

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: June 11, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

Joline Bell Hahn, Vice Chair

Stephen James, Commissioner

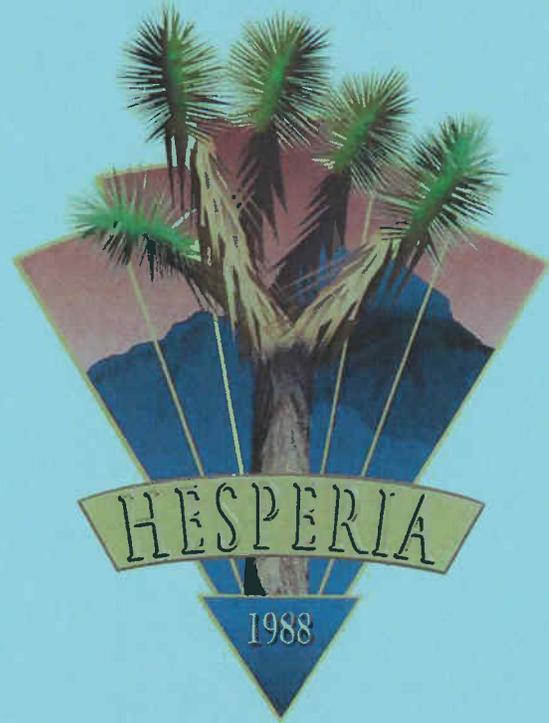
Julie Jensen, Commissioner

William A. Muller, Commissioner

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Dave Reno, Principal Planner

Douglas P. Haubert, Assistant City Attorney



CITY OF HESPERIA
9700 Seventh Avenue
Council Chambers
Hesperia, CA 92345
City Offices: (760) 947-1000

The Planning Commission, in its deliberation, may recommend actions other than those described in this agenda.

Any person affected by, or concerned regarding these proposals may submit written comments to the Planning Division before the Planning Commission hearing, or appear and be heard in support of, or in opposition to, these proposals at the time of the hearing. Any person interested in the proposal may contact the Planning Division at 9700 Seventh Avenue (City Hall), Hesperia, California, during normal business hours (7:30 a.m. to 5:30 p.m., Monday through Thursday, and 7:30 a.m. to 4:30 p.m. on Fridays) or call (760) 947-1200. The pertinent documents will be available for public inspection at the above address.

If you challenge these proposals, the related Negative Declaration and/or Resolution in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the public hearing.

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact Dave Reno, Principal Planner (760) 947-1200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.10235.104 ADA Title 11]

Documents produced by the City and distributed less than 72 hours prior to the meeting regarding any item on the Agenda will be made available in the Planning Division, located at 9700 Seventh Avenue during normal business hours or on the City's website.

JUNE 11, 2009

**AGENDA
HESPERIA PLANNING COMMISSION**

Prior to action of the Planning Commission, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar. PLEASE SUBMIT A COMMENT CARD TO THE COMMISSION SECRETARY WITH THE AGENDA ITEM NUMBER NOTED.

CALL TO ORDER

6:30 p.m.

- A. Pledge of Allegiance to the Flag
- B. Invocation
- C. Roll Call:
 - Chair Chris Elvert
 - Vice Chair Joline Bell Hahn
 - Commissioner Stephen James
 - Commissioner Julie Jensen
 - Commissioner William Muller

JOINT PUBLIC COMMENTS

Please complete a "Comment Card" and give it to the Commission Secretary. Comments are limited to three (3) minutes per individual. State your name and address for the record before making your presentation. This request is optional, but very helpful for the follow-up process.

Under the provisions of the Brown Act, the Commission is prohibited from taking action on oral requests. However, Members may respond briefly or refer the communication to staff. The Commission may also request the Commission Secretary to calendar an item related to your communication at a future meeting.

