; determinant on the strength of the wind, the roof could be taken right off by the wind. She stated that Staff needed to look very close at the wind-shear factor for the roof-mounted windmills.

**Senior Planner, Stan Liudahl AICP** stated that the proposed ordinance addresses the concerns Vice Chair Hahn was mentioning and states that nothing in the ordinance would supersede any building code requirements

**Vice Chair Hahn** stated that she wanted Staff to look into the concerns so that there were no questions later on regarding the safety issues and statistics with respect to 70 mile an hour winds. She stated that she would consider it extremely bad if it was set in the back yard on a pole and that the noise alone would be bothersome; 2 – 2 ½ acre lots would be more beneficial when considering many concerns. She stated that windmills and solar panels were a very good idea for the area; however, she questioned why the City would not allow windmills along the freeway.

**Assistant City Attorney, Douglas Haubert** stated that the discussion was very good; however, it would be best to wait to make a decision until after the public hearing, stating that the Commission must not arrive at any conclusions until after members from the public are heard.

**Chair Elvert** questioned the size of the ½ acre lot.

**Senior Planner, Stan Liudahl AICP** stated that the size of the lot was based on height, at 1.1 times the height, arriving at a setback based on the calculation.

**Chris Elvert** reviewed his understanding of ½ acre lots, according to measurements, curbing, and other variables.

**Principal Planner, Dave Reno AICP** stated that as written there was no acreage restriction for the placement of a windmill. He reviewed the specifications of a windmill with respect to easements and lot dimensions. He also reviewed the limitations for roof-mounted windmills according to lot size.

**Chair Elvert** questioned the amount of applications/discussions that had been presented to the City for windmills.

**Senior Planner, Stan Liudahl AICP** stated that within the last two years there had been about a dozen applications/discussions regarding windmills.

**Principal Planner, Dave Reno AICP** questioned how many had been approved through the old process for windmills.

**Senior Planner, Stan Liudahl AICP** stated that there were roughly on 3 or 4 approvals.

**Chair Elvert opened Public Hearing:** 7:19 p.m.

No Comments to Consider

**Chair Elvert closed Public Hearing:** 7:20 p.m.

**Commissioner Muller** questioned the 300 feet being the maximum for the towers. He also questioned the zone districts.

**Senior Planner, Stan Liudahl AICP** reviewed the maximum height and the zone districts.

**Commissioner Muller** questioned the height of the windmills possibly interfering with the life flight path for the helicopters.

**Senior Planner, Stan Liudahl AICP** stated that there was potential for interference; however, safety measures would be followed, such as placement of flashing lights for the evening.

**Commissioner Muller** questioned property values.

**Principal Planner, Dave Reno AICP** stated that the speculation of economics was not a CEQA issue and were purely speculative; he stated that it was a question of opinion. Staff's issues were directly related to variables such as safety and noise.

**Commissioner Muller** stated that visual clutter was a major concern. He mentioned that there were no limits proposed to regulate the visual clutter with regards to placement of the windmills.

**Principal Planner, Dave Reno AICP** stated that aesthetic issues was a concern for Staff as well; however, Staff did not look at specifics for building materials on the grounds of the value of a home. He stated that newer communities do have architecture reviews. He stated that there were some points made by Vice Chair Hahn that the roof-mounted windmills had safety concerns and would not likely be placed on a tile roof; however, he mentioned that there were appropriate procedures for removing tiles and placing items such as solar panels, which was applicable according to the building code; he stated that there were appropriate and adequate building code remedies to permit roof-mounted windmills as well as those on poles. He discussed geographical locations and wind maps used for reference, stating that there were no areas within the City that could be subdivided as "better" or "worse" areas for the placement of windmills.

**Commissioner Jensen** questioned if bird migrating patterns would be affected by the placement of windmills.

**Senior Planner, Stan Liudahl AICP** stated that bird migrating patterns was not considered.

**Commissioner Jensen** stated that she was concerned about the migrating pattern of the eagles.

**Commissioner James** stated that for aesthetics in consideration there were a lot other options for solar energy. He stated that he did not want to see residential areas inundated with windmills and that he would like to see the ordinance remain the same with the A-1 and the 2 – 2 ½ acres.

