

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: July 8, 2010

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Joline Bell Hahn, Commissioner

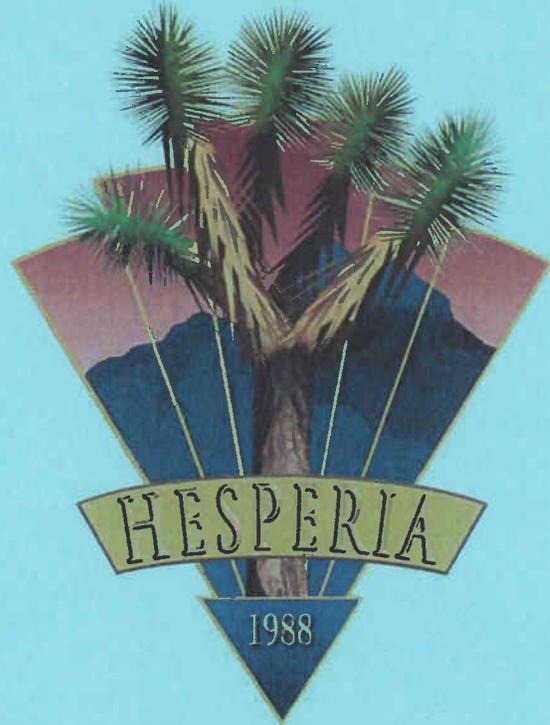
Stephen James, Commissioner

Julie Jensen, 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](#).

July 8, 2010

**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 William Muller
Commissioner Joline Bell Hahn
Commissioner Stephen James
Commissioner Julie Jensen

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: June 10, 2010 Planning Commission Meeting Draft Minutes. -1-
- E. Minutes: June 17, 2010 and June 24, 2010 Planning Commission General Plan Workshop Minutes.

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit CUP10-10142, to establish the sale of beer and wine for on-site consumption and allow an entertainment venue within an existing restaurant at 17376 Main Street (Applicant: Jose Magana, Inc.; APN: 0410-135-50) (Staff Member: Lisette Sanchez-Mendoza). 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. DRC Comments
- G. 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, July 1, 2010 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION
REGULAR MEETING
June 10, 2010
MINUTES**

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

CALL TO ORDER 6:30 p.m.

Pledge of Allegiance to the Flag

Invocation

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

Present: Joline Bell Hahn
Stephen James
Julie Jensen

Absent: Chris Elvert
William Muller

**Motion by Stephen James to excuse the absence of Chair Elvert and Vice Chair Muller. ,
Seconded by Julie Jensen, passed with the following roll call vote:**

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

CONSENT CALENDAR

D. Approval of Minutes: May 13, 2010 Planning Commission Meeting Draft Minutes.

**Motion by Stephen James to approve the May 13, 2010 Planning Commission Meeting
Minutes. , Seconded by Julie Jensen, passed with the following roll call vote:**

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

JOINT PUBLIC COMMENTS

Commissioner Hahn opened Joint Public Comments: 6:34 PM

No Comments to Consider.

Commissioner Hahn closed Joint Public Comments: 6:35 PM

PUBLIC HEARING

1. Consideration of Conditional Use Permit (CUP10-10125) and (CUP10-10126), to establish the sale of beer and wine, within existing Walgreens Drug Stores at 17383 and 15480 Main Street (Applicant: Walgreens; APNs: 0410-211-05 and 0405-181-01) (Staff Person: Lisette Sanchez-Mendoza).

Project Planner, Lisette Sanchez-Mendoza gave a brief introduction of the project and introduced a green sheet item (See Attachment 1).

Commissioner Hahn Opened Public Hearing: 6:46 PM

Brian Fish, Applicant Representative reviewed the applicant's request for approval, and an overall review of the Walgreens' Company and concentration of ABC Licenses in the area.

Commissioner James questioned the reasoning that Walgreens did not pursue an ABC License at the time of establishment.

Brian Fish, Applicant Representative stated that at the time it was corporate policy of Walgreens not to sell beer and wine; however, due to customer demand, Walgreens is now pursuing an ABC License.

Commissioner James questioned how the company was determining customer demand.

Brian Fish, Applicant Representative stated that some of the methods for determining customer demand included Management Reports from Store Managers, and Consumer Surveys.

Commissioner Jensen stated concerns regarding the saturation of ABC Licenses within the City.

Brian Fish, Applicant Representative reviewed the overall numbers for ABC License saturation. He mentioned the Census Tract Analysis and the levels of concentration.

Commissioner Hahn Closed Public Hearing: 7:03 PM

Commissioner Hahn questioned the establishment locations for ABC Licenses.

Project Planner, Lisette Sanchez-Mendoza stated that the 35 establishment locations for ABC Licenses span from I Avenue to U.S. Highway 395.

Project Planner, Lisette Sanchez-Mendoza stated that the 35 ABC License establishments, mentioned by Brian Fish, span from I Avenue to Cataba Road.

Commissioner Hahn questioned additional establishments between 11th Street and Maple Avenue.

Project Planner, Lisette Sanchez-Mendoza reviewed additional establishments between 11th Street and Maple Avenue obtaining ABC Licenses.

Commissioner Hahn questioned the zoning west of Maple Avenue on Main Street.

Project Planner, Lisette Sanchez-Mendoza reviewed the zoning for the area in question.

Principal Planner, Dave Reno AICP reviewed zoning in the area with respect to ABC Licenses.

Commissioner Jensen stated that she was having a tough time making a decision because of the saturation within the area.

Assistant City Attorney, Jeff Malawy reviewed the guidelines set forth by the ABC. He stated that the numbers provided by ABC can be used as guidelines; however, the Commission had the discretion to go over and under the numbers set forth in that guideline.

Commissioner James stated that he had some concerns regarding the concentration of ABC Licenses on the east end of the City at I Avenue and Main Street; however, he wasn't as concerned about the west portion of Main Street.

Motion by Joline Bell Hahn to adopt Resolution Nos. PC-2010-10 and PC-2010-11, as presented, approving Conditional Use Permits CUP10-10125 and CUP10-10126. The motion did not receive a Second and was lost.

Motion by Stephen James to deny Resolution Nos. PC-2010-10 and PC-2010-11, as presented, denying Conditional Use Permits CUP10-10124 and CUP10-10126. Seconded by Julie Jensen, passed with the following roll call vote:

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

2. [Consideration of Development Code Amendment \(DCA10-10150\) amending the nonconforming uses and structures regulations \(Applicant: City of Hesperia; Area affected: Citywide\) \(Staff Person: Daniel Alcayaga\).](#)

Project Planner, Daniel S. Alcayaga gave the staff report.

Commissioner James referenced page 2-12, Article 9 - Nonconforming Uses, Buildings, and Structures; he requested clarification on the proposal, stating that the amendment seemed contradictory to what Staff was trying to do.

Principal Planner, Dave Reno AICP reviewed Staff's intentions when requesting an Amendment to the Development Code. He stated that the primary purpose was to clarify the consideration for expansions that would be taken within the Main Street and Freeway Corridor Specific Plan. He also reviewed the current code and the options that would be available with the amendment.

Commissioner Hahn stated that the word "discourage" presented in Section 16.12.310 was what she believed to be confusing.

Assistant City Attorney, Jeff Malawy explained the difference between the intent of the Code and the intent of the Amendment.

Principal Planner, Dave Reno AICP reviewed the former language of the Code and the proposed language. Further discussion ensued regarding the language.

Commissioner Jensen asked for clarification on the abandonment of a building with respect to the length of time for being abandoned.

Commissioner Hahn Opened the Public Hearing: 7:52 PM

No Comments to Consider.

Commissioner Hahn Closed the Public Hearing: 7:53 PM

Motion by Julie Jensen to adopt Resolution No. PC-2010-13, as amended, replacing the word, "discourage" with the word "regulate" in Section 16.12.310, recommending that the City Council introduce and place on first reading an ordinance approving changes to the nonconforming uses and structures provision, Development Code Amendment (DCA10-10150). Seconded by Joline Bell Hahn, passed with the following roll call vote:

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

Principal Planner, Dave Reno AICP questioned if Commissioner Jensen intended to approve with an amendment to the language of the proposed change to Section 16.12.310.

Commissioner Jensen stated that she would like to amend the motion, stating that the language should be changed per previous discussion.

Assistant City Attorney, Jeff Malawy clarified that the motion could be amended to state that the word "discourage" should be replaced with the word "regulate" in Section 16.12.310 of page 4-12 of the Agenda.

Commissioner James stated that he gave a no vote do to concerns regarding the abandonment for twelve months and the repair of damage from 50% to 75%.

3. Consideration of Development Code Amendment (DCA10-10151) amending the parking regulations (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Stan Liudahl).

Project Planner, Stan Liudahl AICP gave the staff report.

Commissioner Hahn expressed concerns regarding the number of spaces required for a commercial nursery.

Project Planner, Stan Liudahl AICP stated that the proposal was to require 1 space for each 5000 square feet; he continued by reviewing the existing and proposed parking specifications.

Commissioner Jensen questioned the term pedestrian connection.

Project Planner, Stan Liudahl AICP reviewed the requirements for a pedestrian connection.

Commissioner Jensen questioned if the proposal would solve set back issues on lots.

Principal Planner, Dave Reno AICP stated that the front and side yard setbacks were not covered in the proposed amendment. He also stated that one of the goals of the proposed amendment was to find more effective ways of linking mixed use projects for pedestrian uses and the proposed component for that goal is the pedestrian connection.

Principal Planner, Dave Reno AICP reviewed some of the results of his observations and analysis of parking within the City.

Commissioner Hahn questioned the width of the parking spaces at City Hall.

Project Planner, Stan Liudahl AICP stated that the parking spaces at City Hall were 8 feet, 6 inches wide.

Commissioner Jensen questioned the lighting standards for parking lots that were being proposed with respect to businesses that would only be open during normal business hours.

Project Planner, Stan Liudahl AICP stated that the proposed amendment addresses both minimum and maximum illumination standards; he stated that the current code only addresses maximum illumination standards.

Commissioner James expressed concerns regarding minimum lighting standards for sites that were not open during the evening with respect to conserving electricity.

Principal Planner, Dave Reno AICP reviewed the maximum and minimum requirements for lighting at the property line.

Commissioner James clarified the changes associated with the compact car parking spaces. He questioned if the proposed parking conditions would allow for greater building area on a lot.

Project Planner, Stan Liudahl AICP stated that the intent of the proposed amendment was to allow more flexibility in meeting the landscape standards.

Principal Planner, Dave Reno AICP stated that the "heat" affect was also a deterrent factor for the amendment, less asphalt meant less heat.

Commissioner Hahn opened Public Hearing: 8:42 PM

No Comments to Consider.

Commissioner Hahn closed the Public Hearing: 8:43 PM

Motion by Stephen James to Resolution No. PC-2010-12, as presented, recommending that the City Council introduce and place on first reading an ordinance approving Development Code Amendment (DCA10-10151), amending the parking regulations. Seconded by Julie Jensen, passed with the following roll call vote:

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

Project Planner, Stan Liudahl AICP reviewed the requirements for pedestrian connection.

PRINCIPAL PLANNER'S REPORT

Principal Planner, Dave Reno AICP gave a brief overview of DRC Action and Major Projects.

- E. DRC Comments
- F. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

No Comments to Consider.

ADJOURNMENT

Commissioner Hahn adjourned the meeting: 8:49 PM

Christ Elvert
Chair

By: Eva Heter,
Commission Secretary

ATTACHMENT 1

LUCE FORWARD

ATTORNEYS AT LAW • FOUNDED 1873

LUCE, FORWARD, HAMILTON & SCRIPPS LLP

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June 8, 2010

38415-2223 & 9780

VIA E-MAIL

Chairman Elvert and Planning Commission
City of Hesperia
Planning Commission
9700 Seventh Avenue
Hesperia, CA 92345

Re: Walgreens/Conditional Use Permit Applications CUP 10-10125 and CUP 10-10126

Dear Chairman Elvert and Planning Commission:

This firm represents Walgreens with respect to the above-referenced conditional use permit ("CUP") applications and requests for findings of public convenience or necessity ("PCN"). Walgreens is pleased to have City Staff's recommendation of approval for the CUPs and PCNs and urges the Planning Commission to accept those recommendations. We understand that the Planning Commission has previously expressed concerns about the number of alcohol retailers along Main Street where the two Walgreens stores are located, and therefore provide this letter to offer further support for the requested CUPs and PCNs.