CONSENT CALENDAR

- E. Approval of Minutes: May 14, 2009 Planning Commission Meeting Draft Minutes

-1-

PUBLIC HEARINGS

- 1. Consideration of Development Code Amendment (DCA09-10198) amending the sign regulations regarding promotional and special event signs (Applicant: City of Hesperia; APN: Citywide) (Staff Person: Daniel S. Alcayaga, AICP).

1-1

PRINCIPAL PLANNER'S REPORT

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

- F. Discussion: Brown Act & Rules of Procedures
- G. DRC Comments
- H. Major Project Update

2-1

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, June 4, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter
Planning Commission Secretary

**PLANNING COMMISSION
REGULAR MEETING**

DRAFT MINUTES

May 14, 2009

The regularly scheduled meeting of the Hesperia Planning Commission was held on Thursday, May 14, 2009 in the City Council Chambers, 9700 Seventh Avenue Hesperia, California. The meeting was called to order at 6:30 p.m. by Chair Elvert.

A. CALL TO ORDER

1. Pledge of Allegiance – Commissioner Jensen
2. Invocation - Commissioner Muller
3. Roll Call

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

In Attendance for Staff: Principal Planner, Dave Reno AICP; Assistant City Attorney, Douglas Haubert; Senior Planner, Stan Liudaht AICP; Senior Planner, Daniel S. Alcayaga AICP; Senior Engineer, Tom Thornton PE; Management Analyst, Holly Effiom; Recording Secretary, Eva Heter.

B. PUBLIC COMMENTS-

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

No Comments to consider.

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

C. CONSENT CALENDAR

Approval of Minutes: April 23, 2009 Planning Commission Minutes

Motion: Commissioner James moved to approve the April 23, 2009 Planning Commission Minutes as presented. Commissioner Muller seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

D. PUBLIC HEARING ITEMS

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

Senior Planner, Stan Liudahl AICP gave a brief staff report. He introduced green sheet items (See Attachments 1, 2, & 3). He reviewed concerns presented in letters to the Planning Division and changes to the Conditions of Approval.

Principal Planner, Dave Reno AICP stated that the conditions numbered on page 1-10 of the agenda would be amended according to the green sheet.

Commissioner James questioned Item #3 on letter submitted to the Commission. He questioned the fluids from the vehicles having a chemical base and his concerns with the chemical's ability to destroy asphalt verses concrete. He stated that the chemicals should be contained in one area so that the pavement would not be destroyed.

Senior Engineer, Tom Thornton PE stated that a concern with the ground and chemical compounds was handled by the Fire Department through their Business Emergency Contingency Plan.

Principal Planner, Dave Reno AICP clarified that the intent of the applicant was to do the dismantling inside the building; therefore, containing any chemicals that would raise a concern.

Vice Chair Hahn questioned permits for drainage of hazardous materials for the site.

Principal Planner, Dave Reno AICP stated that condition #2 requires permits for the drainage of hazardous materials.

Chair Elvert questioned the regulation of the business.

Principal Planner, Dave Reno AICP stated that Fire and Code Enforcement would regulate the business; stating that the Fire Department would perform annual inspections and Code Enforcement would investigate complaints by citizens.

Chair Elvert questioned cars being stacked above the fence.

Principal Planner, Dave Reno AICP stated that fencing was allowable up to 12 feet; however, he stated that it was not understood that the cars would be crushed and stored on site.

Chair Elvert questioned if there was anything written keeping the applicant from stacking the cars.

Principal Planner, Dave Reno AICP stated that there wasn't anything written keeping the applicants from stacking the cars.

Chair Elvert stated that if they did stack the cars over the height of the fence, then they would be required to increase the height of the fences.

Principal Planner, Dave Reno AICP stated that staff could ask for the fence to be increased according to written regulations; however, he stated that it was not in the applicants written intent to crush and stack cars onsite.

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.

Chair Elvert opened Public Hearing: 7:52 p.m.

Assistant City Attorney, Douglas Haubert reviewed the item up for discussion; he stated that if someone had a comment about the general issues surrounding billboards within the City, then it would be appropriate to address the Commission at that time.

Bruce Haney, Lunnen Development presented a video to the Commission, allowing real time observation of digital signage.

