

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: August 13, 2009

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

Joline Bell Hahn, Vice Chair

Stephen James, Commissioner

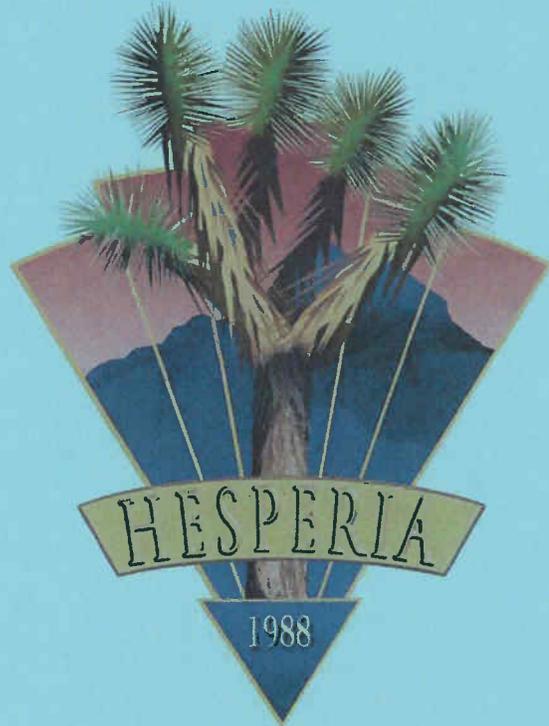
Julie Jensen, Commissioner

William A. Muller, Commissioner

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Dave Reno, Principal Planner

Douglas P. Haubert, Assistant City Attorney



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

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

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

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

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

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

August 13, 2009

**AGENDA
HESPERIA PLANNING COMMISSION**

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

CALL TO ORDER

6:30 p.m.

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

JOINT PUBLIC COMMENTS

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

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

CONSENT CALENDAR

- E. Approval of Minutes: July 9, 2009 Planning Commission Meeting Draft Minutes -1-

PUBLIC HEARINGS

- 1. Consideration of Development Code Amendment (DCA09-10205), to amend the Development Code regarding clear areas and allowable projections into yards (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Stan Liudahl). 1-1
- 2. Consideration of Development Code Amendment (DCA09-10229), to amend the Development Code regarding the definition of a front lot line (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Stan Liudahl). 2-1
- 3. Consideration of Development Code Amendment (DCA09-10228), to amend the Development Code regarding the approval periods for land use decisions (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Stan Liudahl). 3-1

PRINCIPAL PLANNER'S REPORT

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

- F. DRC Comments 4-1
- G. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

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

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, August 6, 2009 at 5:30 p.m. pursuant to California Government Code §54954.2.



Eva Heter
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION
REGULAR MEETING
July 9, 2009
MINUTES**

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

CALL TO ORDER 6:30 p.m.

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

Motion by Stephen James to approve Chair Elvert's absence as an excused absence. The motion passed by a unanimous voice vote of all Commissioners present. Seconded by Julie Jensen, passed with the following roll call vote:

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

JOINT PUBLIC COMMENTS

CONSENT CALENDAR

- E. Approval of Minutes: June 11, 2009 Planning Commission Meeting Draft Minutes
Motion by Stephen James to approve Planning Commission Minutes for June 11, 2009. Seconded by Julie Jensen, passed with the following roll call vote:

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

PUBLIC HEARING

- 1. Consideration of Tentative Tract (TNT09-10154/TT-17916) to create 177 single-family residential lots on 40.0 gross acres within the Low Density Residential District of the Main street and Freeway Corridor Specific Plan and Variance (VAR09-10153), to eliminate the 500 square foot common open space per lot requirement for this subdivision, located on the southwest corner of Mojave Street and Topaz Avenue (Applicant: NV Hesperia Investors, LLC; APNs: 0405-261-15 thru 18, & 27 thru 30) (Staff Person: Lisette Sanchez-Mendoza).

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

Vice Chair Hahn opened the Public Hearing: 7:04 PM

Lynn Fetherly, Applicant Representative reviewed the Tract, addressing paving, and the irrevocable offer of dedication. He also stated that the development stage of the tract was dependent upon the market.

Commissioner James questioned the undeveloped land on the tract and the average size of the lots.

Lynn Fetherly, Applicant Representative addressed Commissioner James' concerns, stating that the area in question consisted of two vacant single-family lots.

Rudy Nuniez, Project Engineer reviewed the average size of the lots, stating that the subdivision was very deep. The average lots would be larger than 50 x 100; he wasn't sure of the exact average.

Vice Chair Hahn closed the Public Hearing: 7:09 PM

Commissioner Jensen stated that she was having an issue approving any increase in density.

Commissioner James stated that he agreed with Commissioner Jensen; however, he also stated that the Commission had repeatedly asked for 7200 square foot lots; however, he understood that the current proposal had been in the system for quite some time.

Vice Chair Hahn questioned future proposals conforming to the Specific Plan designations

Principal Planner, Dave Reno AICP stated that the current proposal was the last project requiring action that was submitted under the old designation; any new submittals would need to be submitted according to the current standards. He reviewed the various designations and variables associated with various submittals.

Motion by Stephen James to Tentative Tract TNT09-10154 (TT-17916) and Variance (VAR09-10153), adopting Resolution Nos. PC-2009-34 and PC-2009-35, as presented., Seconded by William Muller, passed with the following roll call vote:

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

2. Consideration of Conditional Use Permit (CUP-2007-07) to convert an existing lumber yard into a large recycling facility and Parcel Map (PM-19120) to create one parcel from 4.0 acres within the Commercial Industrial Business Park Zone District, located at 16666 Spruce Street (Applicant: Jose Cuevas; APNs: 0410-151-19, 20, 24, 25, 34, and 0410-161-15, 16, 26 thru 28, and 36) (Staff Person: Lisette Sanchez-Mendoza).

Planner, Lisette Sanchez Mendoza gave a brief staff report with staff recommendations.

Vice Chair Hahn opened the Public Hearing: 7:44 PM

Jose Cuevas, Applicant stated that he was available for questions.

Commissioner James questioned if the applicant would have an issue with making tighter restrictions to the trash enclosure; he also questioned who would enforce the tighter stipulations.

Principal Planner, Dave Reno AICP stated that Code Enforcement would enforce the additional stipulation.

Jose Cuevas, Applicant stated that a major priority for his business was to maintain trash and keep the area clean.

Mary Jo Martin, Hesperia Business Owner submitted a letter to the Commission stating her concerns regarding fencing on the property (See Attachment 1). She also questioned the project plan, the height of the wall, the traffic, and the drainage on the parcel.

Principal Planner, Dave Reno AICP stated that the applicant could be brought back up to answer some of Mary Jo Martin's questions. He also reviewed some of the concerns with the trash enclosures.

Percy Bakker, Hesperia Property Owner spoke in favor of the project being approved.

Jose Cuevas, Applicant addressed some of the concerns presented to the Commission.

Vice Chair Hahn closed the Public Hearing: 8:03 PM

Motion by Stephen James to Conditional Use Permit (CUP-2007-07) and Parcel Map (PM-19120), adopting Resolution Nos. PC-2009-37 and PC-2009-38. Seconded by Julie Jensen, passed with the following roll call vote:

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

3. Consideration of Development Code Amendment (DCA09-10205), to amend the Development Code regarding clear areas and allowable projections into yards (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Stan Liudahl).

Senior Planner, Stan Liudahl AICP requested that the item be continued to the August 13, 2009 Planning Commission Meeting.

Motion by Julie Jensen to Continue item to the August 13, 2009 Planning Commission Meeting. Seconded by Stephen James, passed with the following roll call vote:

AYES: Joline Bell Hahn, Stephen James, Julie Jensen, and William Muller

NOES: None

absent: Chris Elvert.

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

The schedule for upcoming workshops was reviewed.

G. Major Project Update

DRC Comments

PLANNING COMMISSION BUSINESS OR REPORTS

ADJOURNMENT

Vice Chair Hahn adjourned the Planning Commission Meeting: 8:23 PM

Approved by:
Chair Elvert

Attested By: Eva Heter,
Planning Commission Secretary

ATTACHMENT 1

MARY JO MARTIN
P O Box 1646
Idyllwild, CA 92549

RECEIVED

JUL 02 2009

CITY OF HESPERIA
COMMUNITY DEVELOPMENT

June 30, 2009

PLANNING DEPARTMENT
City of Hesperia
9700 7th Avenue
Hesperia, CA 92345

Attn: **Lisette Sanchez-Mendoza,**
Project Planner

Ref: Parcel Map PM-19120

Applicant: Jose Cuevas: APN's 0410-151-19, 20, 24, 25, 34 and 0410-161-15, 16,
26 thru 28, and 36

Dear Lisette,

I want to thank you for your helpful insights on the above referenced project, which you shared with me when I called you on 6/29/09. I am very happy to know that the applicants are not planning to install a car crushing facility – which has been rumored in the community.