**Vice Chair Hahn** stated that she would not want these in anything less than 2 – 2 ½ acres; she stated that she could see the poles in the commercial industrial areas, but not in the residential areas. She stated that she would be furious if a neighbor put one up. She stated that windmills along the river would not be acceptable to citizens and that solar energy was a lot more reasonable. She stated that she was in agreement with the two other Commissioners and she would prefer seeing windmills on lots with a 2 – 2 ½ acre minimum.

**Chair Elvert** stated that he was more concerned about a roof-mounted windmill. He stated that he had a windmill within a 30 acre distance from his home and there were days when he could sit on his back patio and here it. He stated that the noise level concerned him with placement in the ½ lots. He questioned if the Commission should send the proposal back for revisions.

**Principal Planner, Dave Reno AICP** stated that no vote needed to occur especially if the Commission wanted Staff to look at some specific concerns. He stated that it would be dependent upon the intent of the Commission to either send a clear message that the ordinance should remain the same or if the primary concern was an acreage minimum. He stated that Staff had been looking at possible individual basis according to a Site Plan Review determinant upon zoning districts.

**Chair Elvert** stated that he felt that Staff should look at the issues of concern addressed by the Commission. He stated that there should be a more limited access to placement of a windmill, dependent upon roof-mounted windmills or pole mounted which would require a minimum lot size.

**Commissioner James** stated that he would like to look at the possibility of a Conditional Use Permit for R-1 and RR usage; therefore, notifying the neighbors of the proposal.

**Principal Planner, Dave Reno AICP** stated that Staff thought about the issues surrounding Conditional Use Permits (CUP) and Site Plan Reviews (SPR); he stated that whether the application was for a CUP or an SPR, the application would still be a noticed project. He stated that lot size was mentioned as a concern and other technical issues of placing the units on the roof; he reviewed the terms of a CUP and stated that safety was an issue with or without a CUP.

**Assistant City Attorney, Douglas Haubert** stated that continuing the matter would allow Staff to address some of the Commission's concerns. Staff could address the impact on neighboring properties, aesthetics, uniformity and technical issues. He stated that there would need to be a number of things divided amongst Staff to review; he stated that it may be appropriate to continue the item to no specific date.

**Motion: Commissioner James** motioned to continue item indefinitely. **Vice Chair Hahn** seconded the continuance. The motion passed with the following roll call vote:

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

**Noes:**

**Absent:**

**Abstains:**

**Vice Chair Hahn** requested that the issues be addressed during the joint PC & CC Workshop in August.

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**Chair Elvert** requested that item 3, Consideration of Administrative Appeal (APP-2008-01) be moved to the last item on the agenda in order to address the Revisions to the City's Sign Regulations first.

The Commission agreed to the change the order of item #4 and Item #3 on the agenda.

**Item #4:**

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

**Principal Planner, Dave Reno AICP** gave a brief staff report. He stated that Bruce Haney was present and would like to show a video to the Commission. He stated that he can review each concern starting on page 4-27 of the agenda for further clarification on the impact of the ordinance.

**Commissioner Muller** questioned the billboards being perpetual.

**Assistant City Attorney, Douglas Haubert** stated that the City did not have an amortization ordinance that would require a property owner to remove the sign after a certain number of years; therefore, if the question was, if someone was required to remove the sign after a certain period of time, then the answer would be that there was no ordinance on the books currently that would force and owner to remove a sign. He stated that the sign could be removed for a number of reasons; for example, if an owner wanted to develop their site and the billboard happens to be within the line of development, then there might be a requirement for the removal of the billboard. He stated that it was a property right, just as if the owner had built a house.

**Commissioner Muller** questioned if the billboard was maintained by the current business owner, then the sign would stay.

**Assistant City Attorney, Douglas Haubert** stated that the billboard would stay with the property, the same way a house would go with the property.

**Commissioner Muller** referred to page 4-33 of the agenda, #12, he questioned that no billboards would be along the freeway.

**Principal Planner, Dave Reno AICP** stated that no new billboards would be permitted; however, relocations were possible within those permitted districts. He clarified that no billboards would be permitted downtown.