Chair Elvert questioned the 12 second delay.

Bruce Haney, Lunnen Development stated that there could be a potential issue with a 12 second delay; he would have to research the issue and report back to the Commission.

Assistant City Attorney, Douglas Haubert stated that general discussion about the billboard policy within the City would be appropriate; however, if Tom Lunnen wanted to speak specifically about his item then it would be best for him to wait until his item was presented to the Commission.

Tom Lunnen, Lunnen Development stated that he wanted to be sure that the Commission didn't vote until he had a chance to speak about the issue.

Principal Planner, Dave Reno AICP stated that if Tom Lunnen wanted to speak, in general about the content of the proposed ordinance, then it was an appropriate time to address the Commission; however, if Tom Lunnen only wanted to address the specifics about his appeal, then he may only want to speak on his, own individual item.

Chair Elvert questioned if Tom Lunnen had specific problems with the ordinance proposed by Staff.

Tom Lunnen, Lunnen Development stated that he didn't have any problems with Staff's recommendations; he encouraged the Commission to approve Staff's recommendation and forward the item to the City Council.

Assistant City Attorney, Douglas Haubert clarified the item up for discussion.

Tom Lunnen, Lunnen Development stated that the current ordinance was preventing him to move the sign and update the technology for his billboard. He reviewed some of the specifications of signs that could be permitted if the ordinance was changed. He asked that the Commission approve the resolution and the exhibit presented by Staff.

Chair Elvert closed Public Hearing: 8:04 p.m.

Commissioner James stated that he had concerns about safety issues with respect to billboards. He reviewed federal highway administration concerns and reports about the freeway signs. He stated that distraction studies were being done regarding the signs and highway drivers. He reviewed statistics pertaining to the billboards and the various studies that had been done. He mentioned the land use objectives from 1993, stating that the idea and vision for Hesperia had not included billboards. He stated that he was concerned about visual clutter and placing another visual task in front of drivers.

Chair Elvert clarified that the final decision on the proposed ordinance would be made by the City Council.

Principal Planner, Dave Reno AICP stated that the Commission was a recommending body.

Chair Elvert recommended that the issue be moved to the next level.

Commissioner Muller questioned the definition of the sign associated with the sports facility.

Principal Planner, Dave Reno AICP stated that the sign for the sports facility was not a billboard, it was an onsite.

Commissioner Jensen questioned if digital technology would be allowable for on-site signage.

Principal Planner, Dave Reno AICP stated that reader boards are already a permitted feature.

Vice Chair Hahn questioned the results of a yes or no vote.

Principal Planner, Dave Reno AICP reviewed possible results from a yes or no vote.

Motion: Commissioner James motioned to deny Resolution No. PC-2009-17 as presented. The motion failed with no second to the proposed motion.

Motion: Vice Chair Hahn motioned to adopt Resolution No. PC-2009-17 as presented, recommending that the City Council introduce and place on first reading an ordinance approving the revision to the City's sign regulations concerning billboards. Commissioner Jensen seconded the motion. The motion passed by the following roll call vote:

Assistant City Attorney, Douglas Haubert stated that some formatting changes would result from legal review; however, the substance of the presented ordinance would not be changed

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

Noes:

Absent:

Abstains:

Item #3:

4. Consideration of Administrative Appeal (APP-2008-01) (Appellant: Lunnen Development; APN: 372-251-04) (Staff Person: Stan Liudahl).

Principal Planner, Dave Reno AICP stated that staff was recommending that the item be continued.

Assistant City Attorney, Douglas Haubert recommended that the item be continued with a time period specified for the return of the item.

Chair Elvert opened Public Hearing: 8:19 p.m.

Tom Lunnan, Lunnan Development expressed some of his concerns regarding his project including amortization issues. He reviewed some of the specifications associated with billboards and referred to the video shown to the Commission by Bruce Haney.

Commissioner Jensen questioned the existing sign and the proposed sign.