As you know, I own the ½ acre parcel and light industrial building that lies next to the northeast corner of Mr. Cuevas's property. The address of my property is 16717 Smoketree Street, at the corner of Smoketree and B Street.

Unfortunately, I do have other concerns. In May of 2008, I met with Daniel Alcayaga of the City Planning Department and told him of my surprise when I arrived at my property to find that the chain link fence that sits a few inches behind our block wall on the west, and separates our parcels, (a fence that I had always assumed was on our property) had been damaged by the preparations for a new panel-type fence that the applicant was going to construct.

Later, – what appeared to be iron panels and very long iron posts showed up on the ground near the fence. Little did I know that this rusty iron would be erected into a 10 foot tall wall that would sit above our block wall, making a 14 foot high barrier between the properties! Ugly is a mild term for this barrier. And is especially out of place when you look at the very nice block wall that runs along Smoketree St., on the north side of Mr Cuevas property.

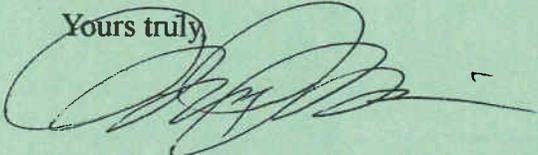
I would like to strongly suggest that the iron barrier come down, and the very nice 7 foot block wall that fronts Smoketree Street in the north side of the Cuevas property be extended to include the east side of the project property line. Not only will it serve the needs of the applicant, but it will add to the ascetics of the overall project and surrounding properties. It will also reduce the overall height of the wall to 11 feet from my side of the barrier.

My other concerns included heavy truck traffic on Smoketree and possible noise issues. You have told me, Lisette, that these will not be an issue, assuring me that only four or five trucks will come to the facility each week. And that only cardboard, plastic, cans and some metal will be sorted there. I understand that the metal may be sorted by a machine, but the noise will be minimal.

I will also be happy to dedicate the 30 feet of Smoketree Street right of way in front of my property to the City if that is still something that they would like to have.

I am hoping to attend the Planning Commission Meeting on July 9th, however, due to the health of one of my son's, (for whom I am the sole care giver) I may not be able to be there. I thank you in advance for sharing this letter with the Commissioners in the event of my absence.

Yours truly

A handwritten signature in black ink, appearing to read 'Mary Jo Martin', with a large, stylized flourish extending to the right.

Mary Jo Martin

Tel: 951-659-6083 (Idyllwild)
760-329-3932 (Sky Valley)
510-685-4327 (cell)

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**HESPERIA PLANNING COMMISSION
GENERAL PLAN WORKSHOP
July 15, 2009
MINUTES**

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

CALL TO ORDER 6:00 p.m.

A. Pledge of Allegiance to the Flag

B. Invocation

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

Present FOUR.

Absent: ONE.

Motion: Commissioner James motioned to excuse the absence of Chair Elvert. Commissioner Jensen seconded the motion. The motion passed with a unanimous voice vote of all Commissioners present.

Discussion Items

1. General Plan Introduction

Principal Planner, Dave Reno AICP gave a brief introduction to the meetings discussion items and the mailing that were sent out and Introduced Nelson Miller.

Hogle Ireland, Nelson Miller introduced the General Plan. He reviewed the basics of the proposed General Plan and the issues surrounding the requirements for updating the General Plan. He also discussed the goals of the General Plan and reviewed the proposed Land Use Plan. He stated that one of the primary goals was to minimize the changes to the already established development within the City.

Hogle Ireland, Nelson Miller stated that the Proposed Land Use Plan implements a 1-Map system.

2. Land Use

Hogle Ireland, Nelson Miller reviewed the proposed General Plan Land Use Map, the proposed residential designations and the density as shown in the proposed plan. He identified the new special & overlay designation as proposed in the plan. Special Designations: Aqueducts, Railroads, and Utilities Corridors; New Designations: Flood Plain replaces Floodway

designation, Dam Inundation areas identified, and Airport designations to identify airport safety and notice areas.

Principal Planner, Dave Reno AICP reviewed the maximum density within the plan, small lot subdivision standards, and the differences between the proposed plan and the existing General Plan.

Vice Chair Hahn questioned the small lots that were within the City. She stated that she wanted to discuss the small lots; Commissioners had previously voiced that the small lots were not wanted.

Principal Planner, Dave Reno AICP reviewed the lots within the City that Vice Chair Hahn was concerned about. He discussed the density bonus agreements. He also discussed the Environmental Impact Report that would be introduced.

Vice Chair Hahn stated that she was aware that anything east of Maple was being retained as 1/2 acre or larger lots; however, the lots near City Hall needed some compensation due to the size of existing lots.

Principal Planner, Dave Reno AICP the small lots were part of an Ordinance.

Vice Chair Hahn stated that it had already been expressed by the members of the Commission that lots less than 4,000 feet had been strongly opposed. She stated that staff was aware of the Commission's objections to the small lots.

Hogle Ireland, Nelson Miller referred the Commission to the proposed map, and reviewed the map according to the small lot subdivisions.

Commissioner Jensen questioned the standards for affordable housing.

Hogle Ireland, Nelson Miller stated that other policies would be addressed; the zoning and other issues. He stated that the state regulates the affordable housing mandate; the mandates are according to the County's Median Income Rate.

Commissioner Jensen questioned what the City's percentages were for housing prices in reference to affordable housing rates.

Hogle Ireland, Nelson Miller discussed the City's percentages according to affordable income levels. He stated that staff would have those numbers available at the next meeting.

Commissioner Muller questioned who benefited most from the small lots, and also the quality of life for the residents in terms of impacts to the Police Department, Fire Protection, and the educational system.

Hogle Ireland, Nelson Miller stated that there were minor correlations as far as numbers; the more houses, the more family, which result in more emergency calls. He also stated that the

more houses, the more people are shopping in the area, and the more places for people who work in police, fire, and education to live. He also stated that there was a balance when a General Plan was updated for the benefit of residents and workers within the City.

Principal Planner, Dave Reno AICP stated that the original plan was written several years ago and there needed to be considerations for the current time.

Commissioner Muller questioned the use of Redevelopment Agency Funds for affordable housing.

Principal Planner, Dave Reno AICP stated that the City had a requirement that 20% of the money needed to be spent on affordable housing.

Commissioner James questioned the percentage of R-1 4500 du/ac zoning in the city.

Hogle Ireland, Nelson Miller reviewed the R-1 45 du/ac designation.

Commissioner James questioned small lot subdivisions and the processes that would prevent a small lot subdivision being built in an area not designated for small lot subdivisions.

Principal Planner, Dave Reno AICP stated that the General Plan would be prevention enough to keep a small lot subdivision from being built in an area undesignated for that specific type of development.

Commissioner Jensen stated that the smaller lot subdivisions were good, considering that the homes would be on sewer. She questioned if the area needed more homes rather than more jobs.

Hogle Ireland, Nelson Miller stated that the adopted Specific Plan was designed to address the issue of jobs in the area.

JOINT PUBLIC COMMENTS

Kim Jones, Hesperia Resident questioned the animal requirements for her specific area.

Vice Chair Hahn stated that Staff would address her question.

Kim Jones, Hesperia Resident questioned why she couldn't have the pot bellied pigs.

Kenneth Devillers, Hesperia Property Owner questioned the C1 property designation, stating that the descriptions in the proposal were too vague.

Principal Planner, Dave Reno AICP stated that the General Plan designations were meant to be short and distinct. He stated that the list of uses was addressed by the development code, and that the issues Kenneth was presenting regarding development on his property would have to be submitted and addressed as part of a Site Plan Review.

Kenneth Devillers, Hesperia Property Owner stated his concerns regarding possible development on his property.

Vice Chair Hahn questioned if the lot sizes would be addressed at future meetings.

3. [Upcoming Topics](#)

Principal Planner, Dave Reno AICP reviewed the upcoming meetings and topics.

ADJOURNMENT

Vice Chair Hahn adjourned the meeting at 7:15 PM

Attested By:



Eva Heter, Commission Secretary

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HESPERIA PLANNING COMMISSION
General Plan Workshop
July 28, 2009
MINUTES

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

CALL TO ORDER 6:00 p.m.

Pledge of Allegiance to the Flag – Commissioner Muller

Invocation – Commissioner Jensen

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

Present: Four

Absent: One

Motion: Commissioner Muller motioned to excuse the absence of Commissioner James. Commission seconded the motion. The motion passed by a unanimous voice vote of all Commissioners present.

Discussion Items

3. **Land Use Follow-up**

Hogle Ireland, Nelson Miller gave a brief overview of the Proposed Land Use.

Vice Chair Hahn requested verification on zoning indicated on the Proposed General Plan Land Use Map.