**Commissioner Muller** clarified that billboards would not be allowed along the freeway

**Principal Planner, Dave Reno AICP** stated that no new billboards would be allowed along the freeway. He stated that there were dual restrictions, according to the commercial and industrial business park zoning in the old industrial area and he didn't want to allow for the possibility for billboards within that district.



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"REAL ESTATE - THE BASIS OF ALL MATERIAL WEALTH"

Facsimile Transmittal

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To: DAVE RENO

Fax #: 760-947-1221

From: George Stanford

Date: 9/15/2009

RE: WIND ENERGY SAVER

# Pages : three

(Including Cover Sheet)

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Comments: Page's 2&3 is information on the wind energy saver designed for 18,000 SQ FT parcels. My cell 360-981-4580 if you may have any questions.

Thanks for you help. George

## TO- CITY OF HESPERIA

SAVING OUR PLANET AND MAKING IT A BETTER AND HEALTHIER  
PLACE FOR OUR FUTURE GENERATIONS TO LIVE.

### LET US ENCOURAGE NOT DISCOURAGE THE USE OF RENEWABLE ENERGY.

The following is a few suggestions for the Town of Apple Valley to include in their permitting process for the Wind Energy Systems. Many government agencies acrossed America are following these requirements in an effort to ENCOURAGE the use of Wind Energy. Santa Barbara County, Kern County, San Bernardino County, Clark County and the City of Hesperia are either in the process of or has all ready adopted the following:

- 1) All charges for Planning and Building permit are waived
- 2) Minimum property size to be a net of 18000 Square Feet.  
( PLEASE SEE ATTACHED INFORMATION SHEET ABOUT THIS REQUIREMENT)
- 3) Mono poles (no wires) tested up to 141 MPH winds to have the same set back requirements as building set backs.
- 4) An accessory wind energy saver that is 39 feet or less in height and generates less than 5.0 Kilowatts shall be exempt from the requirement to obtain an accessory energy system permit From planning.

For extensive information please go to the following sites:

"windenergy.com" then clicks S/W wind power"  
"AWEA.com"

### BIG NEWS FOR THE PLANET AND OUR WELL BEING!!!!

We just installed the WIND ENERGY SAVER at the Hesperia City hall. It is being donated by Doctor Two in an effort to encourage wind energy in all of America. You may see this unit at any time at the City Hall in Hesperia CA. 92345 or there is one at our nations capitol in Washington DC. For further questions please call Mark 760-881-1044

## MINIMUM PROPERTY SIZE FOR WIND ENERGY SYSTEMS:

### LET US ENCOURAGE NOT DISCOURAGE THE USE OF RENEWABLE ENERGY

A lot of the local government requirements acrossed America regarding minimum property size is still from 1 acre, 2-1/2 acres, 5 acres, there is a few with even 20 acres thus eliminating approximately 87 % of the American citizens that wish to have a WIND ENERGY saver in their back yard, they are being denied this VERY IMPORTANT devise by local government while state and the federal governments are in full support of saving the planet and even paying as much as 60% of the cost of the unit for the citizen. There have been a lot of changes since these rules were made from two to thirty years ago in the esthetics, sound levels, and strength against Hurricanes in the latest Wind Systems. The Skystream 3.7 is designed especially for an 18,000 square foot property being it is very **GOOD** looking, noise level is 1/2 of an air conditioning unit and shorter than some existing power poles in your front yard. Our goal is to put a Wind Energy saver in every back yard a crossed America with 18,000 square feet or more in property size. In an effort to eliminate all the obnoxious high voltage transmission lines being built a crossed America, throwing off all that radiation on to the wildlife and humans that get near them and not to even mention how they destroy the looks of America's beautiful landscape. Also hopefully we will eliminate the need for the very ugly and dangerous power poles we have in our front yards and streets today. When they blow over in a strong wind or the transformer on the pole explodes when hit by lightning destroying property and live. Instead of driving our car down to put a very explosive and air polluting liquid in the tank and actually put our loved ones in the vehicle and drive around with 20 gallons of very high explosive and dangerous liquid. When every home in America has a wind energy saver, when we get home we merely plug in our vehicle to the wind energy saver eliminating the explosive liquid, saving an enormous amount of money and also reducing some of the SEVEN HUNDRED MILLION TONS of carbon dioxide that we are now putting into our atmosphere every 12 months and creating global heating and changing the earth in a negative way for our future generations. You now can see in person one of these money and planet saving devises at our nations capitol in Washington DC or at the City of Hesperia, city hall in Hesperia CA, 92345. For any questions please call Mark 760-881-1044