Tom Lunnan, Lunnan Development reviewed the existing sign and the proposed sign.

Chair Elvert closed Public Hearing: 8:22 p.m.

Commissioner James reviewed amortization, purpose, profitability and history of billboards.

Assistant City, Douglas Haubert stated that he would be willing to look at case law regarding amortization and if Tom Lunnan had a case in point he would be happy to look at it.

Principal Planner, Dave Reno AICP stated that it was Staff's intent to give the Commission the benefit of every bit of information and many of the Commission's concerns are being addressed; he stated that he had passed out a document regarding hackers, which had already been passed onto the City's IT Department for review.

Motion: Commissioner Jensen motioned to continue the Administrative Appeal (APP-2008-01), to allow the City Council time to consider the proposed Billboard Ordinance. 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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E. PRINCIPAL PLANNER'S REPORT

DRC COMMENTS:

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

Senior Engineer, Thomas Thornton PE reviewed some concerns, presented by Chair Elvert, regarding an intersection at Rock Springs Road intersection.

F. PLANNING COMMISSION BUSINESS OR REPORTS:

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G. ADJOURNMENT-

Chair James adjourned the meeting to Thursday, June 11, 2009 at 8:39 p.m.

Approved By:

Chair Elvert, Planning Commission

Attested By:

Eva Heter, Recording Secretary

ATTACHMENT 1

May 13, 2009

City of Hesperia
Planning Department
9700 Seventh Avenue
Hesperia, CA 92345

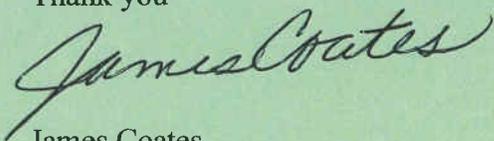
**Subject: Planning Commission meeting, May 14, 2009, Ortega Towing
Conditional Use Permit CUP09-10128**

As a resident of Hesperia I would like to comment on the proposed use permit for Auto Dismantling by Ortega Towing at 17435 Catalpa Street. My concern is about the automobile storage area – will there be requirements for the collection of auto fluids in the outdoor storage area – as the cars are stored there, there will be drainage and runoff. Does the City require that drainage and runoff to be collected and treated before it goes into the ground or the storm drain in the street?

Will this business be required to provide the proper drainage channels and filtering to keep contaminated fluids from reaching the stormwater channel?

The environment is a concern for all of us.

Thank you



James Coates
18038 Seaforth St
Hesperia, CA 92345

ATTACHMENT 2

City of Hesperia
Planning Department/Planning Commission
9700 Seventh Avenue
Hesperia, CA 92345

Re: Ortega Towing – Conditional Use Permit CUP09-10128

To Planning Commission:

This past week I saw the notice for the Planning Commission hearing on Thursday, May 14, 2009 for Ortega Towing located at 17435 Catalpa Street, Unit 1B. This company is requesting a Conditional Use Permit approval for an automobile dismantling service with outdoor storage area. As the owner of A & A Transmission Shop, we are regulated by the local and state agencies and are required to apply for and maintain active permits and agency approvals through the State of California.

My concern is that all auto related businesses are being conditioned appropriately to apply for the required clearances and approvals. Since Ortega Towing is applying as an automobile dismantling and parts/storage business, they must also adhere to the requirements of local and state agencies.

As a resident and auto repair business owner in the City, I have the following concerns:

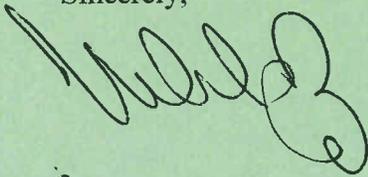
1. Grading and Drainage – Will the applicant be required to have the property graded so water will drain into filters before being discharged into the stormwater system?
2. Hazardous Materials Handling – Will the applicant be required to obtain proper review and approval for the drainage of automobile fluids, a containment area for spills, proper storage containers and removal by a licensed transport company?
3. Since the cars to be dismantled will be stored outdoors, will the City require them to provide a specific area to drain the fluids so that spills can be contained and not run-off into the street or into the ground? I believe the Water Quality Board requires a permit for that kind of outdoor use.
4. How will batteries that are removed from “junk” cars be stored and disposed of?
5. The Department of Motor Vehicles also has requirements for a Dismantling Operation. Will the City require a copy of that approval?