Hogle Ireland, Nelson Miller reviewed the zoning designations questioned by Vice Chair Hahn.

Vice Chair Hahn questioned the differing lot sizes between designations.

Principal Planner, Dave Reno AICP stated that staff was trying to simplify the zoning within the City. He stated that the RR-20000 would serve the same purpose to preserve the lots in that area.

Principal Planner, Dave Reno AICP stated that the Development Code would deal primarily with animal issues. He stated that the General Plan would not deal with issues concerning animals.

Principal Planner, Dave Reno AICP reviewed zoning/animal designation issues.

Vice Chair Hahn questioned if the animal designations would remain the same.

Hogle Ireland, Nelson Miller stated that staff has tried as much as possible to keep consistency between the old designations for animals and the new plan.

Vice Chair Hahn questioned the small lots within the City.

Hogle Ireland, Nelson Miller reviewed the location of the smaller lots proposed in the plan. He reviewed the equivalent Land Use designations for the proposed plan.

1. [Community Housing Meeting](#)

Hogle Ireland, Nelson Miller reviewed state law requirements for a housing element.

Vice Chair Hahn questioned the constraints of the housing element.

Hogle Ireland, Nelson Miller reviewed the Regional Housing Needs Assessment specifications. He reviewed SB 375 and associated SCAG requirements to be implemented by June 30, 2014. He also reviewed the variables associated with the AMI and the RHNA numbers.

Chair Elvert opened the meeting Public Comment: 6:55 PM

Hogle Ireland, Nelson Miller stated that there were two Representatives from the Call for Life Pregnancy Center in attendance representing about 99% of their clients who were very low income; however, the two representatives did not want to address the Commission.

Chair Elvert closed the Public Comments: 6:57 PM

2. [Open Space](#)

Hogle Ireland, Nelson Miller reviewed the proposal for the open space areas within the City, including the preservation areas, drainage designation areas, the flood plain overlay designation areas, and the urban design framework.

Commissioner Jensen questioned the VVTA transfer points.

Hogle Ireland, Nelson Miller stated that the VVTA transfer points were included in the plan.

Principal Planner, Dave Reno AICP stated that the Urban Design Framework map would be introduced again during the circulation discussion at the Planning Commission Workshop on August 20, 2009.

Vice Chair Hahn questioned trees located on the routes at possible VVTA transfer points. She also questioned the location of equestrian trails.

Principal Planner, Dave Reno AICP reviewed the location of trails included in the urban design framework, addressing Vice Chair Hahn's concerns.

Vice Chair Hahn questioned the wash compromising the trails shown on the map. She also questioned the aqueduct and the railroad tracks as factors of the trail.

Principal Planner, Dave Reno AICP reviewed the wash, railroad tracks, and the aqueduct with respect to the equestrian trails.

Chair Elvert opened the Public Comments: 7:21 PM

No comments to consider.

Chair Elvert closed the Public Comments: 7:21 PM

Principal Planner, Dave Reno AICP reviewed upcoming meetings.

ADJOURNMENT

Chair Elvert closed the Workshop: 7:25 PM

Eva Heter
Commission Secretary



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City of Hesperia
STAFF REPORT



DATE: August 13, 2009

TO: Planning Commission

FROM:  Dave Reno, AICP, Principal Planner

BY: Stan Liudahl, AICP, Senior Planner

SUBJECT: Development Code Amendment DCA09-10205 regarding clear areas and allowable projections into yards; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-36, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10205.

BACKGROUND

This Development Code Amendment is proposed in response to an application filed for a Minor Exception to allow a 7'-9" encroachment of a porch into a 50-foot front yard building setback. Based upon the findings in the Development Code for approval of a Minor Exception, staff is unable to support the request. However, staff believes that the request has merit and is requesting that the Planning Commission recommend that the City Council amend the regulations regarding allowable yard encroachments by porches, patios, media alcoves, and other structures. Staff is also using this opportunity to recommend a change to the clear sight triangle regulations and other allowable projections to similarly permit greater flexibility in the design and location of estate fencing and monument signs. This Development Code Amendment was continued from the Commission's July 9, 2009 meeting to allow staff time to consider additional revisions to this section of the Development Code. As part of these additional revisions, it is recommended that the allowable height of chain link fencing in the front yard of one-half acre and larger lots be increased. Additional standards were also incorporated into the allowable projections into yards, based upon comparison with the regulations of other jurisdictions.

ISSUES/ANALYSIS

This Development Code Amendment will revise the regulations regarding allowable projections into yards, including clear sight triangles. These recommendations are based upon variations in street cross sections and typical estate fence construction methods. The allowable height of chain link fencing within the front yard on one-half acre and larger lots is recommended to be increased from four to six feet. Staff has also included revisions to the allowable projections to allow media alcoves to encroach into yards. In addition, proposed revisions to the attached patio encroachment standards are included, which will clarify the allowable encroachment into the rear yard.

Allowable Projections into Yards

Staff recommends that an unenclosed porch be allowed to encroach up to 10 feet into the front yard (a 20 percent encroachment into a 50-foot front yard), provided the porch is at least six feet from the front property line. This will provide a reasonable setback for porches within small lot subdivisions, which allow the residential portion of homes to within 10 feet of the front property line. Current standards allow a maximum four-foot encroachment. The standard will contain a provision that no portion of the porch be permitted to extend over any portion of a septic system.

In recent years, homebuilders have been providing approximately two-foot deep alcoves, usually adjacent to fireplaces, for wide-screen televisions. Pursuant to a policy established in 2005, staff has been allowing media alcoves to encroach a maximum of two feet into interior side yards provided the alcove does not constitute livable floor area and does not extend more than seven feet along a wall. It is recommended that bay windows on the first story be handled in the same manner. Staff recommends that the policy be codified by this Development Code Amendment.

Staff has compared the standards allowing for encroachments into yards for four High Desert cities and the County of San Bernardino (Attachment 1). Based on this comparison, staff has included a minimum three-foot separation from the side and rear property lines for permanently placed barbecues. Also, metal accessory structures, such as shading devices, are now listed with residential and agricultural accessory structures not enumerated elsewhere in the table of projections, to eliminate any confusion regarding how they should be allowed.

Staff has proposed updated text to clarify many of the allowable projections. Specifically, the attached unenclosed patio encroachment within rear yards has been revised, making it clear that up to 25 percent of the 15-foot rear yard can be occupied by these structures, provided a minimum five-foot distance from the rear property line is maintained. Clarifying text has also been provided for encroachment of cantilevered decks and bay windows within interior side yards above the first story, maintaining the minimum three-foot separation from the side property line required by the building code. Staff has also included evaporative coolers and air conditioning units within the general classification of HVAC and other mechanical equipment and included spa equipment with pool equipment. Porticos have been included within the table with attached unenclosed patios and other similar residential accessory structures. Finally, the allowable fence and hedge heights have been removed from the table and added to the clear area section of the Development Code. This change eliminates the confusion posed by the format in the table, since fence and hedge height restrictions don't apply within courts.

Clear Areas

Current regulations limit the height of chain link, or open wire fencing, to four feet in the front yard of all residential zones except the agricultural zone districts, which are allowed a five-foot height limitation. Chain link and solid fencing is allowed up to six feet high in street side yards. Staff has been aware of issues related to fence height due to placement of residences on corner lots wherein the narrow frontage of a lot functionally serves as a street side yard instead of a front yard, as determined by the Development Code. Staff has become aware of an enforcement case involving a chain link fence installed within the front yard at 18486 Dunkirk Street (Attachment 2) within the R1-18000 Zone District. This case is identical to the situation described above and the homeowners would like to keep the six-foot high chain link fence with

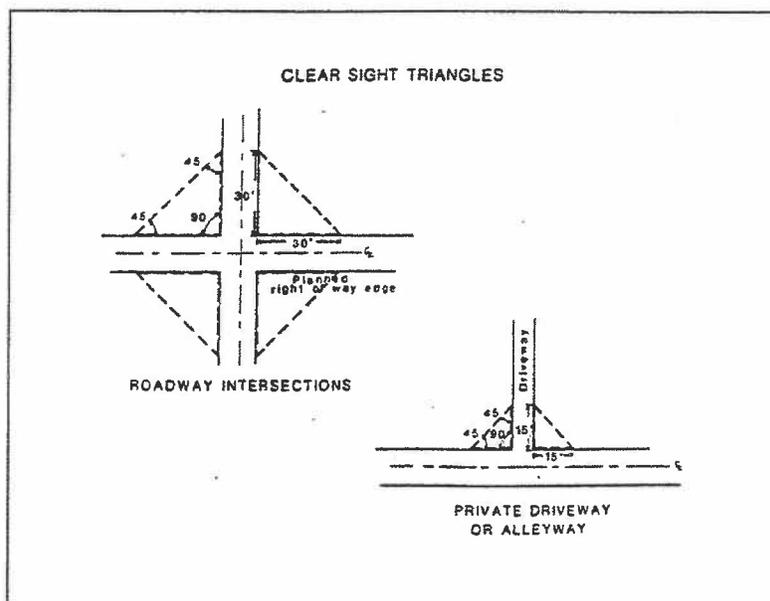
view-obscuring slats to secure that portion of their lot that functions as their rear yard, similar to neighboring lots.