By way of background, Walgreens presently operates a 14,560 square foot store at 17383 Main Street and a 14,490 square foot store at 15480 Main Street. Only a very small percentage of each store will be dedicated to beer and wine sales and Walgreens is not applying for a license to sell hard alcohol. Further, the decision to sell beer and wine is a direct result of customer demand that Walgreens offer the same type of "one stop" service that others in our industry (such as Rite Aid) already provide.

As you know, 35 businesses along Main Street already have the right to sell alcohol for offsite consumption. While no one can argue that 35 is a small number, those businesses are located along the approximately 6.75 mile stretch of Main Street. Additionally, as the attached City Zoning Map illustrates so well, commercial uses are prohibited in the vast majority of the City. In fact, City zoning only allows commercial development along a select few primary corridors. As a direct result, alcohol establishments that serve large segments of the City north and south of Main Street and the many people travelling along I-15 are concentrated along Main Street instead of being proportionately spread throughout the City.

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Chairman Elvert and Planning Commission

June 8, 2010

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When analyzed in context, we concur with City Staff's assessment of the potential impacts of approving Walgreens' request. For example, the latest census data indicates that the City had a population of 90,199 in 2008. Using the State Department of Alcohol Beverage Control (ABC) ratio of 1 off sale license per 1,250¹ people to determine whether an over-concentration exists, that population justifies more than 72 off-sale licenses citywide. As of June 4, 2010, excluding licenses that are confirmed to be no longer active², the City has only 68 off-sale licenses. On this basis alone, the City can and should approve Walgreens' request.

Similarly, if one focuses on Main Street, the number of licenses is not out of proportion with the number of residents and other determinants of demand. By aggregating population totals for the census tracts with residents that are likely to shop on Main Street (as illustrated in the attached map), the total year 2000 population was 49,247. Again, using the ABC ratio of 1 off sale license per 1,250 people, that portion of the City can support 39.39 off sale alcohol licenses. As only 35 of those licenses existed as of June 4, 2010, a very strong argument exists that the area in question can accommodate the addition of beer and wine sales at both Walgreens stores. As the City's overall population increased by 44% between 2000 and 2008, and the above numbers are using the year 2000 population figures, the case for approving Walgreens' request is even stronger. If you also factor in that a City commissioned Retail Site Assessment Report dated October 2007 (<http://www.cityofhesperia.us/DocumentView.aspx?DID=233>) concluded that the retail sales potential for alcoholic beverages is over \$29 million for the area within a 10 minute drive of 7th and Main Street, the Planning Commission has every reason to accept City Staff's recommendation and grant Walgreens' requests to sell beer and wine notwithstanding the number of existing off-sale alcohol establishments along Main Street.

It is also important to note that under state law, an over-concentration does not prohibit the addition of new off-sale licenses. The law recognizes that a high concentration of alcohol sales establishment, in and of itself, is not a bad thing. In fact, as a result of changes to the law adopted a few years ago, the City must analyze each request for alcohol sales on its own merits on a case by case basis. ABC will then issue the ABC license as long as the City determines that the license is a public convenience or necessity.

The City recognized the above fact when it adopted the Main Street/Freeway Corridor Specific Plan in 2008. Based on ABC records, at the time the Specific Plan became effective on

¹ Cal. Business & Professions Code, § 23817.5(a)(2).

² This number excludes stores with licenses that we know have been purchased for transfer elsewhere and licenses identified as R-65 because the individual establishment would otherwise have more than one license.

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Chairman Elvert and Planning Commission

June 8, 2010

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October 16, 2008, 32 active off sale alcohol licenses existed along Main Street. Since that date, the City has allowed 4 additional off sale licenses for gas station operators on Main Street and 1 of the original 32 licenses was retired. In other words, nothing has materially changed in terms of the concentration of off sale alcohol establishments along Main Street since the City approved the Specific Plan allowing for issuance of new alcohol establishments on a case by case basis pursuant to the CUP process.

Given all the above, the Planning Commission should follow City Staff's recommendation and allow alcohol sales at the two Walgreens stores. Further, as described in the attached document that we filed with our CUP applications, Walgreens is a publically held company with an excellent national and local reputation that it works very hard to protect. In fact, Walgreens is exactly the type of company the City wants selling alcohol. Walgreens is also different than many other alcohol sales establishment that already exist along Main Street because of its:

- (i) decades of experience selling regulated products such as pharmaceuticals and tobacco;
- (ii) proactive approach to training and responsible alcohol sales;
- (iii) focus on inventory for the casual, moderate beer and wines drinker; and
- (iv) dedication of no more than 2% of the store's floor area to alcohol sales.

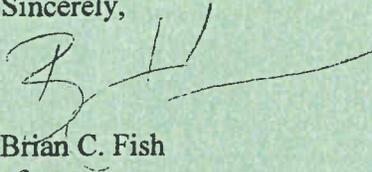
Therefore, as the sole question before the City is whether Walgreens should be allowed to sell beer and wine, the City should approve the CUPs and find that the two additional type 20 licenses are both convenient and necessary regardless of how many alcohol licenses currently exist along Main Street.

Finally, to deny Walgreens the CUPs and PCNs because of the total number of alcohol sales establishments along Main Street would be to punish a good corporate citizen for the actions of others. It is in the public's interest that Walgreens be able to compete with Rite Aid and other national retailers. Other national drug stores, including the Rite Aid stores located on 15510 Main Street and 17441 Main Street, currently sell alcohol. To deprive Walgreens of a similar product offering would be unfair and put Walgreens at a competitive disadvantage. Especially in these difficult economic times, the addition of beer and wine sales will help Walgreens keep its existing stores open and retain the combined total of 47 full and part time people employed at the stores. As a result, the approval of Walgreens' request should also help maintain or grow the sales tax revenue that Walgreens generates for the City.

Chairman Elvert and Planning Commission
June 8, 2010
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For all the foregoing reasons, we concur with City Staff's recommendation. Therefore, Walgreens respectfully request that the Planning Commission approve the requested CUP and make the PCN findings for the Walgreens stores at 17383 Main Street and 15480 Main Street.

Sincerely,



Brian C. Fish
of
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

BCF/
Enclosures

cc: Ms. Lisette Sanchez-Mendoza
Michael Redstone, Esq.

U.S. Census Bureau
American FactFinder

Legend

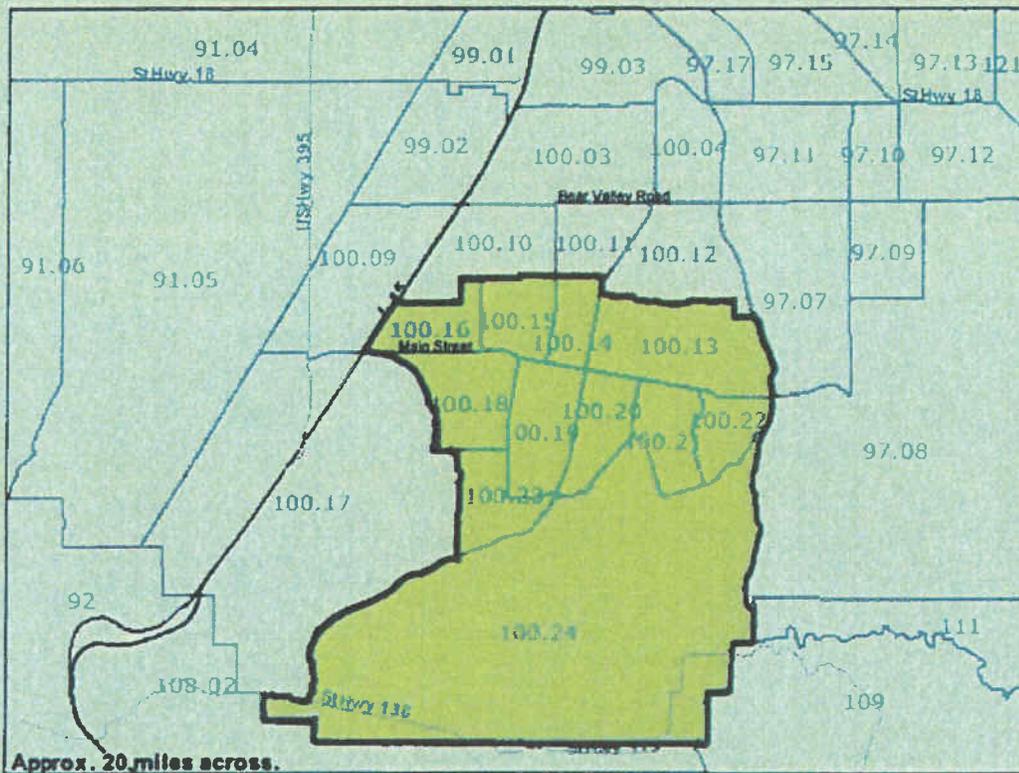
Boundaries

100 Census Tract

Features

Major Road

Street





Hesperia Zoning Map



1"=2000'

Boundaries

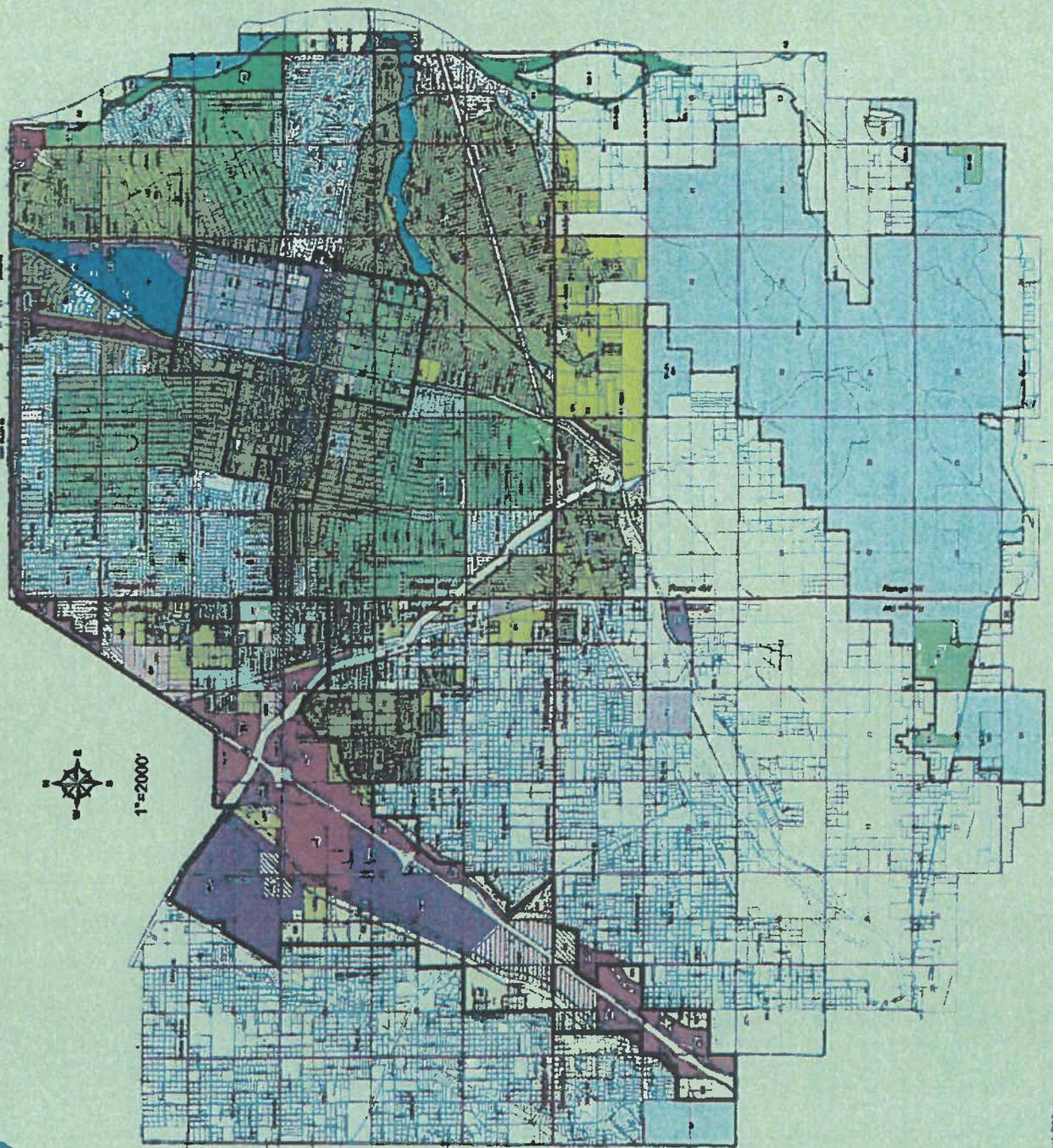
- Main St./Fwy Corridor Specific Plan
- Sections
- City Boundary
- City Sphere of Influence