6. And finally, from an aesthetic point of view, there are several auto yards in that area that stack "junk cars" well above the fence line – which is an eyesore. I have even seen junk cars stored in drainage ditches, which is another issue.

Since the environment and aesthetics are concerns for all of us, please review the Ortega Towing application and assure the Hesperia citizens and business owners that the Ortega Towing Conditional Use Permit will follow the local and state requirements for auto dismantling and parts distribution.

Thank you for your time to look into this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "S. Ortega", written in a cursive style.

S-10-09

ATTACHMENT 3

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP09-10128:

Approval Date: May 14, 2009

Effective Date: May 26, 2009

Expiration Date: May 26, 2011

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

The use shall not be established until all conditions of this Conditional Use Permit application have been met. This approved Conditional Use Permit shall become null and void if all conditions have not been completed within two (2) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee at least thirty (30) days prior to the expiration date.

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

Init Date

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

- _____ 1. **Building Plans.** Five complete sets of tenant improvement plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)
-  _____ 2. **Additional Requirements for Hazardous Waste Handling.** The City will require all measures to safely handle hazardous waste materials pursuant to all State and Federal regulations. (B)
- _____ 3. **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

City of Hesperia
STAFF REPORT



DATE: June 11, 2009

TO: Planning Commission

FROM: Dave Reno, AICP, Principal Planner

BY: Daniel S. Alcayaga, AICP, Senior Planner

SUBJECT: Consideration of Development Code Amendment DCA09-10198 amending the sign regulations regarding promotional and special event signs (Applicant: City of Hesperia)

RECOMMENDED ACTION

It is recommended that the Planning Commission either approve Resolution No. PC-2009-33, recommending that the City Council deny the Development Code Amendment DCA09-10198, or adopt Resolution PC-2009-32, recommending that the Council temporarily amend the sign regulations regarding promotional and special event signs.

BACKGROUND

History of Hesperia's Sign Ordinance

In 2000, the City conducted over 35 public hearings to adopt the current sign ordinance. In addition, the City's Code Enforcement Division has brought the majority of commercial properties into conformance with the sign regulations. This effort addressed the cluttered signs on commercial properties and lack of prioritization in previous years.

During the public discussion before adopting the 2000 sign ordinance, the City Council considered adopting similar promotional and special event sign regulations, including sandwich or A-frame signs. The City Council determined that there was adequate commercial presentation through other forms of permitted signage. As a result, a business is allowed to advertize with promotional and special event signs up to 50 square feet for a period not to exceed 21 days, four times a year with a temporary special event (TSE) permit. A business is also allowed to advertize with wall signs, banners, monument signs, and if the property is large enough with a freestanding sign. Window signs are exempt and the City does not regulate hand held signs due to personal freedom of speech rights.

Apple Valley's Sign Ordinance Moratorium

Last year, the Town of Apple Valley adopted a sign ordinance moratorium allowing temporary signs without a permit or fee until June 2009. City staff has reviewed Apple Valley's sign policy, which allows one portable non-illuminated sign per business during hours of operation. The sign cannot exceed six square feet and a height of four feet or eight feet for a temporary pole sign. The sign must be removed when the business is closed.

In reviewing Apple Valley's policy, staff has determined that the Town of Apple Valley's sign regulations are stricter than those in Hesperia. Table 1 compares the sign regulations in Apple Valley and Hesperia.