The height restriction for chain link fencing in the front yard is more of an aesthetic issue than a clear sight issue, provided the fencing does not contain slats. Chain link fencing with slats shall not exceed three feet in height, consistent with the height limit for a solid fence. The fencing along their front yard contains slats, but based upon the position of the home, it arguably functions as their street side yard. Therefore, staff supports use of the view-obscuring slats in this situation. Staff would also recommend that six-foot high solid or open wire fencing with slats be allowed in the area of the front yard which overlaps the street side yard if the fence does not encroach within a required clear sight triangle. Staff believes that extending the fence across the front yard to connect to a logical portion of the residence to form a private yard should also be permitted, as approved by staff on a case-by-case basis. An amendment changing the definition of a front yard, providing staff flexibility to determine the front yard based upon the orientation of the residence, is also being brought to the Commission for its consideration.

Staff considers the difference between a five-foot and six-foot high chain link fence regarding aesthetics to be negligible. Since five-foot high chain link fencing is currently allowed in agricultural districts, staff supports increasing the allowable chain link fence height to six feet in all lots of one-half acre and larger. Staff does not believe that this would be appropriate for lots less than 15,000 square feet in area, as chain link fencing is not typically used in typical suburban subdivisions exceeding two dwelling units per acre and allowing chain link six feet high on small lots would lead to a mix of chain link fencing in areas developed originally with block walls and wood fencing.

Clear Sight Triangles

The current Development Code regulations require that no structure exceeding three feet in height be located within a 30-foot triangle formed by the ultimate right-of-way of the roadways at an intersection or within 15 feet of the triangle at the ultimate right-of-way of a street and the edge of a driveway as shown below:



Staff recommends that the face of curb or the top of the asphalt dike be used instead of the ultimate right-of-way along streets. For those streets without curbing or dikes, the design location of these future improvements will be used. This will eliminate the inequity resulting from the differences in the distance from curb face/asphalt dike and property line on some street cross sections. Use of the curb face, asphalt dike or the planned improvement location will reduce the size of the clear sight triangle. This reduction will not cause an unsafe condition as shown in the aerial photo below, as the stop bar location allows drivers the ability to see beyond the wall location.



The Development Code allows only two posts or columns not to exceed 12-inches in width to encroach within a clear sight triangle. Staff recommends that the allowed width and number of columns be increased as shown in the following table and as illustrated on Attachment 3. This will provide adequate sight-distance at intersections while affording a reasonable design for estate fencing. The revisions will also allow monument signs to be placed closer to street and driveway intersections, without compromising safety as shown in the aerial photo.

| Existing and proposed wall encroachments into the clear sight triangle | | | |
|---|------------------------------|--|--|
| | Allowed column size | Number of columns allowed in clear sight triangle at streets | Number of columns allowed in clear sight triangle at driveways |
| Existing standards | 12 inches | Two | Two |
| Proposed standards | 26 inches with a 30-inch cap | Seven | Three |

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

CONCLUSION

Staff supports the Development Code Amendment, as it will provide additional options for construction of estate fencing and monument signs, allow larger front porches, incorporate current policy allowing media alcoves within interior side yards, and clarify allowable encroachments for patios and metal accessory structures.

FISCAL IMPACT

None.

ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. Comparison of allowable projections into yards with other jurisdictions
2. Letter and photos submitted by Mr. and Mrs. Craig dated April 24, 2008
3. Proposed column encroachments
4. Resolution No. PC-2009-36, with Exhibit "A"

ATTACHMENT 1

COMPARISON OF ALLOWABLE PROJECTIONS INTO YARDS WITH OTHER JURISDICTIONS

| Facilities | Jurisdiction | Front and Street Side Yards | Interior Side Yards & Courts | Rear Yard |
|---|-----------------|--|--|---|
| Awnings | Hesperia | 4 ft. | 2 ft. | 4 ft. |
| | Adelanto | 4 ft. | 4 ft. | 2 ft. |
| | Apple Valley | 3 ft. | 3 ft. | 3 ft. |
| HVAC, mech. equipment & window air conditioners, | Hesperia | 4 ft. when screened from view | 5 ft. from property line | 4 ft. |
| | Adelanto | Not permitted | 2 ft. | 3 ft. |
| | Apple Valley | Not permitted in front yard; 5 ft. min. in street side | 5 ft. min. from property line | 5 ft. min. yard |
| Balconies, stairways or stairway landings | Hesperia | 5 ft. | 3 ft. | 10 ft. |
| | Adelanto | 2.5 ft. | 2 ft. | 2.5 ft. |
| | Barstow | 2.5 ft. | Not permitted | 4 ft. |
| Bay windows | Hesperia | 4 ft. | 3 ft. | 4 ft. |
| | Adelanto | 4 ft. | 2 ft. | 4 ft. |
| Chimneys | Hesperia | 4 ft. | 2 ft. | 4 ft. |
| | Adelanto | 4 ft. | 2 ft. | 4 ft. |
| | Barstow | Not permitted | 4 ft.
3 ft. min. from property line | Not permitted |
| Arch. projections, incl. cornices, eaves, porches, porticos & roof overhangs | Hesperia | 4 ft. | 2 ft. | 4 ft. |
| | Adelanto | 2 ft. | 2 ft. | 4 ft. |
| | Apple Valley | 5 ft. | 5 ft. | 5 ft. |
| | Barstow | 3 ft. | 3 ft. min. from property line | 3 ft. |
| | Victorville | 2 ft. | 2 ft. | 2 ft. |
| Unenclosed & uncovered porches, platforms & landing platforms not extending above the first floor | Hesperia | 4 ft. | 4 ft. | 10 ft. |
| | Apple Valley | 5 ft. | 3 ft. | 10 ft. |
| | Barstow | 5 ft. | Not permitted | Not permitted |
| | Victorville | 6 ft. | 2 ft. | 6 ft. |
| Decks between 2'-6" & 7'-6" high | Hesperia | 4 ft. | 3 ft. | 4 ft. |
| | Adelanto | Not permitted | 2 ft. | 4 ft. |
| Unenclosed patios | Hesperia | 4 ft. | Not permitted | 15 ft.; Min. 5 ft. from lot line |
| | Adelanto | Not permitted in front yard; 4 ft. in street side | Not permitted | 15 ft.;
5 ft. min. from property line |
| | Victorville | Not permitted | Not permitted | 10 ft.;
10 ft. min. from property line |
| Enclosed patios | Hesperia | Not permitted | Not permitted | Not permitted |
| | Adelanto | Not permitted | Not permitted | Not permitted |

| Facilities | Jurisdiction | Front and Street Side Yards | Interior Side Yards & Courts | Rear Yard |
|---|-----------------------|--|---|-------------------------------------|
| Fire escapes | Hesperia | 5 ft. | 3 ft.;
3 ft. min. from property line | 10 ft. |
| | Barstow | Not permitted | 2 ft. | 4 ft. |
| Pools & spas | Hesperia | Not allowed in front yard; 5 ft. min from street side property line | 5 ft. min. from property line | Allowed |
| | Adelanto | Not permitted in front yard; | Not permitted | 5 ft. min. yard |
| | Apple Valley | 5 ft. min. from street side property line | 5 ft. min. from property line | 5 ft. min. from property line |
| | County | Not permitted | Not permitted | 5 ft. min. from property line |
| Pool & spa equipment | Hesperia | 4 ft. when screened from view | 5 ft. min. from property line | 4 ft. |
| | Adelanto | Not permitted in front yard; | 2 ft. min. from property line | 10 ft. min from property line |
| | Apple Valley | 5 ft. min. from street side property line | 5 ft. min. from property line | 5 ft. min. from property line |
| Barbeque equipment with sink | Adelanto | Not permitted | 3 ft. min. from property line | 3 ft. min. from property line |
| Barbeque without sink | Adelanto | Not permitted | 1 ft. min. from property line | 1 ft. min. from property line |
| Planter not exceeding 3.5 ft. high | Hesperia | Allowed | | |
| | Barstow | Allowed | | |
| Garages, carports, sheds & other 1-story detached enclosed accessory structures | Hesperia | Not permitted | Not permitted | May occupy up to 25% of yard |
| | San Bernardino County | Not permitted | Not permitted | May occupy up to 25% of yard |
| Covered underground or partially excavated structures such as basements, fallout shelters, garages, wine cellars & utility vaults | Hesperia | Allowed, provided that:
1. The top surfaces of the facilities are landscaped or developed as patios or terraces without roofs.
2. The facilities do not extend more than 30 inches above the average adjoining level of finished grade. | | |
| | San Bernardino County | Allowed in all yards with a max. height of 30 inches above average finished grade | | |

ATTACHMENT 2

December 31, 2008

Mr. Mike Podegracz, City Manager
9700 Seventh Avenue
Hesperia, California 92345

Jack and Theresa Craig
18486 Dunkirk Street
Hesperia, California 92345

Subject: Code Violation, Case # 07 1650 Dated: 4/24/2008

Dear Mr. Podegracz,

This letter is our request to modify the fence height and type regulation in residential areas.