Zoning

- A1 Limited Agriculture
- A2 General Agriculture
- DA Desert Agriculture
- AP Administrative/Professional Office
- C1 Neighborhood Commercial
- C2 General Commercial
- C3 Service Commercial
- PW Floodway
- I1 Limited Manufacturing
- I2 General Manufacturing
- M1 Light Industrial
- MR-EA Restricted Manufacturing
- PCD Planned Commercial Development
- PUD Planned Unit Development
- P-I Public/Institutional
- R1 Single Family Residential
- R2 Medium Density Residential
- R3 Multifamily Residential
- RR Rural Residential
- SP Specific Plan

Main St./Fwy Corridor Specific Plan

- Potential Park
- Wash Protection Overlay
- Auto Sales Commercial
- Central Business Park
- General Industrial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Mixed Use
- Neighborhood Commercial
- Office Commercial
- Office Park
- Professional Commercial
- Potential Hospital
- Public/Institutional Overlay
- Regional Commercial
- Rural Estates Residential
- Very Low Density Residential



Map prepared by the City of Hesperia, 400 Broadway, Hesperia, CA 92342. © 2013 City of Hesperia. All rights reserved. Prepared by the City of Hesperia, 400 Broadway, Hesperia, CA 92342.

**Walgreens at 15480 Main Street
Request for Determination of Public Convenience or Necessity**

Walgreens currently operates a 14,490 square foot store at 15480 Main Street in the City of Hesperia. Walgreens is seeking a conditional use permit and Type 20 License from the California Department of Alcoholic Beverage Control ("ABC") authorizing it to sell beer and wine at this store. The store is in a census tract with an undue concentration of liquor licenses, thus the ABC will not approve issuance of a Type 20 License for this store unless the City adopts a determination of public convenience or necessity.

The public convenience or necessity would be served by permitting beer and wine sales for off-site consumption at the 15480 Main Street Walgreens store. Walgreens is a national chain of retail drugstores selling prescription and over-the-counter medicines as well as a variety of general merchandise, sundries and grocery items to the public. By adding beer and wine to the grocery items offered in the store, Walgreens can better serve the surrounding community by providing its customers with the convenience of "one-stop" shopping.

Because it is part of a larger retail operation and Walgreens' standard business practices, the sale of beer and wine also will not be detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or property or improvements in the area. A recent study conducted by the State of Indiana ranked national drug stores highest in legal compliance with alcohol sales when compared to all other retailers. Along those lines, so as to ensure compatibility with surrounding neighborhoods, Walgreens has taken measures to assure that any alcoholic beverage will be sold in a highly responsible and conscientious manner. Detailed, corporate policies and procedures are already in place and will be strictly enforced. The policies and procedures may include requirements such as:

- Employees at each store must undergo training prior to beer and wine being made available for sale at the store;
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Each cash register clerk must request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register "prompts" will remind the clerks to request this proof;
- Any under-aged employees will be required to involve the manager or assistant manager for the sale of beer or wine.

Training will be accomplished through a Walgreens internal alcohol sales training program, which is required for all cashiers and managers. The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, or other business in the vicinity of this store. To prevent abuses, Walgreens will also only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle.

It should also be noted that the proposed beer and wine sales are compatible with the surrounding land uses. The store is surrounded predominantly by similarly scaled commercial retail uses. The property immediately to the east is improved with a Rite Aid store. The Friendly Medical Center is located immediately to the west of the property. Hickory Tree Plaza and the Hesperia Marketplace are located to the south and a single residential building is located immediately to the north. Walgreens' proposed sale of beer and wine will compliment these surrounding land uses.

The foregoing demonstrates that public convenience and necessity would be served and even enhanced by the sale of beer and wine at this Walgreens store. Such sales would facilitate convenient, "one-stop" shopping for Walgreens' many customers in the City of Hesperia. Sales would be conducted in a way that maximizes public safety, minimizes public nuisance and at a location that is very well suited for beer and wine sales due to the absence of sensitive land uses in close proximity. For all of these reasons, the City should adopt determination of public convenience or necessity for the proposed sale of beer and wine at Walgreens' 15480 Main Street store.

**Walgreens at 17383 Main Street
Request for Finding of Public Convenience or Necessity**

Walgreens currently operates a 14,560 square foot store at 17383 Main Street in the City of Hesperia. Walgreens is seeking a conditional use permit and Type 20 License from the California Department of Alcoholic Beverage Control ("ABC") authorizing it to sell beer and wine at this store. The store is in a census tract with an undue concentration of liquor licenses, thus the ABC will not approve issuance of a Type 20 License for this store unless the City makes a finding of public convenience or necessity.

The public convenience or necessity would be served by permitting beer and wine sales for off-site consumption at the 17383 Main Street Walgreens store. Walgreens is a national chain of retail drugstores selling prescription and over-the-counter medicines as well as a variety of general merchandise, sundries and grocery items to the public. By adding beer and wine to the grocery items offered in the store, Walgreens can better serve the surrounding community by providing its customers with the convenience of "one-stop" shopping.

Because it is part of a larger retail operation and Walgreens' standard business practices, the sale of beer and wine also will not be detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or property or improvements in the area. A recent study conducted by the State of Indiana ranked national drug stores highest in legal compliance with alcohol sales when compared to all other retailers. Along those lines, so as to ensure compatibility with surrounding neighborhoods, Walgreens has taken measures to assure that any alcoholic beverage will be sold in a highly responsible and conscientious manner. Detailed, corporate policies and procedures are already in place and will be strictly enforced. The policies and procedures may include requirements such as:

- Employees at each store must undergo training prior to beer and wine being made available for sale at the store;
- Each cash register clerk must submit a policy acknowledgement as part of the daily log-in and log-out process;
- Each cash register clerk must request identification and proof of age for any customer attempting to purchase beer or wine who appears to be under the age of 40. Pre-programmed cash register "prompts" will remind the clerks to request this proof;
- Any under-aged employees will be required to involve the manager or assistant manager for the sale of beer or wine.

Training will be accomplished through a Walgreens internal alcohol sales training program, which is required for all cashiers and managers. The training program focuses on recognizing and preventing sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, or other business in the vicinity of this store. To prevent abuses, Walgreens will also only sell beer in 6 packs, 12 packs, 18 packs and cases. Walgreens will not sell beer by the individual can or bottle.

It should also be noted that beer and wine sales would be compatible with the surrounding land uses. The store is surrounded predominantly by similarly scaled commercial retail uses. The property is within a shopping center and is therefore surrounded by other commercial uses immediately to the south and the west. The property immediately to the east is improved with a Rite Aid store and the Hesperia Square Shopping Center is immediately to the north. Further to the west is the St. George Orthodox Church, the New Life Open Doors Church is located further to the southeast and residential uses are located further to the southwest. Walgreens' sale of beer and wine will compliment these surrounding land uses.

The foregoing demonstrates that public convenience and necessity would be served and even enhanced by the sale of beer and wine at this Walgreens store. Such sales would facilitate convenient, "one-stop" shopping for Walgreens' many customers in the City of Hesperia. Sales would be conducted in a way that maximizes public safety, minimizes public nuisance and at a location that is very well suited for beer and wine sales due to the absence of sensitive land uses in close proximity. For all of these reasons, the City should make a finding of public convenience or necessity for the proposed sale of beer and wine at Walgreens' 17383 Main Street store.

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HESPERIA PLANNING COMMISSION
General Plan Workshop
June 17, 2010
MINUTES

The General Plan Workshop of the Planning Commission was called to order at 6:00 p.m. by Vice Chair Muller in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

CALL TO ORDER 6:00 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call:

Chair Chris Elvert

Vice Chair William Muller

Commissioner Joline Bell Hahn

Commissioner Stephen James

Commissioner Julie Jensen

Present: Joline Bell Hahn
Stephen James
Julie Jensen
William Muller

Absent: Chris Elvert

ITEMS FOR DISCUSSION/REVIEW

1. **Introduction/Overview**

Principal Planner, Dave Reno AICP gave a brief introduction. He introduced Principal, Nelson Miller AICP of Hogle Ireland to review the proposed plan.

Principal, Nelson Miller AICP, Hogle Ireland gave an overview of the General Plan Basics, and Elements of the General Plan; he reviewed the history of the City's General Plan and the reasons for the updated the Plan. He reviewed the goals of the General Plan Update and the purpose of the workshops. He used a PowerPoint Presentation to discuss the items for discussion (See Attachment 1).

2. **Land Use Element**

Principal, Nelson Miller AICP, Hogle Ireland reviewed the Proposed General Land Use Map; and the goals associated with Land Use.

3. Circulation Element

Principal, Nelson Miller AICP, Hogle Ireland reviewed the Circulation Element; he reviewed the Traffic Circulation Plan Map; and the goals associated with the Circulation Element.

4. Housing Element

Principal, Nelson Miller AICP, Hogle Ireland reviewed the Housing Element; he reviewed the purpose and the regional housing needs assessment; and the goals associated with the Housing Element.

PUBLIC COMMENTS/QUESTIONS

Vice Chair Muller recommended that roman numerals not be used. He also mentioned that some of the comments were ambiguous.

Principal, Nelson Miller AICP, Hogle Ireland responded to Vice Chair Muller's concerns.

Vice Chair Muller mentioned that public transportation was a necessity and he had not recalled seeing the issue within the document.

Principal, Nelson Miller AICP, Hogle Ireland reviewed the areas of the proposed General Plan that addressed public transportation.

Vice Chair Muller stated that traffic mitigation on Main Street was a concern of citizens and he stated that synchronization of signals should be a primary goal. He stated that he would like to see the City make an additional effort to mitigate traffic issues on Main Street.

Principal, Nelson Miller AICP, Hogle Ireland stated that Vice Chair Muller's concern about traffic mitigation was addressed by Implementation Policy CI-2.6.

Principal Planner, Dave Reno AICP discussed some of the concerns with public transportation specific to the mixed use area. He directed Commissioners to page XX of the Excerpts from The City's General Plan.

Commissioner Hahn questioned development at US Highway 395 & Main Street.

Principal Planner, Dave Reno AICP reviewed the area and the change in designation for the area.

Principal, Nelson Miller AICP, Hogle Ireland discussed the Hesperia Main Street and Freeway Corridor Specific Plan regional commercial development areas, stating that all of the regional commercial development areas were eligible for mixed use development.

Commissioner Hahn stated that the paseos were nice; however, it was not the same as a

mixed use area where commercial development would be located on the bottom portion of a building and residential would be on the upper floors of the same building.

Principal Planner, Dave Reno AICP stated that Commissioner Hahn's concerns were the kinds of concerns that a General Plan could address and that Staff would consider her comments.

Principal, Nelson Miller AICP, Hogle Ireland stated that the Hesperia Main Street and Freeway Corridor Specific Plan addresses much of the area that Commissioner Hahn was concerned about as well.

Commissioner Hahn questioned opportunities located around the Ranchero Underpass and Summit Valley.

Principal Planner, Dave Reno AICP stated that the area in question did not have many opportunities; due to the topography, and limited infrastructure further south.

Commissioner Hahn questioned the opportunities in the area surrounding the nursery.

Deputy Director Development Services - Community Development, Tom Harp reviewed the 4 areas of opportunity for development for the area in question.

Commissioner Jensen questioned mixed use along I Avenue and issues such as cross walks being placed in the area for safety purposes.