**TABLE 1 - COMPARISON OF SIGN REGULATIONS FOR
 APPLE VALLEY AND HESPERIA**

| | Hesperia | Apple Valley |
|----------------------|-------------------------|--|
| Permanent Banners | Allowed ¹ | Not Allowed |
| Window Signs | Allowed
(No Limit) | Allowed
(Limited information)
4 sq. ft. Max. |
| Wall Signs | 1:2 ² | 1:1 ³ |
| Secondary Wall Signs | 50 sq. ft. ⁴ | Allowed ⁵ |
| Monument Signs | Allowed | Allowed |
| Freestanding Signs | 2.5 acres required | 15 acres required |

¹ Allowed up to 50% of attached sign area

² Hesperia allows two square feet of wall sign area for each foot of building frontage.

³ Apple Valley allows one square feet of wall sign area for each foot of building frontage.

⁴ Hesperia allows secondary signs in addition to wall signs.

⁵ Secondary wall signs would be counted towards the wall sign allowance.

ISSUES/ANALYSIS

Staff recommends no change to the Development Code. Businesses can be referred to staff for advice on how to take advantage of their maximum sign allowance as the sign regulations in Hesperia already permit considerable flexibility.

Staff has provided the Commission three options to consider recommending to the City Council.

Option 1

The sign regulations regarding promotional and special event signs would not change.

Permanent banners, which are prohibited by surrounding communities, are allowed as part of the wall sign allowance provided they are maintained and neatly placed on building walls. Window signs, which are also limited in surrounding communities, are allowed in Hesperia. These signs are affordable means of advertising business activity that is already allowed by the code. Banners and window signs may also be changed more frequently than other permanent signs to advertise new products, services or promotions. This would be in addition to temporary signs allowed under a special event permit. In addition, 50 square feet of secondary wall signs are allowed.

Option 2:

Allow Temporary Promotional and Special Event Signs without a Permit (Expires in One Year):

This option is similar to Apple Valley's policy. The sign code could be amended to allow up to two promotional and special event signs without a permit. The sign should be non-illuminated, not exceeding a sign area of 20 square feet, collectively, and a height of four feet or eight feet for temporary pole signs. Signs may only be displayed during business hours of operation.

Staff does not recommend adopting an ordinance similar to the Town of Apple Valley as their sign regulations are more restrictive compared to Hesperia. This option does not give the City an opportunity to review the signs ensuring conformance with design standards and prevent them from being located in the right-of-way and clear sight triangle. Additional code enforcement calls will likely be generated to enforce the proposed promotional sign regulations, including making sure the signs are removed during closed hours. Finally, the number of signs has the potential to create visual clutter along the commercial corridors. For example, this option would allow a large shopping center with 25 tenants to have up to 50 outdoor promotional and special event signs.

Option 3:

Temporarily Increase the Time Allowed with a Temporary Special Event (TSE) Permit for Promotional and Special Event Signs (Expires in One Year):

The City could consider increasing the number of days promotional and special event signs are permitted from 21 continuous days to 30 days with a TSE permit. These events may occur within a 60-day period, rather than 90-days. This would allow events to occur more frequently on the same site. A permit and fee, which are already in place, would be required. This option would recover the cost of reviewing the signs to ensure compliance with the sign code. The allowable sign area not to exceed 50 square feet will remain in effect.

Staff does not recommend Option 3 because in addition to signs already allowed, including permanent banners and window signs, increasing the amount of promotional and special event sign regulations has the potential to create visual clutter. In 2000, the City worked hard to bring properties into compliance with the current sign regulations. As a result, the number of illegal signs has been significantly reduced.

In conclusion, additional code enforcement calls would likely be generated to ensure that businesses comply with the proposed promotional and special event signs regulations. It is also possible that a business will interpret temporary sign privileges as a matter of right, making it even more difficult to remove the signs. Staff expects that once the ordinance expires, code enforcement action will be required to bring signs into compliance with the current regulations. The current code already allows every business to have promotional and special event signs, therefore, staff recommends not changing the City's current sign regulations.