Our names are Jack and Theresa Craig and we briefly spoke to you regarding our fence one evening outside City Hall and we also attended a City Council meeting and spoke to the Council Members regarding this same subject.

We purchased our home 4 years ago and at that time it was approximately 19 years old and had a 5 ft. chain link fence where we now have the 6 ft. fence. We are on a corner lot but our house is built at the top of the property. We do have a 3 ft. wall in our front yard and we consider the fenced area as our backyard due to the fact that our actual backyard is only 15 ft. deep. (Please see attached aerial view).

Because fruit was stolen right off of our trees, we decided to replace the original 5 ft. chain link fence with a 6 ft. fence for our own security. We called the Hesperia Planning Department and was told that we did not need a permit and there was no mention of a height limit. We drove around the area and saw various 6 ft. chain link fences in front of quite a few homes. If the information we received over the phone was not correct, we believe the manager of the planning department is at fault and should be accountable for not giving his employees the proper training. If we hadn't been given this erroneous information, it would have saved us this frustration and the expense of installing our new fence. If forced to go to a 4 ft or decorative fence, we would like the City of Hesperia to help us out financially so we can come up to code.

The reason all this started is about two years ago we built a garage on our property and the Inspector came out to inspect the various phases of the project. Before the final on our garage could be issued, the Inspector told us that we had an illegal fence and that he could not give us our final. A couple days later, the Inspector came back and said that he would give us our final and that he would turn the fence issue over to Code Enforcement. After several months not hearing from Code Enforcement, we assumed that everything was fine and went ahead and invested more money into the fence because we had to reinforce it due to the high winds. Four months later, Code Enforcement was at our door with the violation, which by the way they said they had sent to us a few months back but we never received it because they had the wrong address.

After trying to get someone in the Planning Department to communicate with us about this, we were informed that they were "all too busy" to talk to us, so we decided to present our case at the City Council meeting earlier last year just to get someone to listen to our side of the story. At this meeting the Principal Planner gave us his card and the next morning we talked to him on the phone and he suggested that we file a variance. In May, 2008, we filled out the information for the variance and submitted it along with a check for the amount that was requested. The following morning we received a call from Scott Priester who told us that he and his inspector walked our property and realized we did not have an actual backyard and now knew why we consider our side yard to be our backyard. In the same conversation, we mentioned that we had just submitted a variance in which he suggested that we come and pick up our check and that he would like to come over to see us that following Monday to speak to us. No one showed up that Monday and we never heard from Mr. Priester until his Secretary called to set up an appointment for December 30, seven (7) months later. Upon Mr. Priester's suggestion that we pick up our check, we went to the Planning Department

RECEIVED
By Executive Secretary

JAN 13 2009

Development Services

JAN 12 2009

and when we asked why we needed to pick up our check, the person behind the desk said that we withdrew our claim. We told her that we didn't and did not take the check back. Several weeks later we got another call asking us to pick up our check which we did and again there was no explanation on what happen to our variance so naturally we assumed again that everything was okay.

On December 30, 2008, we were visited by Scott Priester, Dave Reno and Eddie Delatorre who came to our house to discuss our 6 ft. fence on what the City is calling our front yard. When we mentioned that people should be told about the fence restrictions, the Code Enforcement and Principal Planner just kind of shrugged it off and handed us the residential fence and building permit requirements sheet which by the way after we received our Violation Notice in April of 2008, we went to the Building Department and there was nothing regarding the fence requirements in the handouts on the wall but when asked about it, the person behind the desk brought the sheet out from under the counter. The outcome of this meeting was the suggestion to write you a letter and request the modification of the fence height and type regulations in residential areas.

The Notice of Violation from the Code Enforcement Department states that the possible code violation is regarding the clear sight triangle and the action to correct it is that the front fence cannot exceed 4 ft. and remove slates from the front fence (copy attached). We have a stop sign at the corner of Dunkirk and Lobos and the actual stop line is 10 feet beyond our property which would put a vehicle in the position of a 360 degree clear sight. We will gladly remove the slates but we feel that going to a 4 ft. fence would jeopardize the safe area we have for our grandchildren when they visit and also our dogs. We would hate for anything such as a stray dog or worse case, a coyote to come on to our property. We feel safer with our 6 ft. fence. Also this Summer, we had an incident where two stray dogs chased two boys down our street and bit one of the boys. Animal Control and the Police came out for the dogs and made a report.

We realize that we can have a 6 foot "decorative" fence and at one time, we asked the Principal Planner what the difference is between a 6 foot decorative fence and 6 foot chain link fence and he told us "aesthetics". (We personally thought it was what people could afford). After looking at some decorative fences in the area, we think that in this day and age, our security would be the high priority versus a decorative fence which we feel would not give us a secure feeling. Please keep in mind that the fenced area in question is what we consider to be our backyard due to where our home is built. We cannot see the difference whether looking through a 4, 5 or 6 ft. chain link fence or a 6 ft. ornamental fence. We are both retired and now live on a fixed income. We poured our money into our chain link fence (approximately \$6,000). If the City of Hesperia forces us to take down our fence and install the 4 ft. fence, that would be another \$3,000 which we cannot afford. We do not have the money to put into any type of new fencing and with the economy the way it is now and the fact that our property value has declined by almost half of what we paid for this house 4 years ago, we cannot believe that the City would make us take down a perfectly good 6 ft. fence and put up a 4 ft. fence.

We were told by Code Enforcement that if we did not comply, each month our fine would go up by \$100.00 and one time was told that the City would remove our existing fence, install the proper fence and put a lien on our property. When we asked what if our dogs get out while they are working on our property? We were told that Animal Control would be called out. Do you realize how stressful it is to hear this? We have owned homes for the last 40 years and have always paid our bills and taxes and have always been a good neighbor. We have talked to several people in our neighborhood who tell us that they don't see anything wrong with our fence. We enjoy living in Hesperia and we cannot understand why we are being singled out.

In closing, we would like to take this opportunity to thank you for considering our request to modify the fence height and type regulations in residential areas and taking into consideration the safety and financial aspects in letting us retain our 6 foot fence.

Sincerely,

A handwritten signature in black ink that reads "Jack & Theresa Craig". The signature is written in a cursive, flowing style.

Jack and Theresa Craig



City of Hesperia Code Enforcement Department

11011 Santa Fe Ave. East, Hesperia, CA 92345

NOTICE OF VIOLATION

APRIL 24, 20 08
(Date of Notice)

To: JACK CRAIG
~~176~~ 17504 ERMANITA AVE
TORRANCE CA 90504

Case #: CE 07 1630

Concerning real property or a structure located at: 18486 DUNKLE ST
(Address-parcel#) HESPERIA CA 92345

The City of Hesperia has investigated a possible code violation for the above-mentioned property. Our site inspection of your property revealed the following violations exist:

- Abandoned, wrecked, inoperative, unregistered or dismantled vehicle(s) - 8.32.020A
- Accumulation of trash and debris - 8.32.010A
- Outside storage of appliances - 8.32.030H
- NO 20-040 CLEAR SIGHT TRIANGLE
- _____
- _____
- _____

The City requires that the following action be taken to correct the noted violation(s):
FRONT FENCE CAN NOT EXCEED 4 FT. REMOVE SLATES FROM
FRONT FENCE

ALL VIOLATIONS MUST BE CORRECTED WITHIN 14 DAYS OF THIS NOTICE OF VIOLATION.
Failure to comply will result in further action, which may include criminal prosecution and/or recordation of property with abatement fees.

If you have any questions regarding this matter, contact the Code Enforcement Division Monday through Thursday 7:30 to 9:00 and 4:30 to 5:30 and Fridays from 7:30 to 9:00 and 3:30 to 4:30 at the phone number listed below.