# ATTACHMENT 3

## CURRENT WINDMILL REGULATIONS IN SPECIFIED JURISDICTIONS

	Hesperia	Adelanto	Apple Valley	Barstow	Victorville	County
Permitting procedure	Permitted in A-1 and A-2. SPR-R approval required in all other zone districts, but not codified.	Currently no formally adopted guidelines for their installation. The planning department does review any potential installations to ensure that the tower is located so that if it was to collapse, it would not fall onto an adjacent property.	Development Permit approval by the Planning Commission is required on a minimum 5 acre lot in all zone districts.	CUP approval by the Planning Commission is required. Standards not codified.	CUP approval by the Planning Commission is required in the AE, S-R, R-1, C-A, C-M, and IPD zone districts.	Permitted in all zone districts except Scenic Resources (SR) Overlay.
Number allowed	Unspecified		One		Unspecified	1 allowed for every 10 acres to a maximum of three.
Allowable height	52.5 feet		35 feet		Unspecified	52.5 feet to 120 feet, depending on the zoning.
Setbacks	Allowed in rear yard, prohibited from front and side yards.		100 feet from all property lines and 50 feet from all structures on-site.		Unspecified	Same as the windmill height.
Noise Standard	60 dBA at the property line from 7am until 10pm. 55 dBA from 10pm until 7am. A 5 dBA exceedance due to wind noise is permissible.		50 dBA at the property line from 7am until 10pm. 40 dBA from 10pm until 7am.		65 dBA at the property line from 7am until 10pm. 55 dBA from 10pm until 7am.	55 dBA at the property line from 7am until 10pm. 45 dBA from 10pm until 7am.

# ATTACHMENT 4

## RESOLUTION NO. PC-2009-29

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE REGARDING ALTERNATIVE ENERGY TECHNOLOGIES (DCA09-10177)

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

**WHEREAS**, The City of Hesperia Development Code regulations pertaining to alternative energy technologies requires modification; and

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

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

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

**WHEREAS**, On October 8, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

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

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

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

**ADOPTED AND APPROVED** on this 8<sup>th</sup> day of October 2009.

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Chris Elvert, Chair, Planning Commission

ATTEST:

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Eva Heter, Secretary, Planning Commission

# EXHIBIT “A”

## Chapter 16.08 Definitions

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

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

## Chapter 16.16 Zone Districts Article III. Additional Uses

### 16.16.063 Windmills.

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

1. Tower-mounted windmills shall be allowed as an accessory use on developed single-family residential, rural residential, agricultural, and within residential and agricultural districts within Specific Plan and Planned Development districts on lots at least 30,000 square feet in net area.

a. The structure and all appurtenant equipment shall be located behind the primary building, not within the front or street side yard, and a minimum of 1.1 times the overall structure height from the side and rear property lines. Guy wires may encroach into the minimum setbacks, but shall not encroach over property lines.

b. The structure may need to be farther from the property lines based upon the required specifications regarding noise identified in Section 16.16.063(A)(4).

2. Tower-mounted windmills shall be allowed as an accessory use within industrial and institutional zone districts.

3. Tower-mounted windmills may only be allowed within multiple-family and commercial zone districts with approval of a revised site plan review application.

4. Specifications on the noise produced by the windmill shall be submitted for windmills within all zone districts, identifying the distance from the structure to the property line to meet the City’s Noise Ordinance. The setback shall be increased should the manufacturers’ specifications evidence that the windmill would exceed the evening noise standard at any property line.

5. Tower-mounted windmills shall not exceed the height limitation of the zone district in conjunction with the special height increases of Section 16.20.060. The height shall be measured to the top of the blades or rotors or any other portion of the windmill, which extends farthest above ground level. The blades and rotors of the windmill shall be a minimum of 15 feet above ground level at the lowest point to ensure the safety of persons and property beneath. Approval of additional height beyond the special height increases within Section 16.20.060 shall require approval of a variance.