FISCAL IMPACT

None

ALTERNATIVE(S)

1. Recommend Option 1, in which no development code amendment would occur. The public would be referred to staff to assist them on how to maximize their sign allowance.
2. Recommend Option 2, which temporarily allows up to two promotional and special event signs. This is similar to Apple Valley's policy.
3. Recommend Option 3, which would temporarily increase the number of days promotional and special event signs are permitted from 21 days to 30 days, up to 6 times a year with a TSE permit.
4. Provide alternative direction to staff.

ATTACHMENT(S)

1. Resolution No. PC-2009-32, with Exhibit "A" (DA09-10198)
2. Resolution No. PC-2009-33, denying DA09-10198

ATTACHMENT 1

RESOLUTION NO. PC-2009-32

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A DEVELOPMENT CODE AMENDMENT TO AMEND THE SIGN REGULATIONS REGARDING PROMOTIONAL AND SPECIAL EVENT SIGNS (DA09-10198)

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 promotional and special event signs requires modification; and

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

WHEREAS, The proposed Development Code amendment is exempt from the 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 Amendment regarding promotional and special event signs can have a significant adverse effect on the environment; and

WHEREAS, On June 11, 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 DCA09-10198, 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 11th day of June 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

Exhibit "A"

16.36.090 Special Uses

Special Uses include special events and promotional events.

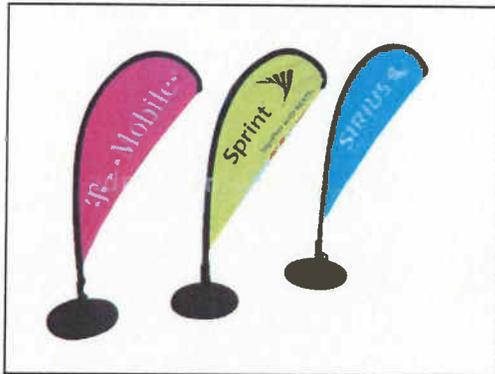
C. **Promotional and Special Event Signs** include A-frame signs, small advertising signs, flag poles, and banner poles as illustrated below. These signs are not permitted on any vehicle. Temporary signs shall be permitted as follows:



A-frame signs



Small Advertising signs



Flag Pole Signs



Banner pole signs

Option 2

- i. For one year from the effective date of this Ordinance, up to two temporary signs shall be allowed without a permit. The temporary signs are subject to the following regulations:
 - 1. The signs shall not exceed a sign area of 20 square feet, collectively, and a height of four feet. Flags or banners mounted on poles cannot exceed a height of eight feet.
 - 2. Signs may only be displayed during business hours of operation.
 - 3. Signs must be professionally constructed and all lettering done in a professional workmanlike manner.
 - 4. Signs may not be illuminated or contain any electrical components.

5. Signs must be installed in a manner preventing them from falling or blowing over.
6. Temporary signs shall be placed on the privately owned property where the business is located.
7. Temporary signs shall not be placed in the right-of-way, clear sight triangle, or handicap path of travel.

Option 3

- i. For one year from the effective date of this Ordinance, the number of days for a temporary special event permit shall be increased from 21 to 30 days. A permit and fee, which are already in place, are required. These events may occur within a 60-day period, rather than 90-days. The sign(s) shall not exceed an area of 50 square feet.

ATTACHMENT 2

RESOLUTION NO. PC-2009-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL DENY A DEVELOPMENT CODE AMENDMENT TO AMEND THE SIGN REGULATIONS REGARDING PROMOTIONAL AND SPECIAL EVENT SIGNS (DA09-10198)

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 promotional and special event signs requires modification; and

WHEREAS, Title 16 of the City of Hesperia Development Code shall not be amended; and

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

WHEREAS, On June 11, 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 inconsistent 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 denial of Development Code Amendment DCA09-10198.

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

ADOPTED AND APPROVED on this 11th day of June 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

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, MAY 27, 2009

A. PROPOSALS:

1. Hesperia Corral, LLC (SPR09-10182)

Proposal: A site plan review to construct an 11,087 square foot restaurant zoned Regional Commercial.

Location: On the southeast corner of Main Street and Cataba Road

Planner: Daniel Alcayaga

Action: Administratively Approved

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