Principal Planner, Dave Reno AICP stated that the best chance of handling the issues on I Avenue was to have signals installed as the development of the cross sections occurs.

Principal, Nelson Miller AICP, Hogle Ireland stated that from a traffic safety standpoint, pedestrian crossing would need to be focused around controlled intersections within the area.

Commissioner James questioned if there would be liability protection associated with bike paths.

Principal, Nelson Miller AICP, Hogle Ireland stated that standards set forth by CalTrans were carefully implemented for bike lanes within the City. He also reviewed the various ways of identifying bike lanes.

Commissioner James questioned the maintenance of bike paths.

Principal, Nelson Miller AICP, Hogle Ireland stated that maintenance of bike paths was a key point and those schedules were decided by the City.

Vice Chair Muller referenced page 35 of the Excerpts from The City's General Plan,

questioning Implementation Policy: HO-1.4 regarding the wording, "special populations," and requested that the policy be reworded.

Principal, Nelson Miller AICP, Hogle Ireland stated that the wording reflected the actual language of state law; however, as long as the specific needs were addressed, the wording "special populations," could be eliminated.

Principal Planner, Dave Reno AICP stated that the wording wouldn't be deleted; however, it could be changed, to possibly read, "special needs populations."

Vice Chair Muller questioned Goal: HO-4, and the city's ability to mitigate any potential governmental constraints to housing production and affordability.

Principal, Nelson Miller AICP, Hogle Ireland stated that the California State Department of Housing and Community Development were aiming the responsibility of the constraints back at local government.

Deputy Director Development Services - Community Development, Tom Harp stated that codes were established nationwide and the City of Hesperia does not cut code requirements; nationwide codes are "minimum requirements" and to go less than the minimum requirements would not be wise.

Commissioner James questioned if minimum lot sizes of 7200 square feet were protected by the update.

Principal Planner, Dave Reno AICP stated that the lot size designations were no different than before, in terms of the map.

Principal, Nelson Miller AICP, Hogle Ireland reviewed density requirements within the city as designated on the map.

Deputy Director Development Services - Community Development, Tom Harp stated that it was not the direction given to staff to eliminate lots under 7200 square feet; however, in some areas the density was adjusted to address the specific issue that Commissioner James had mentioned.

Vice Chair Muller questioned the Regional Housing Needs Assessment numbers.

Principal, Nelson Miller AICP, Hogle Ireland reviewed the numbers in question, stating that the numbers were ultimately decided by the regional council of SCAG.

Principal Planner, Dave Reno AICP stated that SB 375 was being established to change the process of obtaining the Regional Housing Needs Assessment (RHNA) numbers. He stated that discussions were already occurring regarding what the RHNA numbers and future need.

He stated that affordable projects need to be looked at in order to identify the number of units that are affordable.

Commissioner Jensen questioned the consequences of not meeting RHNA requirements.

Principal Planner, Dave Reno AICP stated that the city could conceivably be told to stop building as a consequence of not meeting RHNA requirements; pulling transportation funding was also an additional penalty being looked at for not having a current housing element that meets RHNA requirements. He also stated that it wasn't a matter of building the units; it was a matter of showing that the city was making every effort to include the RHNA requirements within the plan and that the City of Hesperia can show that the plan includes affordable housing.

Vice Chair Muller Opened Public Comments: 7:21 PM

Percy Bakker, Hesperia Resident stated that the City should install bike lanes. He also stated that large areas where large animals were allowed should be preserved.

Commissioner Hahn stated that the trail system for horses was diminishing.

Kim Jones, Hesperia Resident stated that she agreed with Percy Bakker and Commissioner Hahn's comments regarding preserving the area for large animals. She shared concerns about not being able to have small breed hogs and cattle in her area.

Al Vogler, Hesperia Resident questioned if speakers were restricted to three minutes during the public comments section. He stated that he lived west of Maple and felt that it should be a goal of the City to preserve the areas for equestrian, farming, and ranching communities; he was concerned about higher density development driving out these areas.

Vice Chair Muller addressed Al Vogler's concerns about the time allotted to speak; he stated that the three minutes, if not sufficient enough to express all that the speaker would like to express, should be followed up by a letter to staff.

Vice Chair Muller Closed Public Comments: 7:35 PM

FOLLOW-UP QUESTIONS

No Comments to Consider.

ADJOURNMENT

Vice Chair Muller Closed the Planning Commission Workshop: 7:36 PM

Eva Heter
Commission Secretary





City of Hesperia

General Plan Update

Planning Commission Workshop

Overview, Land Use, Circulation and Housing Elements

General Plan Basics

- State law requires a comprehensive, long-term General Plan for the physical development of the City – the “constitution” for future development
- The General Plan serves to:
 - Identify policies as they relate to land use & development
 - Provide a basis for local governmental decision-making
 - Provide citizens with opportunities to participate
 - Inform decision-makers, citizens, developers, and others of the ground rules that guide development

Elements of the General Plan

- Seven elements mandated by State law:
 - Land Use
 - Conservation
 - Safety
 - Open Space
 - Circulation
 - Noise
 - Housing
- The policies and components of the General Plan have equal status and must be internally consistent

History of the City’s General Plan

- Prior to Incorporation of the City
 - Hesperia – Baldy Mesa Community Plan – 1974
- Incorporation of the City in 1988
 - Interim Plan – 1989
 - First City General Plan – 1991
 - Housing Element Update – 2002
 - Circulation Element Update - 2002

Why Update the General Plan?

- To reflect current conditions & new directions
 - Annexations - Area has grown from 50 to 75 sq. miles
 - Main Street/Freeway Corridor Specific Plan adopted
 - Current traffic modeling
- To be consistent with new laws & requirements
 - Housing Element Update
 - Positions the City to address Climate Change issues
- To resolve inconsistent land use designations
 - One-map system for General Plan & Zoning
- Environmental background & baseline information

Goals of the General Plan Update

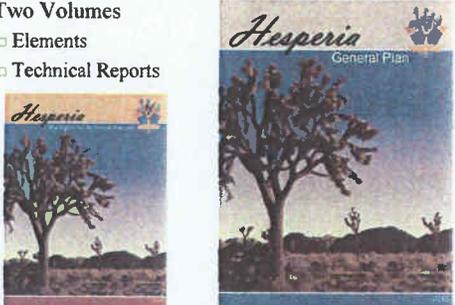
- Preserve existing neighborhoods & lot sizes
- Enhance the quality of life in residential areas with required standards & amenities
- Reinforce efforts for local job base & sales tax producing businesses
- Establish circulation system & standards
- Recognize greenways & mixed use developments in Main Street/Freeway Specific Plan
- Provide for housing alternatives for seniors & all income levels

Purpose of Workshops

- To review proposed General Plan
 - **June 17 - Workshop 1**
 - Land Use
 - Circulation
 - Housing
 - **June 24 - Workshop 2**
 - Noise
 - Safety
 - Open Space
 - Conservation
 - EIR & CAP

Overview

- Two Volumes
 - Elements
 - Technical Reports



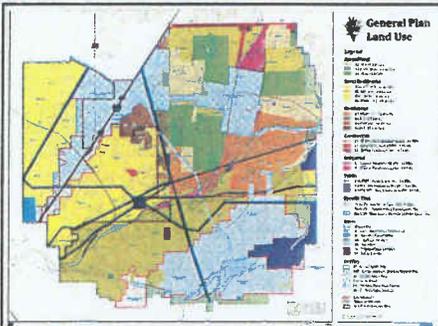
Overview

- Organization of Elements
 - Background
 - Interrelationship with Other Statutes and Elements
 - Issues
 - Goals
 - Implementation Policies
- Sustainable Goal/Policy 

Land Use Element

- Single Map System
 - General Plan Designations = Zoning Designations
- 8 Goals
 - 54 Implementation Policies

Land Use Element



Land Use Element

**Goal LU-1
Density and Intensity**

Regulate development so that the density of residential development and the intensity of non-residential development are appropriate to the property, surrounding properties, and the general neighborhood

(4 Implementation Policies)

Land Use Element 

**Goal LU-2
Residential**

Protect and enhance the quality of life by ensuring residential development is visually pleasing and compatible with existing uses and neighborhoods as well as the natural desert environment

(9 Implementation Policies)

Land Use Element 

**Goal LU-3
Commercial**

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

(13 Implementation Policies)

Land Use Element 

**Goal LU-4
Industrial**

Promote industrial development within the City which will expand its tax base and provide a range of employment activities, while not adversely impacting the community or environment

(9 Implementation Policies)

Land Use Element 

**Goal LU-5
Public Uses**

Designate and protect land for public uses to serve the needs of the community for schools, parks, community facilities, open space, utilities and infrastructure

0 Implementation Policies

Land Use Element 

**Goal LU-6
Sustainability**

Promote sustainable development and building practices in all facets of project development through completion of construction

(7 Implementation Policies)

Land Use Element 

**Goal LU-7
Community-wide Quality of Life and Property**

Facilitate a self-contained community with a well-designed and maintained community with a full range of densities and uses within the capacity of infrastructure and services

(7 Implementation Policies)

Land Use Element



Goal LU-8 Community-wide Quality of Life and Property

Provide for a fiscally sound and balanced mix of land uses with the best and most efficient use of infrastructure and services. Development shall occur in an orderly, beneficial manner that does not fiscally impact the existing community

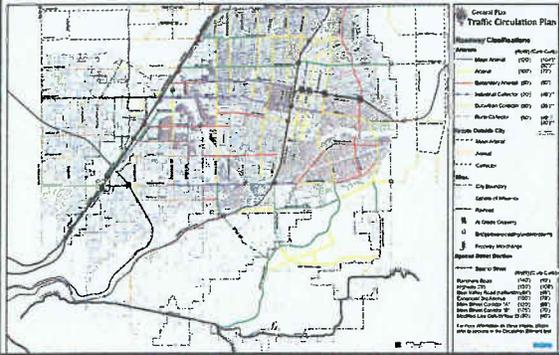
(5 Implementation Policies)

Circulation Element



- Circulation Map
- 17 Prototype Cross Sections
- 7 Roadway Specific Cross Sections
- 5 Goals
 - 34 Implementation Policies

Circulation Element

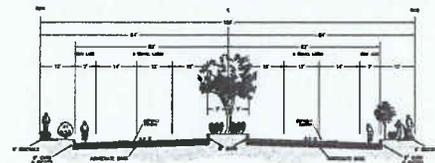


Circulation Element



Example of Prototype Cross Section

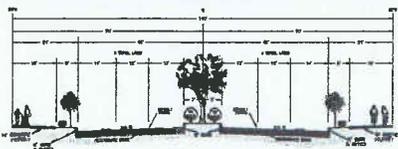
Major Arterial 128' ROW – with Bike Lane



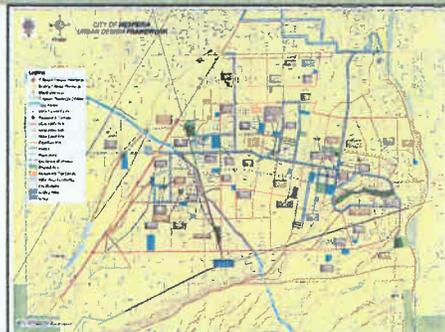
Circulation Element

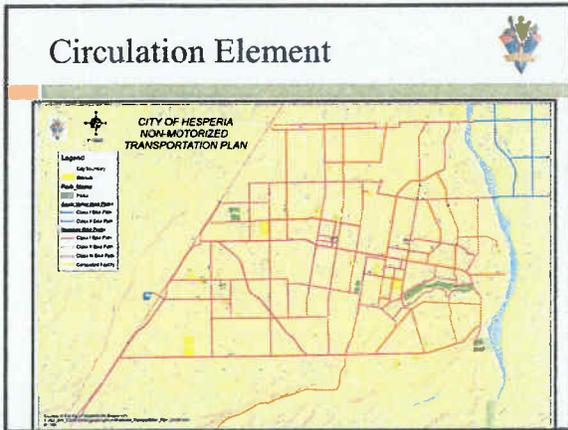


Example of Roadway Specific Cross Section Ranchero Road



Circulation Element





Circulation Element

**Goal CI-1
Street Classification and Transportation Plan**

Develop a safe, efficient, convenient, and attractive transportation system throughout the community, providing links within the City and with neighboring regions, and accommodating automobile, truck, pedestrian, recreational, equestrian, rail, air, and public transit needs which will meet current and future development requirements within the planning area