6. Multiple tower-mounted windmills are allowed only with approval of a conditional use permit and shall be considered similar to a "Wind Farm."

7. Roof-mounted windmills shall be allowed with approval of a revised site plan review application only within institutional, commercial, and industrial zone districts, including similar districts within Specific Plan and Planned Developments.

a. Roof-mounted windmills shall not exceed the height regulation of the zone district unless approved by a variance. Roof-mounted windmills do not qualify for the special height increases of Section 16.20.060. The height shall be measured from the ground to the top of the blade/rotor or any other portion of the windmill.

b. Specifications on the noise produced by the windmill shall be submitted pursuant to Section 16.16.063(A)(4), identifying the distance from the structure to the property line necessary to meet the City's Noise Ordinance. The windmill shall be located so that it does not exceed the evening noise standard at any property line.

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

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

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

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

12. No windmill shall cause any electromagnetic interference.

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

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

15. All references to wind machines within the current Development Code shall be eliminated.

#### 16.16.064 Solar Energy Systems.

A. Solar Energy Systems as defined by Section 16.08.770 shall be permitted subject to the provisions as provided herein.

1. Roof-mounted Solar Energy Systems not facing a street or solar systems that function as roofing shall be allowed as an accessory use within all residential and agricultural zone districts, including similar zone districts within Specific Plan and Planned Developments.

a. Roof-mounted solar systems shall not face a street unless the solar system is designed approximately parallel to the roof plane or integral to the roof material. A revised site plan review application shall be approved to allow other roof-mounted solar systems to face a street. Approval of a Revised Site Plan Review shall be based upon the location of buildings, orientation of the roof planes, tree locations, or other factors which negatively affect system efficiency, preventing the system from being situated on a roof plane not facing a street.

b. Ground-mounted solar systems shall only be allowed with approval of a revised site plan review application within the rear yard if the configuration and location of buildings, orientation of the roof planes, tree locations, or other factors which negatively affect system efficiency, prevent installation on the roof.

2. Roof and ground-mounted solar energy systems shall be allowed within commercial, industrial, institutional zone districts, including similar zone districts within Specific Plan and Planned Developments with approval of a revised site plan review application.

#### Chapter 16.16 Zone Districts

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

##### 16.16.080

K. Windmills, as defined by Section 16.08.890 and allowed pursuant to Section 16.16.063.

L. Solar Energy Systems, as defined by Section 16.08.770 and allowed pursuant to Section 16.16.064.

#### Chapter 16.16 Zone Districts

#### Article VII. Limited Agricultural (A-1) District

##### 16.16.280

O. Accessory uses and structures, including the following:

14. ~~Wind machine,~~

16. Windmills, as defined by Section 16.08.890 and allowed pursuant to Section 16.16.063.

18. Solar Energy Systems, as defined by Section 16.08.770 and allowed pursuant to Section 16.16.064.

# CITY OF HESPERIA



## CITY OF HESPERIA DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room  
9700 Seventh Avenue  
Hesperia, CA 92345  
BEGINNING AT 10:00 A.M.  
WEDNESDAY, SEPTEMBER 30, 2009

### A. PROPOSALS:

#### 1. Steve Saltzman (SPR09-10261)

**Proposal:** Revised site plan review to expand student enrollment and parking for an existing 3,301 square foot Child Care Facility (Little Learners) on 1 acre, zoned C-2.

**Location:** 15011 on Bear Valley Road.

**Planner:** Lisette Sanchez-Mendoza

**Action:** Administrative Approval

#### 2. KDF Communities, LLC (SPR09-10260)

**Proposal:** A Site Plan Review to construct phase II of expired Site Plan Review (SPR-2002-08), re-entitling 58 of 160 senior citizen apartment on 4.0 gross acres zoned Specific Plan (High Density Residential District).

**Location:** 9901 Ninth Avenue.

**Planner:** Stan Liudahl

**Action:** Administrative Approval

#### 3. Funtime Hobbies (SPR09-10257)

**Proposal:** A revised plan review to establish a radio control car track on 1.0 acre zoned Pedestrian Commercial.

**Location:** 9464 9<sup>th</sup> Avenue.

**Planner:** Daniel Alcayaga

**Action:** Administrative Approval