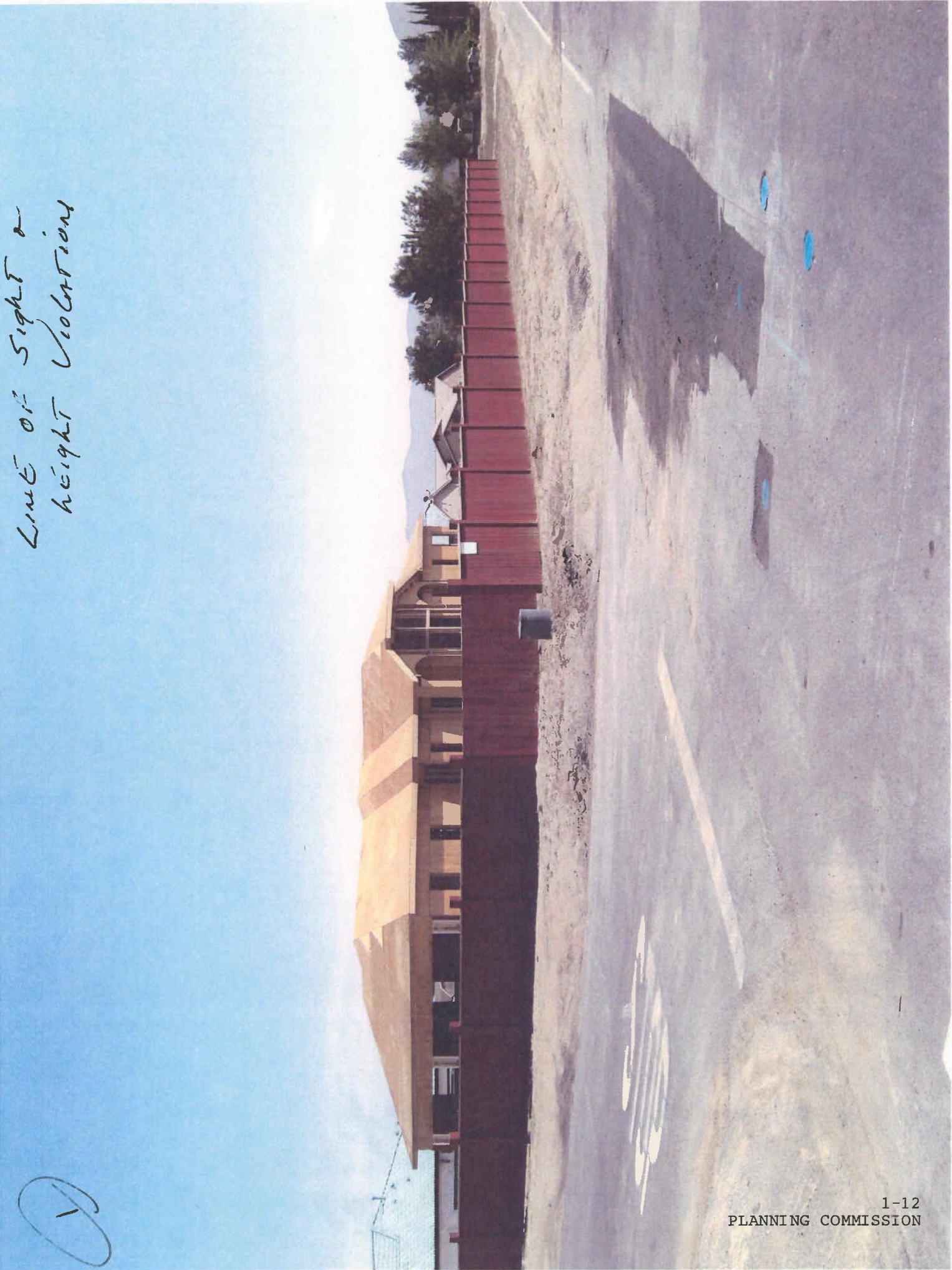
Sincerely,

Photo List

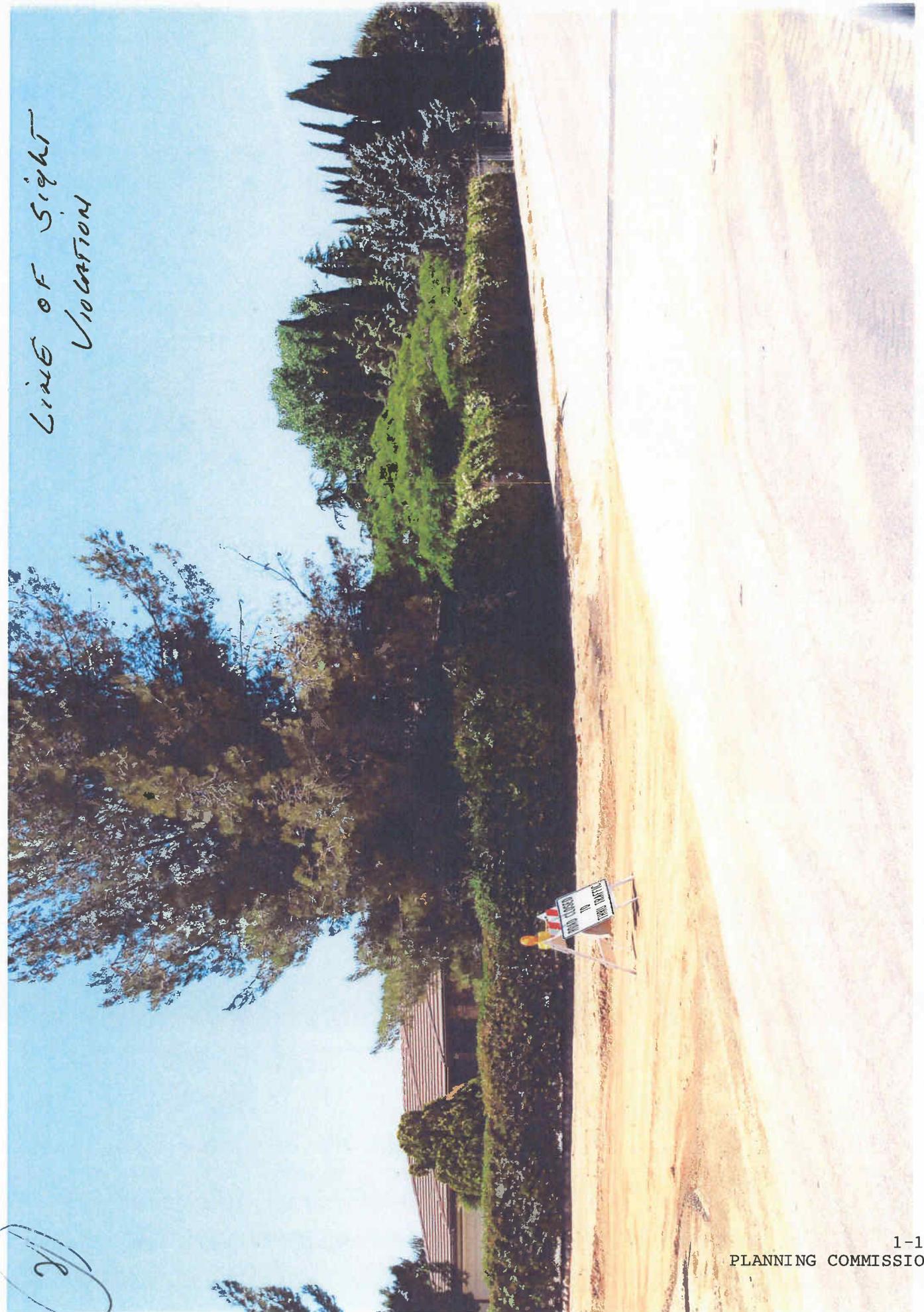
1. This photo shows a house being built and the owner has placed a 5 ft. fence around the entire property with line of sight being blocked. I am sure there is an Inspector going in and out of this property and he hasn't noticed this? This fence has been there approximately 2 years from the start of foundation all the way to this present phase
- 2 thru 5 Shows a very small example of hundreds of code violations throughout the City of Hesperia
6. Shows the original condition the house was in with a 5 ft. fence when we purchased the house in 2006. We since then extended the height by one foot.
7. Shows an aerial view of our home. Please note the 15 ft. backyard. This is why we consider the side yard as our backyard.
8. Shows what we consider the front of our house with a 3 ft. wall
9. Our present fence which we have been cited for because of height violation and clear sight triangle. Please note the white line is 10 feet beyond the stop sign giving it a 360 degree clear sight