(14 Implementation Policies)

Circulation Element

**Goal CI-2
Roadway Classifications**

Develop and implement a City-wide Congestion Management Plan

(8 Implementation Policies)

Circulation Element

**Goal CI-3
Highway Corridors**

Provide for a system of arterial and local streets that links the City to other communities and regional facilities, while providing motorists with easily accessible routes to various facilities within the City

(3 Implementation Policies)

Circulation Element

**Goal CI-4
Goods and Services**

Provide a circulation system that facilitates the movement of goods and services throughout the City while protecting residences, sensitive land uses, and pedestrians from activities along rail and truck corridors

(5 Implementation Policies)

Circulation Element

**Goal CI-5
Public Transit**

Provide for a strong and balanced public transit infrastructure

(4 Implementation Policies)

Housing Element



- For Period of 2008 – 2014
- Subject to State Housing and Community Development Regulations
- Must Address Regional Housing Needs Assessment (RHNA) allotment
- 5 Goals
 - 19 Policies
 - 20 Programs

Housing Element



- Purpose:
 - To conserve and improve existing affordable housing
 - To provide adequate housing sites
 - To assist in the development of affordable housing
 - To remove governmental and other constraints to housing development
 - To promote equal housing opportunities

Housing Element



REGIONAL HOUSING NEEDS ASSESSMENT

| Income Categories | 2004 RHNA | Needs Already Met | Remaining RHNA |
|------------------------|-----------|-------------------|----------------|
| Extremely Low/Very Low | 2,135 | 213 | 1,922 |
| Low | 1,469 | 351 | 1,118 |
| Moderate | 1,707 | 194 | 1,513 |
| Above Moderate | 3,784 | 1,024 | 2,760 |
| Total | 9,095 | 1,782 | 7,313 |

Housing Element



Goal -1 Provision of Affordable Housing

Assist in the provision of housing that meet the needs of all economic segments of the community

(5 Policies)
(7 Programs)

Housing Element



Goal -2 Conservation of Existing Housing Stock

Maintain and enhance the existing viable housing stock and neighborhoods within Hesperia

(6 Policies)
(7 Programs)

Housing Element



Goal -3 Provision of Adequate Housing Sites

Provide suitable sites for housing development which can accommodate a range of housing by type, size, location, price, and tenure

(4 Policies)
(2 Programs)

Housing Element

**Goal -4
Removal of Governmental Constraints**

Mitigate any potential governmental constraints to housing production and affordability

(1 Policy)
(3 Programs)

Housing Element

**Goal -5
Provide Equal Housing Opportunities**

Continue to promote equal housing opportunity in the City's housing market regardless of age, race, sex, marital status, ethnic background, source of income, and other factors

(3 Policies)
(1 Program)

June 24 - Workshop 2

- ❑ Noise
- ❑ Safety
- ❑ Open Space
- ❑ Conservation
- ❑ Climate Action Plan
- ❑ Environmental Impact Report

Questions & Public Input



Overview, Land Use, Circulation and Housing Elements

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HESPERIA PLANNING COMMISSION
General Plan Workshop
June 24, 2010
MINUTES

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

CALL TO ORDER 6:00 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call:

Chair Chris Elvert

Vice Chair William Muller

Commissioner Joline Bell Hahn

Commissioner Stephen James

Commissioner Julie Jensen

Present: Joline Bell Hahn
Stephen James
Julie Jensen
William Muller

Absent: Chris Elvert

ITEMS FOR DISCUSSION/REVIEW

1. **Introduction/Overview**

Principal Planner, Dave Reno AICP gave brief introduction.

Principal, Nelson Miller AICP, Hogle Ireland gave a brief introduction and with the use of a PowerPoint presentation (See Attachment 1), discussed the following elements and reports:

4. **Open Space**

5. **Conservation**

2. **Noise**

3. **Safety**

6. **Climate Action Plan**

7. **Environmental Impact Report**

PUBLIC COMMENTS/QUESTIONS

Commissioner James referenced Open Space Policy: OS-3.1; questioning if there had been any further development of a policy to implement the Transfer of Development Rights (TDR) Program.

Principal, Nelson Miller AICP, Hogle Ireland stated that the Policy, OS-3.1 would be the policy to point the direction for implementation of the TDR Program.

Principal Planner, Dave Reno AICP reviewed the areas that would be considered when implementing the TDR Program.

Commissioner James also questioned Implementation Policy: CN-8.1; questioning the coordination and if coordination had begun.

Principal Planner, Dave Reno AICP stated that coordination had not begun and wasn't anticipated to be complete until approximately 2012; he reviewed the process of identifying policy goals and the requirements pursuant to SB 375 and the next RHNA.

Deputy Director Development Services - Community Development, Tom Harp stated that he and Dave had met with Sandbag approximately 9 months ago. He reviewed the process that had occurred up to the present time, including the process of coordination with Sandbags. He reiterated Dave Reno's comment that a finished plan wasn't to be expected until about the year 2012.

Principal, Nelson Miller AICP, Hogle Ireland reviewed inventories and strategies that would be required; stating that Jones and Stokes would prepare individual inventories by 2012. He also stated that the City of Hesperia was ahead of the curve in planning for these individual inventories and reports required by AB 32 and SB 375.

Principal Planner, Dave Reno AICP stated that city staff and elected officials had repeated expressed to SCAG and Sanbag that when addressing the concerns and the process that there wasn't just a one size fits all for the region. Therefore, the climate action plan addresses many of the concerns that can be focused upon in order to focus on goals that can be accomplished and would add more individuality to the individual plan.

Commissioner James questioned CN-8.4 Greenhouse gases and the possibility that windmills would be more prominent within the city.

Principal, Nelson Miller AICP, Hogle Ireland discussed the DCA that the city had already implemented in order to enact state requirements for alternative energy which allows builders/developers to meet the requirements.

Commissioner James questioned the Climate Action plan: AQ-3, questioning how the calming of traffic would help on emissions.

Principal, Nelson Miller AICP, Hogle Ireland discussed emissions, stating that maintaining a constant speed helps reduce emissions.

Commissioner James questioned the synchronization of traffic signals.

Principal, Nelson Miller AICP, Hogle Ireland discussed the synchronization of traffic lights and the narrowing of roadway in order to reduce emissions by maintaining a constant speed.

Commissioner Jensen questioned Nelson Miller's suggestion to complete the Climate Action Plan separate from the General Plan.

Principal, Nelson Miller AICP, Hogle Ireland stated that a lot of the reasoning had to do with the city's ongoing effort to work with Sanbag and updated the plan according to AB 32 and SB 375 by 2012. The climate action plan will need to be changed in order to respond to State requirements without having to revise the General Plan, which is limited to four amendments a year.

Commissioner Jensen questioned traffic congestion on "I" Avenue and Lemon.

Principal, Nelson Miller AICP, Hogle Ireland reviewed the circulation element with respect to ultimate build-out.

Commissioner Jensen stated that it had just been reported that windmills were not as efficient as other forms of alternative energy. She also questioned the reasoning for not synchronizing traffic lights.

Deputy Director Development Services - Community Development, Tom Harp stated that synchronizing signals had occurred in the past and that certain areas on Main Street were certainly being considered for future synchronization. He stated that although cost was a concern there were a lot of variables, which include but are not limited to technology, traffic speed, and cost.

Commissioner Hahn questioned the Level of Service (LOS) F that Nelson Miller had discussed, stating that the intersection of Main Street and E Avenue would be taken care of by the underpass and that there was a possibility that Main Street and 7th Avenue would require a greater level of service.

Deputy Director Development Services - Community Development, Tom Harp stated that all of the intersections studied were looked at from the perspective of build out conditions and it was determined that all of the intersections listed under "LOS F" would have traffic issues. He further stated that the council would need to adopt is a statement of overriding conditions, which states that the city is aware of the findings and accepts the finding as a cost of doing business to have the proposed circulation plan with a projected population of 243,000 people at build out.

Principal Planner, Dave Reno AICP stated that the population was projected at 243,000 people at build-out.

Deputy Director Development Services - Community Development, Tom Harp reviewed the process of right of way dedications for the development of the arterial roadways and the proposed circulation plan.

Commissioner Hahn was concerned about traffic circulation in the industrial area on the east side of the railroad track.

Deputy Director Development Services - Community Development, Tom Harp reviewed the traffic concerns for the industrial area, east of the railroad tracks.

Principal, Nelson Miller AICP, Hogle Ireland stated that some potential improvements were being proposed to improve the area of concern. He also mentioned that development continues to occur; there was a possibility of transportation mode shifts and changes in trip generation uses.

Commissioner Hahn discussed concerns regarding traffic on 3rd and 7th Avenue.

Deputy Director Development Services - Community Development, Tom Harp reviewed the flow of traffic and the proposed plans for 3rd Avenue accessing Main Street.

Principal, Nelson Miller AICP, Hogle Ireland reviewed the circulation of traffic within the City of Hesperia and the outer lying areas; stating that the traffic would flow on arterial roadways that flow all the way through the City.

Commissioner Hahn mentioned a dangerous curve and additional safety concerns on 3rd Avenue.

Principal, Nelson Miller AICP, Hogle Ireland stated that while studying the circulation of traffic throughout the city, staff tried to identify many of the corridors that have the same concerns that Commissioner Hahn was identifying with 3rd Avenue; he discussed circulation concerns and linking the plan to circulation plans outside the city and the issues surrounding the Mojave River.

Commissioner Hahn questioned the city's ability to pay for the greenhouse gas affects; she stated concerns about the cost for construction with respect to energy conservation. She also questioned the stability of windmills as a substantial source of alternative energy.

Deputy Director Development Services - Community Development, Tom Harp stated that the market would mandate the use of wind generators. He stated that if the expectations of investors were not met, then the people will not invest in windmills.

Principal, Nelson Miller AICP, Hogle Ireland discussed unit costs and the variations that occur over time when dealing with alternative energy.

Commissioner Hahn questioned the control of toxic waste and protection of the City's water source during flash flooding.

Principal, Nelson Miller AICP, Hogle Ireland reviewed good business policies when dealing with run-off water. He stated that the proposal mentions the best practices for water quality protection.

Commissioner Hahn referenced the Summary of Goals, Implementation of Policy: SF-1.8, potentially hazardous structures. She stated that there were a lot of things being mandated even though within recent history had shown that some older structures performed better during an earthquake than some of the newer structures.

Principal, Nelson Miller AICP, Hogle Ireland reviewed possibilities for reducing property loss, damages, and injury when dealing with natural disasters.

Vice Chair Muller referenced CN-3 and OS-2, he questioned the delineation of the Mojave River.

Principal, Nelson Miller AICP, Hogle Ireland stated that the Mojave River was designated to start at the River Forks Dam.

Vice Chair Muller questioned the language of Implementation Policy: SN-1.4.

Principal, Nelson Miller AICP, Hogle Ireland stated that within the noise element there were areas identified that the exterior sound levels exceed 60 dBA CNEL, which would require an acoustical analysis in order to limit the interior noise environment to 45 dBA CNEL.

Deputy Director Development Services - Community Development, Tom Harp stated that an acoustical analysis has been a standard procedure for many years.

Vice Chair Muller referenced Implementation Policy: CN-1.6, encouraging the use of low-water consumption fixtures in homes and businesses, he questioned the information that was being provided to home owners and builders.

Deputy Director Development Services - Community Development, Tom Harp stated that the State Code has 17 new measures that would become mandatory in January, 2011. The mandates require every new home would require a water conservation budget, showing a 20% reduction in water usage. Therefore, water conservation fixtures would be required as part of the budget, showing the reduction in water usage. He stated that the City offers incentives for the water conservation program and provides homeowners and builders with information in order to help in the navigation and conformance with the new mandates.

Vice Chair Muller referenced the Seismic Hazards Implementation Policies: SF-1.10 and SF-1.11, and questioned the updates to the seismic maps for the area. He stated that he would like to see an informational packet sent out to citizens regarding seismic hazards. He also questioned Implementation Policy: SF-5, questioning the reference to civil unrest.

Deputy Director Development Services - Community Development, Tom Harp stated that the seismic mapping within the proposal was much more recent than some of the resources Vice Chair Muller had previewed. He also addressed Vice Chair Muller's question regarding civil unrest, stating that there were a number of catastrophic occurrences that could cause civil unrest and it was the City's responsibility to deal with such an occurrence.

Commissioner Hahn stated that the City of Hesperia was one of the most active in emergency operation services within the entire San Bernardino County. She stated that the evacuation of animals and maintaining communication within the city was very active with an outstanding group of volunteers.

Vice Chair Muller questioned who provides the oversight of the goals and policies.

Principal, Nelson Miller AICP, Hogle Ireland stated that Dave Reno was ultimately responsible for maintaining the goals and policies and providing an annual reporting to the state and the legislative body regarding the progress with respect to the goals and policies.

Principal Planner, Dave Reno AICP stated that pursuant to the Housing Element the Redevelopment Agency also provides an annual report of affordable housing within the area to HCD.

Deputy Director Development Services - Community Development, Tom Harp stated, ultimately it was the City Manager who was responsible for implementation and maintenance of the goals and policies; however, Dave Reno serves as the coordinator for reporting.

Vice Chair Muller Opened Public Comments: 7:39 PM

Al Vogler, Hesperia Resident expressed his concern about the limited speaking time. He further discussed a letter that he submitted as public record to the Commission (See Attachment 2).

Kim Jones, Hesperia Resident discussed the flood area on Main Street. She also stated that she would like to see the areas for animals preserved.

Vice Chair Muller Closed Public Comments: 7:45 PM

Principal Planner, Dave Reno AICP reviewed the upcoming schedule.

ADJOURNMENT

Vice Chair Muller Closed the Planning Commission Workshop: 7:47 PM

Eva Heter
Commission Secretary





City of Hesperia

General Plan Update

Planning Commission Workshop 2
June 24, 2010

Open Space, Conservation, Noise and Safety Elements
Climate Action Plan and EIR

Open Space Element



- Open Space
- Threatened and Endangered Species
- Resource Management
- Recreation
- Paths and Trails
- 6 Goals
 - 22 Implementation Policies

Open Space Element



Goal OS -1
Preservation of Threatened, Endangered and Sensitive Species

Designate, maintain, and enhance the quality of permanently protected open space used by native species

(2 Implementation Policies)

Open Space Element



Goal OS - 2
Scenic Resources, Rivers, and Washes

Identify and preserve natural open space in order to protect sensitive environments and preserve amenities such as washes, bluffs, Joshua tree forests, or juniper woodlands. Open space areas should be contiguous or connected through trails to provide accessibility for hikers as well as wildlife.

(4 Implementation Policies)

Open Space Element



Goal OS - 3
Scenic Resources, Rivers, and Washes

The areas within the Oro Grande Wash and the Unnamed Wash east of Interstate 15 identified as Area A, B and C of Exhibit OS -7 (*Undisturbed Wash Areas*) shall be preserved in their natural state

(1 Implementation Policy)

Open Space Element



Goal OS - 4
Scenic Resources, Rivers, and Washes

Permit a variety of uses within open space areas, depending upon the natural amenities available

(3 Implementation Policies)

Open Space Element



Goal OS - 5 Parks and Community Facilities

Continue to work with the Hesperia Recreation and Park District to create and maintain a diverse park system that includes parks, community facilities, natural open space areas, and trails for residents to enjoy

(8 Implementation Policies)

Open Space Element



Goal OS - 6 Paths and Trails

Continue to work with the Hesperia Recreation and Park District to create and maintain a diverse park system that includes parks, community facilities, natural open space areas, and trails for residents to enjoy

(8 Implementation Policies)

Conservation Element



- Water Resources
- Rivers and Other Waters
- Soils
- Mineral Resources
- Biological Resources
- Historical, Paleontological, And Cultural Resources
- Aesthetic Resources
- Agricultural Resources
- Energy
- Global Climate Change
- Air Quality

- 8 Goals
- 47 Implementation Policies

Conservation Element



Goal CN - 1 Conservation of Water Resources

Conserve water resources within the Upper Mojave River Groundwater Basin

(7 Implementation Policies)

Conservation Element



Goal CN - 2 Water Reclamation

Establish building and development standards to maximize the reclamation of water resources

(6 Implementation Policies)

Conservation Element



Goal CN - 3 Rivers and Other Waters

Minimize development and set aside necessary open space near and along the surface waters as well as those washes and other water passageways located in the City to preserve and protect plant and animal species and their natural habitat dependent on such surface waters and water ways

(2 Implementation Policies)

Conservation Element 

**Goal CN – 4
Biological Resources**

Establish policies and regulations to protect the natural environment and habitat of the cities biological resources

(5 Implementation Policies)

Conservation Element 

**Goal CN – 5
Historical, Paleontological, and Cultural Resources**

The City shall establish policies and procedures in compliance with state and Federal laws and regulations to identify and properly protect found historical, cultural and paleontological artifacts and resources

(5 Implementation Policies)

Conservation Element 

**Goal CN – 6
Energy Resources**

Provide programs and incentives to encourage residents, businesses and developers to reduce consumption and efficiently use energy resources

(7 Implementation Policies)

Conservation Element 

**Goal CN – 7
Greenhouse Gases**

Develop, promote and implement policies to reduce and limit Greenhouse Gas Emissions

(9 Implementation Policies)

Conservation Element 

**Goal CN – 8
Air Quality**

Implement policies and measures to reduce air pollution and emissions of pollutants

(6 Implementation Policies)

Noise Element 

- Noise Mitigation
- Site Planning
- Barriers
- Building design
- 2 Goals
 - 18 Implementation Policies

Noise Element 

**Goal NS – 1
Site Planning**

Achieve and maintain an environment which is free from excessive or harmful noise through identification, control and abatement

(16 Implementation Policies)

Noise Element 

**Goal NS – 2
Building Design**

Achieve and maintain an environment which is free from excessive vibration

(2 Implementation Policies)

Safety Element 

- Seismic and Geologic Hazard
- Flooding Hazards
- Fire Hazards
- Hazardous Materials
- Disaster Preparedness, Response and Recovery
- 5 Goals
 - 48 Implementation Policies

Safety Element 

**Goal SF – 1
Seismic and Geologic Hazards**

Minimize injury, loss of life, property damage and economic and social disruption caused by seismic shaking and other earthquake-induced hazards, and by geologic hazards such as slope instability, compressible and collapsible soils, and subsidence

(11 Implementation Policies)

Safety Element 

**Goal SF – 2
Flooding Hazards**

Minimize injury, loss of life, property damage and economic and social disruption caused by flooding and inundation hazards

(10 Implementation Policies)

Safety Element 

**Goal SF – 3
Fire Hazards**

Reduce the risk of death, injury, property damage and economic loss due to vegetation and structure fires

(10 Implementation Policies)

Safety Element

**Goal SF – 4
Hazardous Materials**

Reduce the potential for hazardous materials contamination in Hesperia

(7 Implementation Policies)

Safety Element

**Goal SF – 5
Disaster Preparedness, Response, and Recovery**

Plan for emergency response and recovery from natural disasters, especially from flooding, fire, and earthquakes, and from civil unrest that may occur following a natural disaster

(10 Implementation Policies)

Climate Action Plan

Purposes

- Outline actions to reduce per capita greenhouse gas emissions 28 percent below business as usual by 2020
- Provide clear guidance when and how to implement key provisions
- Establish implementation and monitoring framework

Climate Action Plan

- Coordinates with Goals/Policies of General Plan
- Appendix K of Environmental Impact Report
- 14 Policies
 - 72 Implementation Actions

Climate Action Plan

14 Strategy Areas

| | |
|-------------------------------|----------------------------------------------------------------------------|
| CEQA Compliance | Mixed Use Development |
| Transit Oriented Development | Compact Development |
| Pedestrian Connections | Bicycle Infrastructure |
| Traffic Calming | Parking Measures |
| Energy Efficiency | Water Conservation and Reuse |
| Waste Reduction and Recycling | Regional Cooperation |
| Government Operations | Climate Change Adaptation To Potential Increases In Wildfires And Flooding |

Environmental Impact Report

- Program EIR
- Subsequent Projects Require CEQA Analysis
- 66 Thresholds Have No Impact Or Less Than Significant Impact
- 8 Thresholds Mitigated To Less Than Significant
- 6 Thresholds Remain Significant And Unavoidable
 - Require Finding Of Overriding Considerations
- 19 Mitigation Measures

Environmental Impact Report 

SIGNIFICANT AND UNAVOIDABLE

AQ-2 Result in construction emissions that would contribute substantially to an existing or projected air quality violation.

AQ-3 Result in operational emissions that would contribute substantially to an existing or projected air quality violation

Environmental Impact Report 

SIGNIFICANT AND UNAVOIDABLE

AQ-4 Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors) – Non Attainment for ozone and PM10

N-3 Result in a substantial permanent increase in ambient noise levels in the City

Environmental Impact Report 

SIGNIFICANT AND UNAVOIDABLE

T-1 Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system

T-2 Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways

Environmental Impact Report 

Intersections with Level of Service (LOS) Greater than D

LOS E:

- I Ave & Danbury Ave
- I Ave & Lemon St

LOS F:

- Main St & Rock Springs Rd
- Main St & E Ave
- Main St & C Ave
- Main St & 3rd Ave
- Main St/Phelan Rd & Hwy 395
- Phelan Rd & Baldy Mesa Dr
- Hwy 395 & Smoketree Rd
- I-15 SB Ramp at Oak Hill Rd
- I-15 NB Ramp at Bear Valley Rd
- Hesperia Rd & Eucalyptus St

Environmental Impact Report 

- EIR's are required where impacts are found to be significant and unavoidable
- Impacts which are Significant and Unavoidable require Findings of Overriding Considerations
- Overriding Findings document why the Agency adopts a project (The General Plan) even though impacts are found to be significant and unavoidable
- Overriding Findings were made for adoption of the City's current General Plan and typically apply for adoption any City's General Plan

Questions & Public Input



ATTACHMENT 2

Hesperia Planning Commission
2010 General Plan
Workshop Meeting

RECEIVED
CITY CLERKS OFFICE
CITY OF HESPERIA

2010 JUN 24 PM 2: 05
June 24, 2010

The following suggestions are intended to benefit the city of Hesperia and they do not necessarily coincide with the vision of staff but it is believed that full-time Hesperia residents will most fully benefit.

1. Main Street circulation should follow a safe, efficient, convenient and as congestion free plan as possible. Considering the above, the City of Hesperia should not plan to implement a raised median divider system between Peach St. and Maple Ave. It seems clear that the intent is to slow, even further, Main St. traffic flow through the use of the raised median divider device, which it would do. Turn pockets will accomplish this. Landscaped raised median dividers will prohibit the flow of safety vehicles as well as access to businesses. This has been shown in the areas where dividers exist. It can be argued that a Rancho Rd. underpass will lessen Main St. traffic but that may be only a temporary artifact. Hesperia has spent millions of dollars on it's road plan implementation but very little on Main St. Full time residents use Main St. several times per day as do people who drive through our city regularly. They have carried the burden of excessive traffic congestion for years with nothing to show for continuous promises which have been made. It is time to improve Main St. traffic flow by implementing a ten year old promise to synchronize Main St. traffic signals from Peach St. through Topaz. The money has been available and is available. It has been proposed in the 2010-2011 City of Hesperia budget that no money be spent on the cities road development plan. The timing for Main St. signal synchronization would seem to be perfect despite budget constraints. The issue is important enough that the list of CIP projects could be modified and the synchronization issue receive the priority it deserves. There has always been a reason not to accomplish synchronization. The most important reason of all, the safety and convenience of the taxpayers, has been ignored. As currently designed, Main St. will have to carry the increasing and encouraged burden of truck traffic coming particularly from north of Main St. off of C, E, G, and I Avenues. New businesses being encouraged in this area is very inefficient particularly as trucks turn onto and from the side streets with a very narrow turn radius. This additionally highlights the need for increased and improved traffic safety and flow along Main St.
2. Land use- The issue of constructing gas stations not only in rural areas but adjacent to the Mojave River bed and underground aquifer requires a general plan review and implementation of zoning or other appropriate measure preventing such developments. Underground gasoline storage tanks leak. There is no financially

affordable fool proof system preventing such. Additionally, run-off waters from gasoline stations contain a variety of contaminants. Therefore, I propose that no gasoline stations be permitted within one mile, or so, of the center line of the Mojave River bed, the source of some of the highest quality water in the Victor Valley. The water table along the river bed is as close as twenty feet under the river bed surface. Far too close to potential contamination by leaking gasoline and petroleum products. Rock Springs Rd. is an example of, but not limited to, an area which requires a safe and proactive approach to problem solving.