LINE OF SIGHT &
HEIGHT VIOLATIONS

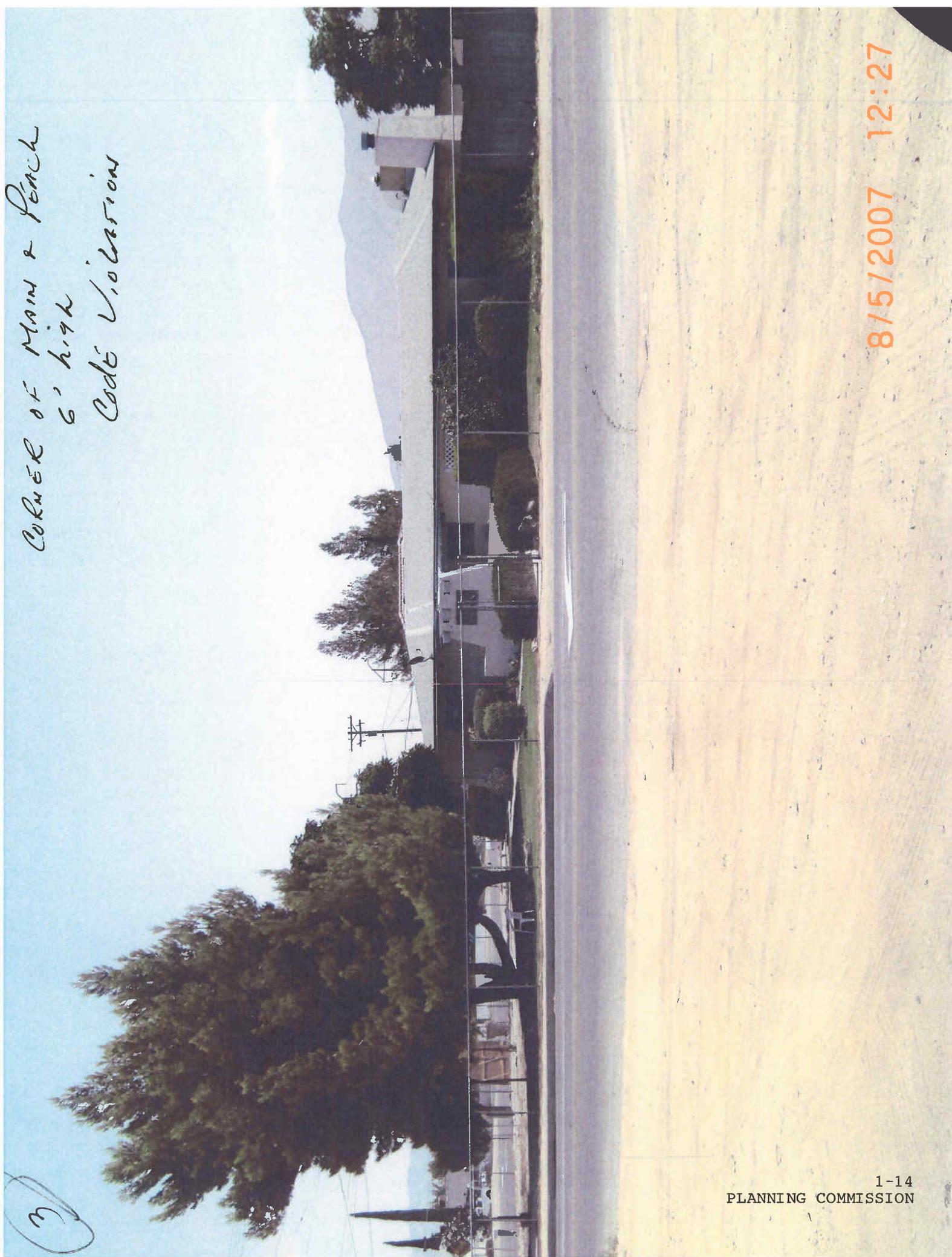
10



*Line of Sight
Violation*



3
CORNER OF MAIN & PEARCE
6' high
Code Violation



8/5/2007 12:27

THIS IS ?
LEGAL

8/2/2007 12:33

5

Code Violation



8/5/2007 10:51

PLANNING COM

THIS IS THE ORIGINAL FENCE WHEN
WE BOUGHT THE HOUSE IN 2002. WE EXTENDED THE FENCE
ONE FOOT HIGHER



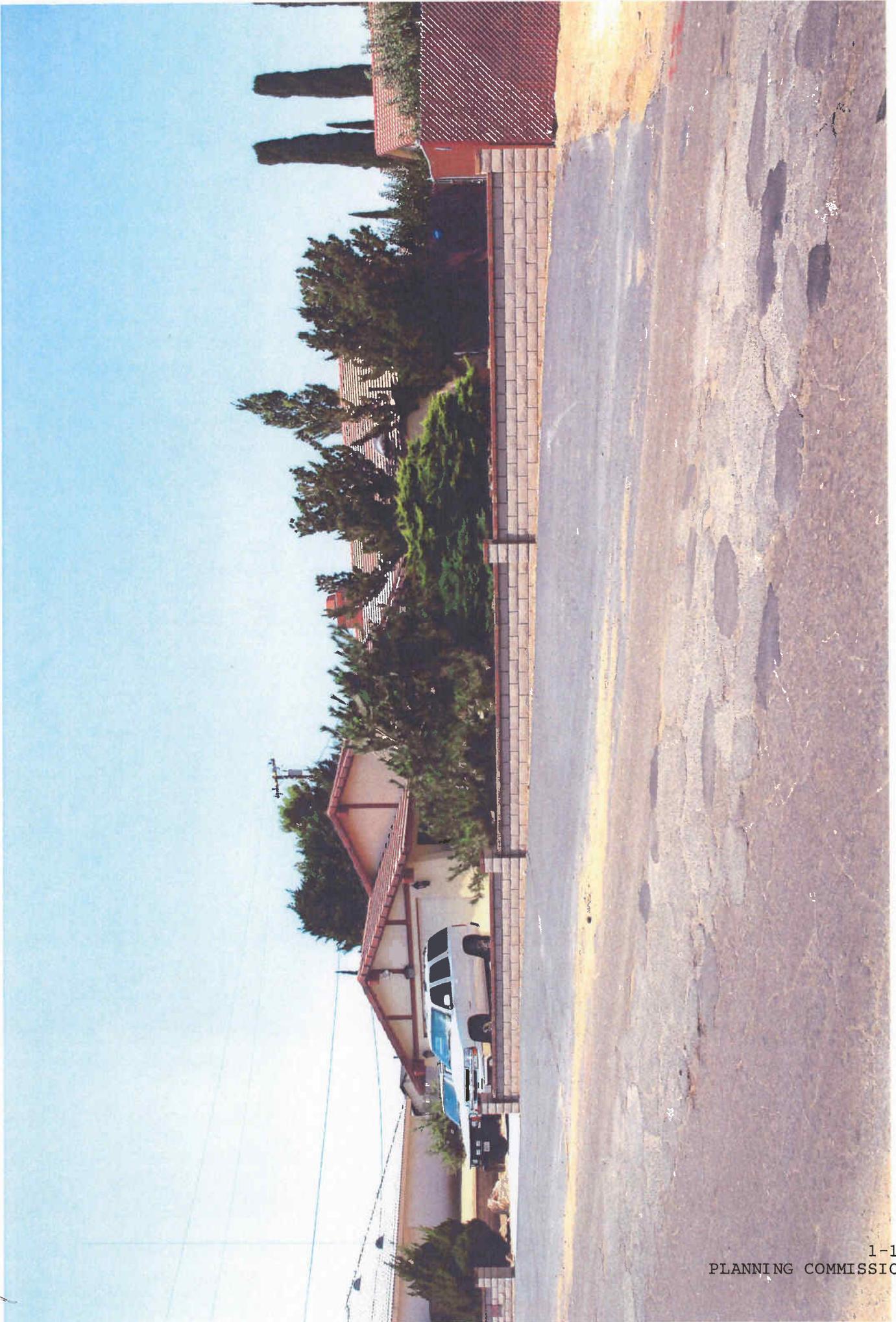
NOTE: BACKYARD 15' DEEP



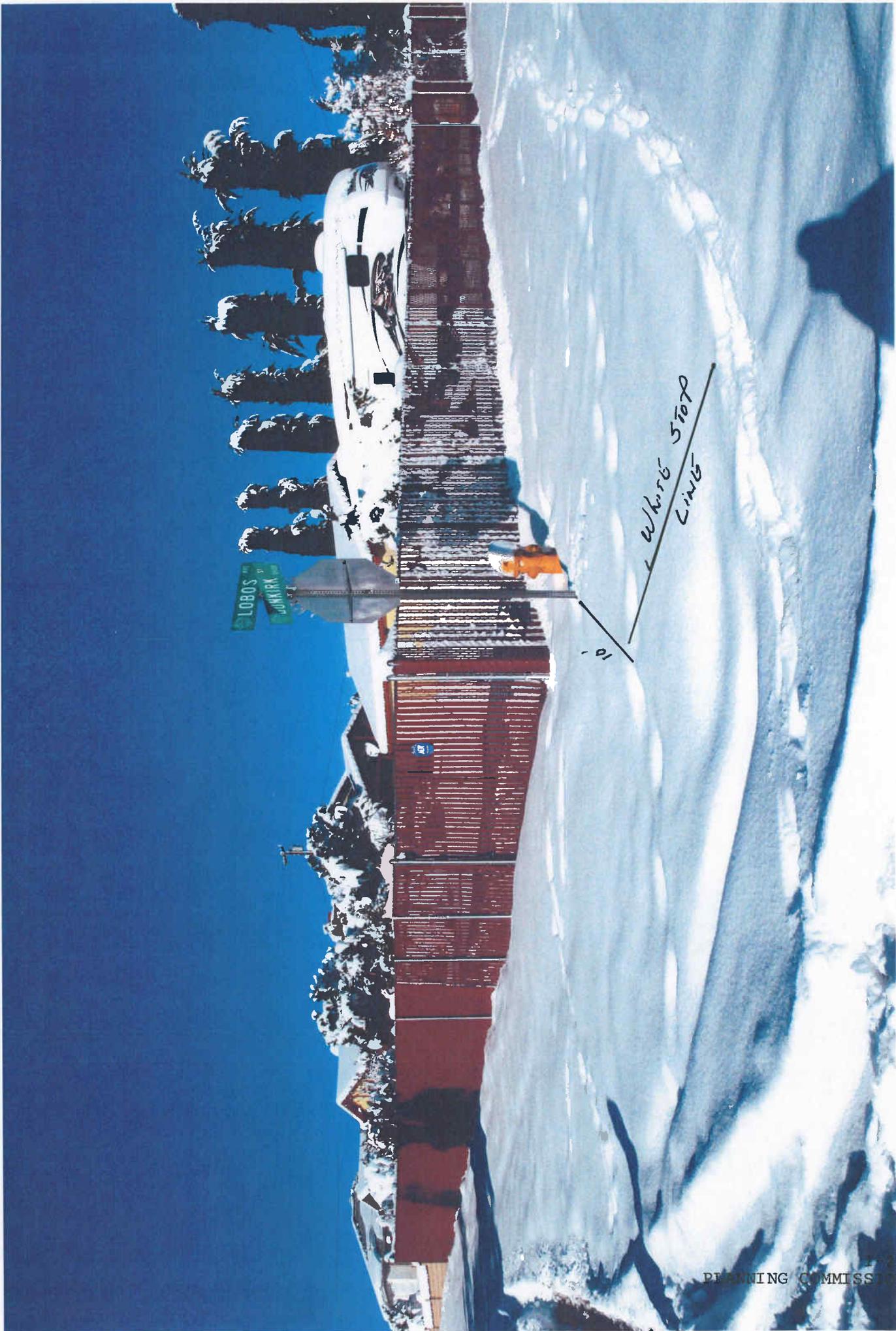
©1997-2006 AirPhotoUSA

1/

THIS IS WHAT WE CONSIDER
OUR FRONT YARD

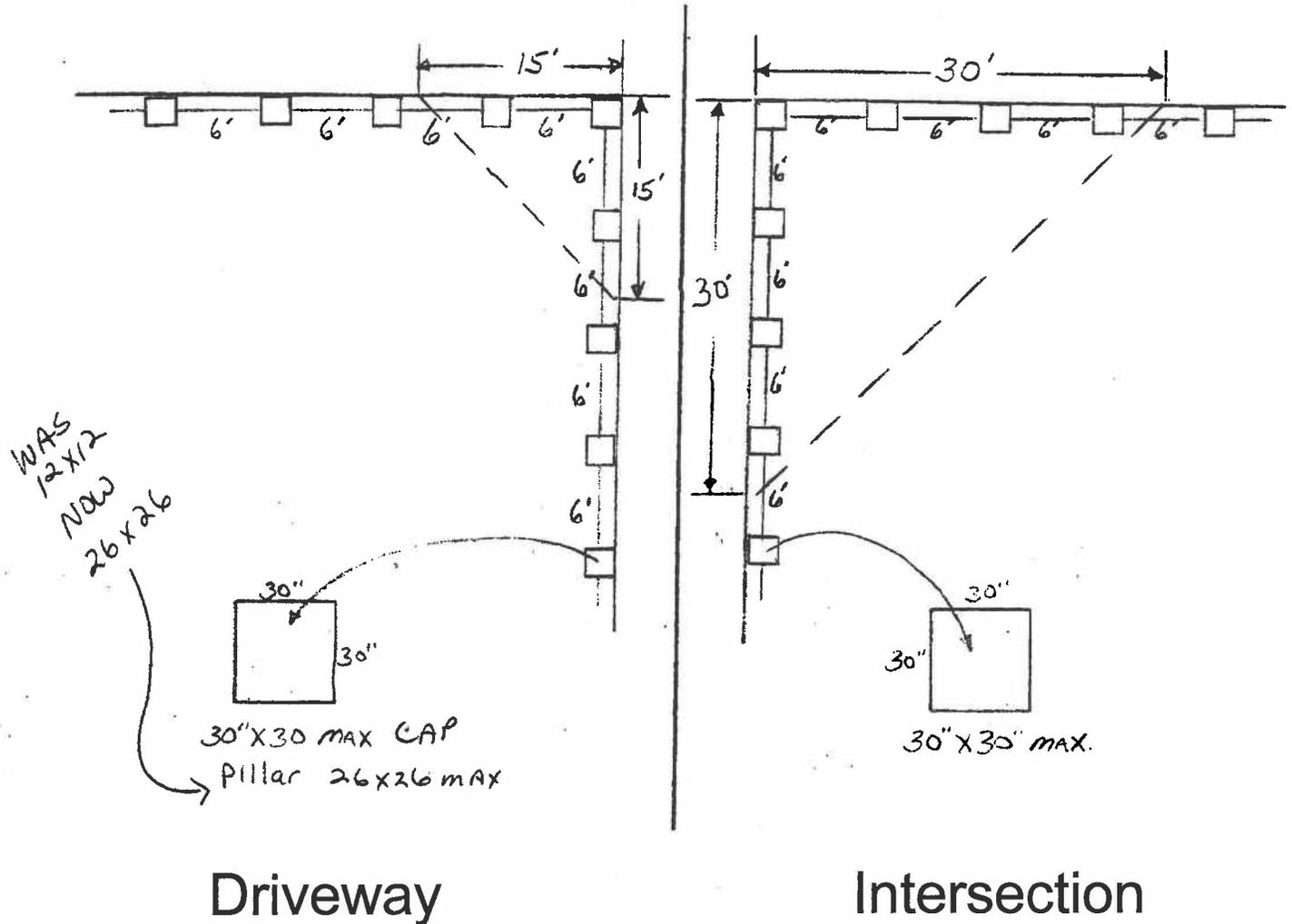


W/ Aesthetics! Replacing this fence with a decorative wood look very trendy for this neighborhood



ATTACHMENT 3

Clear Sight Triangles



APPLICANT(S):
CITY OF HESPERIA

FILE NO(S):
DCA09-10205

LOCATION:

CITYWIDE

APN(S):

CITYWIDE

PROPOSAL:

CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT TO AMEND THE DEVELOPMENT CODE REGARDING CLEAR AREAS AND ALLOWABLE PROJECTIONS INTO YARDS

N
↑

PROPOSED COLUMN ENCROACHMENTS

ATTACHMENT 4

RESOLUTION NO. PC-2009-36

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE REGULATIONS REGARDING CLEAR AREAS AND ALLOWABLE PROJECTIONS INTO YARDS (DCA09-10205)

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

WHEREAS, The City of Hesperia has filed DCA09-10205, to amend the Development Code regulations regarding clear areas and allowable projections into yards; and

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

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Development Code revisions regarding clear areas and projections into yards can have a significant adverse effect on the environment; and

WHEREAS, On August 13, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

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