3. Land Use- In an advertisement placed in a local newspaper by the City of Hesperia, for the purposes of legally advertising the General Plan workshop meetings, one item particularly caught my attention. To paraphrase, the item stated "...to prevent the premature development of property..." This matter requires specific definition. Does this mean, for instance, that zoning or other preventative measures will be taken to prevent property owners from dividing their property for future sale, at the whim of the city? If not, what is intended? Goal number 4 under the housing element, "Removal of governmental constraints" appears on the surface to be contradictory.
4. A stated goal in the workshop public summary packet is to "Enhance the Quality of Life." Exactly what is quality of life and for whose purposes? Does the definition cater to high density developers and the creation of taxes at any cost or to the residents of Hesperia who have moved here to escape the pressures of high density development and commercialization?

Sincerely,

Al Vogler
Hesperia resident and
Taxpayer



DATE: July 8, 2010
TO: Planning Commission
FROM: Dave Reno, Principal Planner *DR*
BY: *LSM* Lisette Sánchez-Mendoza, Assistant Planner
SUBJECT: Consideration of Conditional Use permit to establish the sale of beer and wine for on-site consumption at and allow an entertainment venue within an existing restaurant located at 17376 Main Street (Applicant Jose Magaña; APN: 0410-135-50).

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2010-14 approving Conditional Use Permit CUP10-10142.

BACKGROUND

Proposal: Conditional Use Permit to establish the sale of beer and wine for on-site consumption and establish an entertainment venue at an existing restaurant (Attachment 1).

Location: 17376 Main Street (Attachment 1).

Current General, Plan, Zoning and Land Uses: The site is within the Planned Mixed Use (PMU) General Plan Land Use Designation and Neighborhood Commercial (NC), as part of the Main Street and Freeway Corridor Specific Plan. The site is currently developed with commercial buildings and the site is surrounded by commercial uses.

ISSUES/ANALYSIS:

Land Use: A Type 41 license is proposed, which would allow the sale of beer and wine for on-site consumption at an existing Mexican restaurant. As part of the Main Street and Freeway Corridor Specific Plan, the Neighborhood Commercial requires all alcohol uses and entertainment venues apply for a conditional use permit. The Department of Alcoholic Beverage Control (ABC) requires cities to make a finding of public convenience or necessity if an over-concentration of licenses within a census tract occurs. The subject property is located in Census Tracts 100.13 (Attachment 2). ABC has determined that the site is located in over concentrated census tract, as the census tract currently exceed ABC license limitations by one license. Census Tract 100.13 currently has seven licenses (Table 1).

Table 1 Existing On-Sale Licenses in Census Tract 100.13 (17376 Main Street)

| Location | Business Name | ABC License Type |
|-------------------|------------------------------|-----------------------------|
| 17398 Main Street | Carrows | 41 – beer and wine |
| 17348 Main Street | Pascos Pizza | 41 – beer and wine |
| 17122 Main Street | Rocks Club Sports Bar | 48 – beer and wine |
| 16988 Main Street | Sizzler Restaurant | 41 – beer and wine |
| 16922 Main Street | El Charro Mexican Restaurant | 41 – beer and wine |
| 16922 Main Street | Madz Pizza and Pasta | 41 – beer and wine |
| 10230 E Avenue | Moose Lodge | 51 – beer, wine, and liquor |

In addition, the Planning Commission has previously expressed concerns over the proliferation of establishments selling alcohol along Main Street. For this reason, staff researched all active ABC licenses for the off-site sale of alcohol along the commercial portion of Main Street, from Interstate 15 to “I” Avenue, and found a total of 35 establishments. Of these 35 establishments, approximately half of them are located between “I” Avenue and Seventh Avenue. Also, the commercial portion of Main Street currently holds 24 on-site licenses, which consist primarily of restaurants.

The table above shows only 6 of the establishments located on Main Street, and of those six, five are considered bona fide eating establishments. Because ABC considers all on-site sales under one category, regardless of type, the number of licenses allowed, compared to off-site sales, is significantly less. Furthermore, the closest establishment similar in nature to the proposed site and holding an active ABC license is located southwest of the project site and outside the census tract (La Casita Restaurant). Although restaurants, similar in nature, exist throughout the City, staff’s recommendation is based on the difference in services or amenities provided, as this proposal includes a restaurant that serves alcohol and features live entertainment.

The entertainment features a Mariachi band, karaoke and comedy nights, and dancing. The Mariachi band is being proposed on Friday and Saturday nights from 7:00 pm to 9:00 pm, and is intended for customers of all ages. The dancing is proposed for customers 21 years of age and over and will take place two nights a week (Friday and Saturday). Karaoke and Comedy night are proposed on Wednesday and Thursday nights. Bona fide eating establishments are permitted to have persons under 21 years of age on the premises. But all employees serving alcohol must be at least 21 years of age.

In as much as ABC’s criteria consider population and the need of services based on population, staff’s recommendation derives from our City’s unique land use characteristics. Unlike other cities, the City of Hesperia offers commercial services primarily along two major thoroughfares approximately three miles apart, in contrast to other cities which may offer commercial services every mile. This results in a concentration of commercial uses within designated areas of our City, as these services can only be located along Main Street, Bear Valley Road and portions of Hesperia Road. The sale of alcohol for on-site consumption is not considered over concentrated when considering all census tracts in the City.

Schools and Parks: The project site at 17376 Main Street is located approximately 700 of Juniper Elementary, and is just 1/3 of a mile from Live Oak Park.

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

Conclusion: The over-concentration of alcohol outlets along Main Street is based on ABC's criteria, however when determining over-concentration within the City, staff's recommendation is based on the fact that a large portion of the City's commercial land uses are concentrated primarily along Main Street, Bear Valley Road, and Hesperia Road.

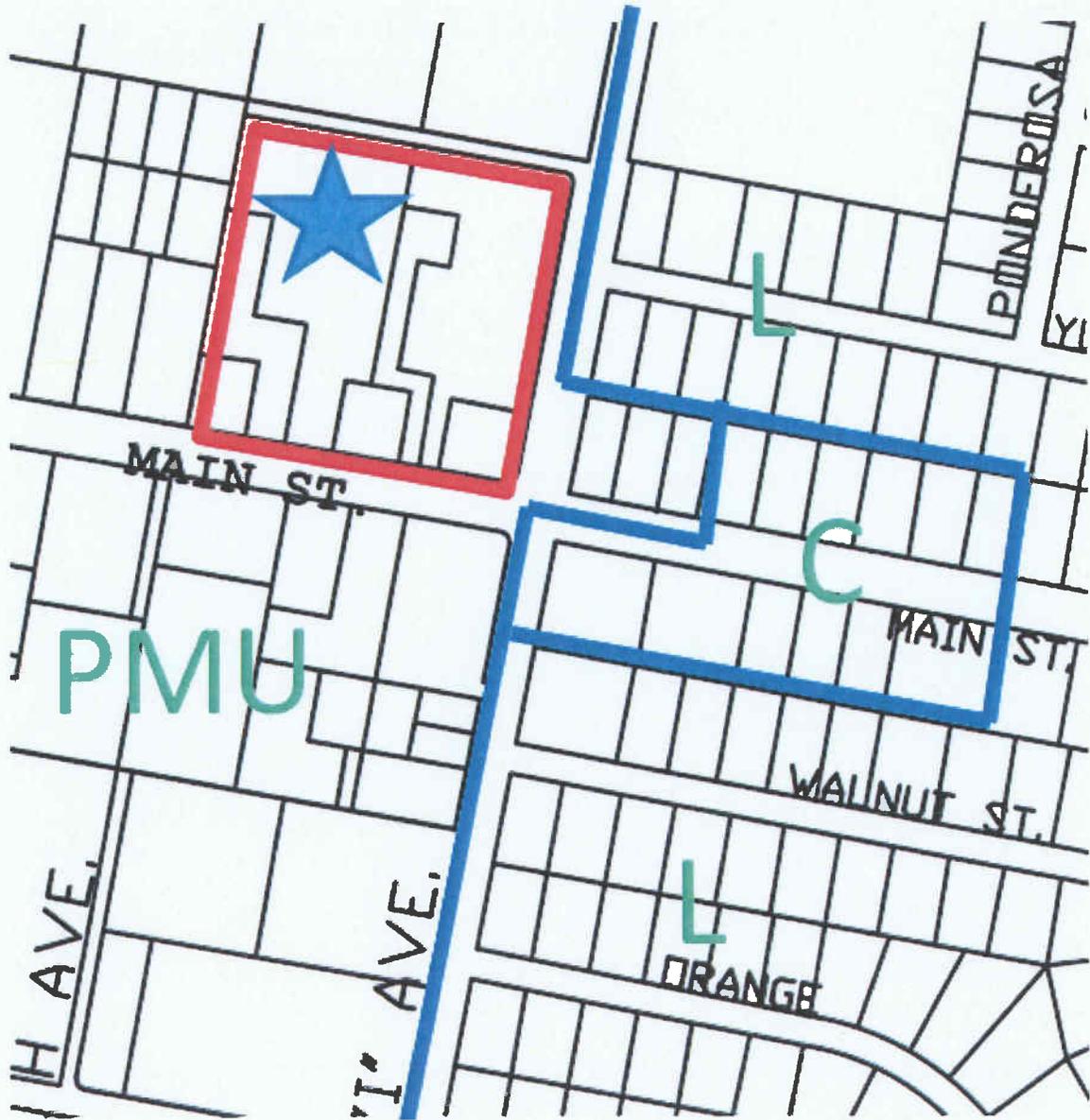
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan Map
2. Zoning Map
3. Aerial photo
4. Census Tract 100.13
5. Resolution No. PC-2010-14

ATTACHMENT 1



APPLICANT(S):
JOSE MAGAÑA

FILE NO(S):
CUP10-10142

LOCATION:
17376 MAIN STREET

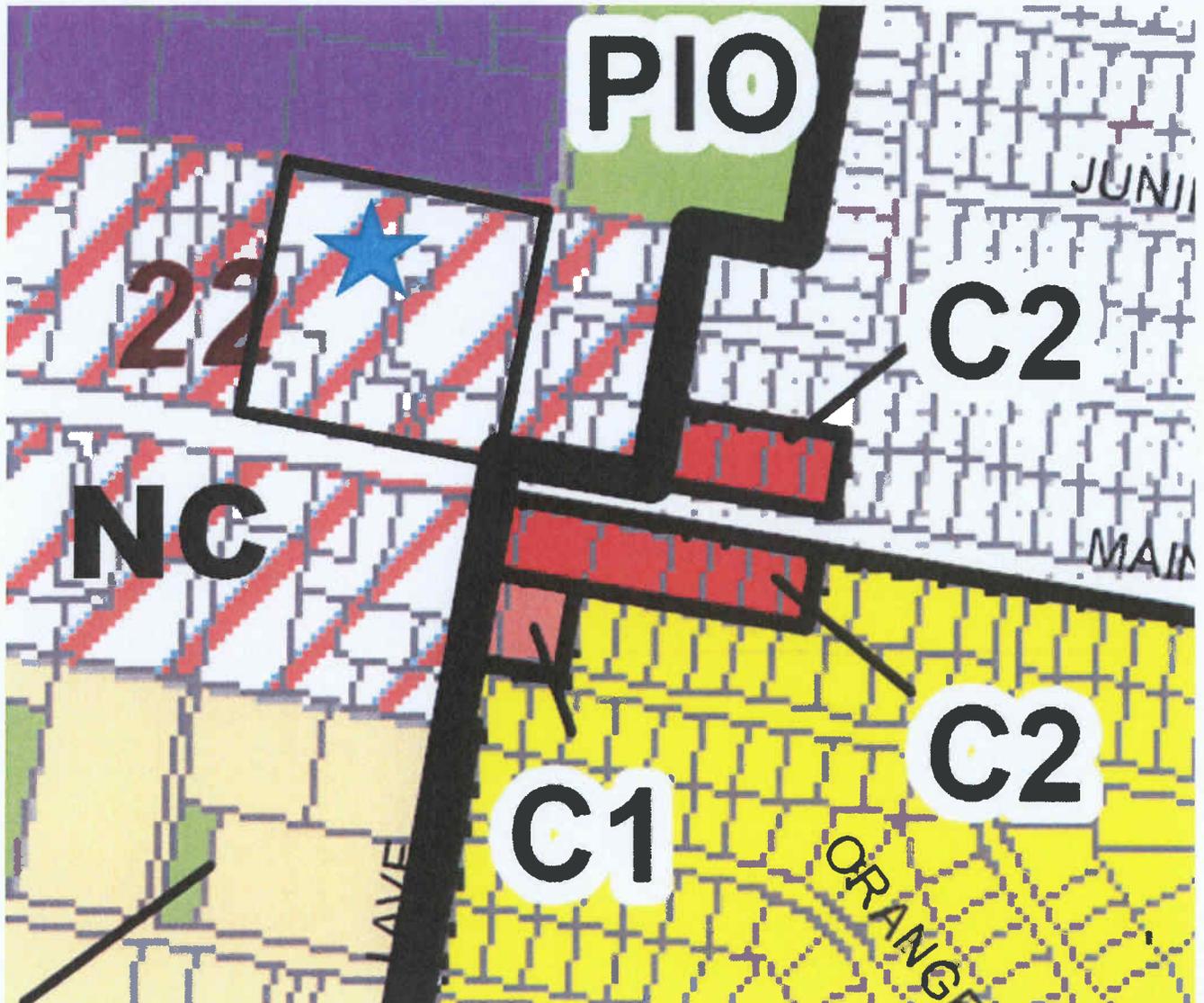
APN(S):
0410-135-50

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AND ALLOW AN ENTERTAINMENT VENUE AT AN EXISTING RESTAURANT



GENERAL PLAN

ATTACHMENT 2



APPLICANT(S):
JOSE MAGAÑA

FILE NO(S):
CUP10-10142

LOCATION:
17376 MAIN STREET

APN(S):
0410-135-50

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AND AN ENTERTAINMENT VENUE AT AN EXISTING RESTAURANT



ATTACHMENT 3



APPLICANT(S):
JOSE MAGAÑA

FILE NO(S):
CUP10-10142

LOCATION:
17376 MAIN STREET

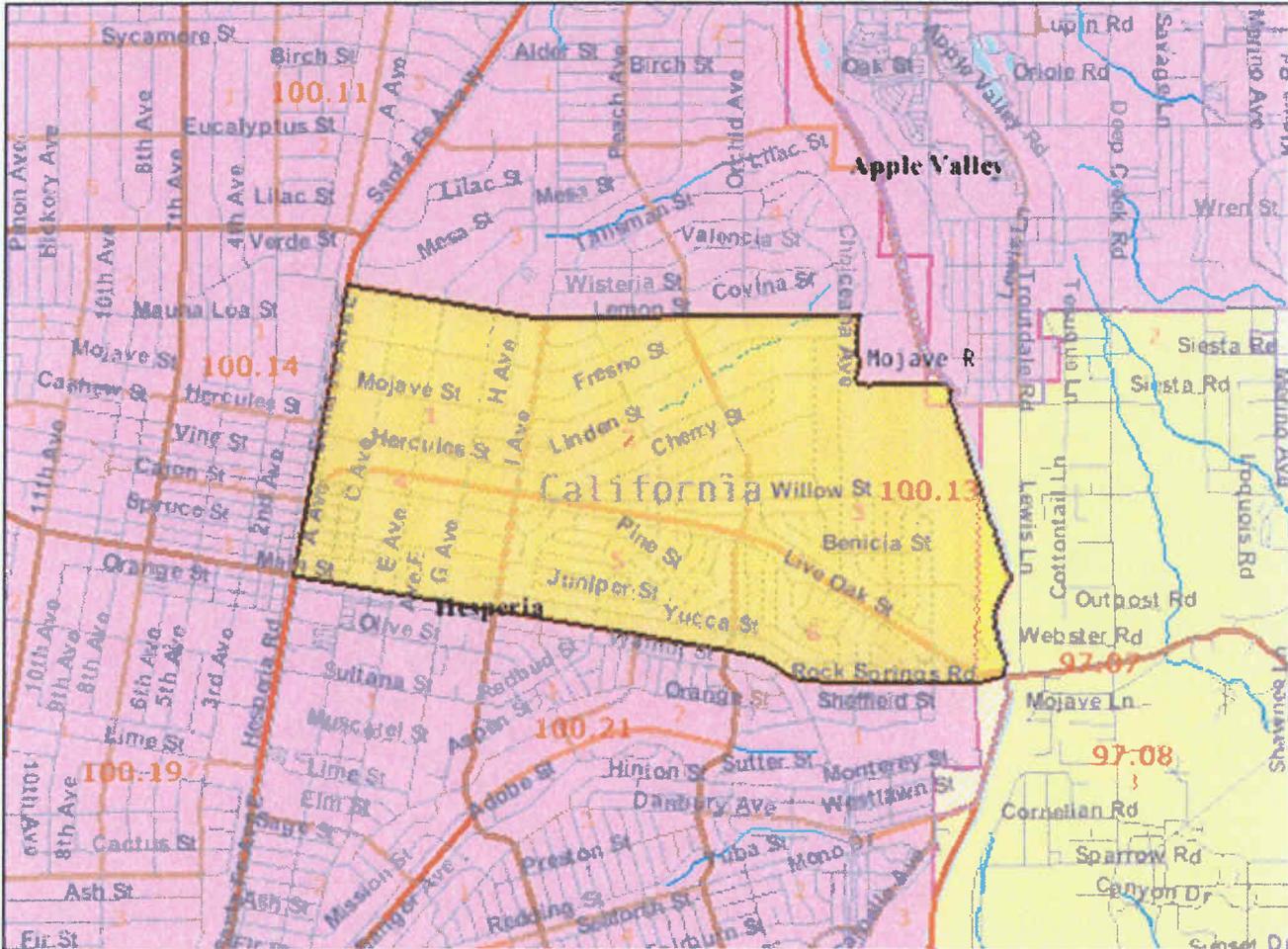
APN(S):
0410-135-50

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AND ALLOW AN ENTERTAINMENT VENUE AT AN EXISTNG RESTAURANT



AERIAL PHOTO

ATTACHMENT 4



APPLICANT(S):
JOSE MAGAÑA

FILE NO(S):
CUP10-10142

LOCATION:
17376 MAIN STREET

APN(S):
0410-135-50

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AND ALLOW AN ENTERTAINMENT VENUE AT AN EXISTNG RESTAURANT



CENSUS TRACT

RESOLUTION NO. PC-2010-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION AND AN ENTERTAINMENT VENUE WITHIN AN EXISTING RESTAURANT AT 17376 MAIN STREET (CUP10-10142)

WHEREAS, Jose Magaña has filed an application requesting approval of Conditional Use Permit CUP10-10142 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an existing restaurant within the Neighborhood Commercial zone located at 17376 Main Street and consists of Assessor's Parcel Number 0410-135-50; and

WHEREAS, the Application, as contemplated, proposes to establish the sale of beer and wine for on-site consumption and allow an entertainment venue at an existing restaurant,

WHEREAS, the subject site is presently developed as a restaurant located in an existing commercial center. The surrounding properties are also commercial; 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 and 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 Facilities; and

WHEREAS, on July 8, 2010, 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 July 8, 2010, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed use is conditionally allowed within, and would not impair the integrity and character of, the Neighborhood Commercial zoning district and complies with all applicable provisions of the development code as per Section 16.12.120 in the City's Development Code. The site is suitable for the type and intensity of use that is proposed. The proposed use is located in an existing restaurant. The expansion of the business will include the sale of beer and wine and live entertainment.
- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or adverse to the public convenience, health, safety or general welfare. The proposed serving of beer and wine as part of the dining experience will not have a detrimental impact on adjacent properties. The addition of live entertainment at an existing restaurant is not likely to create any noise, traffic or any other impacts, as all uses are intended to be conducted indoors.
- (c) The proposed use is consistent with the objectives, policies, general land uses and programs of the general plan, specific plan and development code. The proposed use will take place in a permitted existing restaurant. The sale of beer and wine is consistent with the design guidelines and criteria of the Neighborhood Commercial zone. The alcohol license that was previously denied pertained to an over concentration of off-site sale of alcohol within liquor and convenience stores. The application is different as it pertains to on-site sale of alcohol within an existing restaurant.
- (d) There are adequate provisions for sanitation, water and public utilities and services to ensure public convenience, health, safety and general welfare. The proposed use will occur in an existing restaurant with adequate infrastructure to cater to a restaurant business. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.
- (e) The public convenience or necessity would be served by the issuance of a license for the sale of beer and wine. The applicant is a restaurant which will sell beer and wine for on-site consumption. Because of the City's unique land use characteristics, the City offers commercial services along two major thoroughfares, approximately 2 miles apart. The business is not considered over concentrated within the city.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP10-10142, 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 8th day of July 2010.

Chris Evert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for CUP10-10142

Approval Date: July 8, 2010
Effective Date: July 21, 2010
Expiration Date: July 21, 2013

This list of conditions apply to a Conditional Use Permit to establish the sale of beer and wine for on-site consumption and allow an entertainment venue within an existing restaurant at 17376 Main Street (Applicant: Jose Magaña; APN: 410-135-50).

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

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

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

Init Date

_____ 1. **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 Review Committee, 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)

_____ 2. **Valid License.** At all times during the conduct of the use allowed by this permit, the use shall obey all laws and shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void. (P)

_____ 3. **Permit Revocation.** In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall become null and void. (P)

- _____ 4. **Employee Age.** All employees of the applicant serving alcohol must be at least 21 years of age. (P)

- _____ 5. **ABC Requirements.** The use must comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P)

- _____ 6. **ABC License.** The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises. (P)

- _____ 7. **Sale of Alcohol.** The sale of alcoholic beverages shall be permitted only between the hours of 10:00 AM to 1:00 AM (P)

- _____ 8. **Alcohol Consumption.** No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee. This includes sidewalks and parking lot. (P)

- _____ 9. **Entertainment Hours of Operation.** The entertainment component of the conditional use permit shall be limited to only two days a week (Friday and Saturday) from 9:30 PM – 1:00 AM. (P)

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

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

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, June 23, 2010

A. PROPOSALS:

1. John Morrow (SPR10-10157)

Proposal: Consideration of a revised site plan review to install an on-ground solar system within the rear yard.

Location: Located at 8800 Hickory Avenue, Hesperia CA.

Planner: Daniel Alcayaga

Action: Administratively Approved

2. Community Christian Center of Hesperia (SPR10-10158)

Proposal: Consideration of a revised site plan review to allow for a 2,400 square foot expansion of an existing 2,400 square foot church in an existing 32,390 square foot industrial building.

Location: Located at 10968 "I" Avenue, Hesperia CA.

Planner: Lisette Sanchez-Mendoza

Action: Administratively Approved

3. Toyohiko Hiramami (SPR10-10152)

Proposal: Consideration of a revised site plan review to install a solar system on the roof facing a street atop an existing single-family residence.

Location: Located at 15028 Rodeo Street, Hesperia CA.

Planner: Stan Liudahl

Action: Administratively Approved

4. **Curtis Kirchnavy (CUP10-10155 & VAR10-10162)**

Proposal: Consideration of conditional use permit to construct a 1,724 square foot auto lube facility and a variance to allow a 15-foot encroachment into the required 20-foot side yard setback and a parking deviation, on 0.2 gross acres zoned Neighborhood Commercial.

Location: Located 150 feet east of Third Avenue on the south side of Yucca Street.

Planner: Daniel Alcayaga

Action: Forwarded to Planning Commission