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA09-10205, amending the regulations regarding clear areas and projections into yards as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 13th day of August 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT "A"

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

Section 16.20.045 is hereby amended to read as follows:

16.20.045 Clear sight triangles.

A. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all ninety (90) degree angle intersections of public rights-of-way and private driveways, through the following measures:

1. There shall be no man made visual obstruction in clear sight triangles which exceed thirty-six (36) inches above grade level, except by no more than ~~two~~ seven posts or columns each with a width no greater than ~~twelve~~ twenty-six (~~26~~42) inches within the clear sight triangle formed at a street intersection and no more than three posts or columns not to exceed 26 inches in width be within the clear sight triangle at the intersection of a driveway and a street. These columns may include a decorative cap not to exceed thirty (30) inches in width. Open wire fences, including chain link, shall not exceed seventy-two ~~forty-eight~~ (~~48~~72) inches in height above grade within clear sight triangles, ~~except properties zoned "A" may have open wire fence not exceeding sixty (60) inches.~~

2. There shall be no monument signs, walls, or non-open wire fences allowed within a clear sight triangle, which is higher than thirty-six (36) inches above grade except as permitted by Section 16.20.070.

B. Clear sight triangles are right triangles which are measured as follows:

1. The ninety (90) degree angle is formed by the intersection of either;

a. The intersection of the edges of two roadways as measured from the face of curb, top of asphalt dike, or if unpaved, the location of the curb or dike as per the standard street cross section of the ~~at the edge of their ultimate planned~~ right-of-way; or

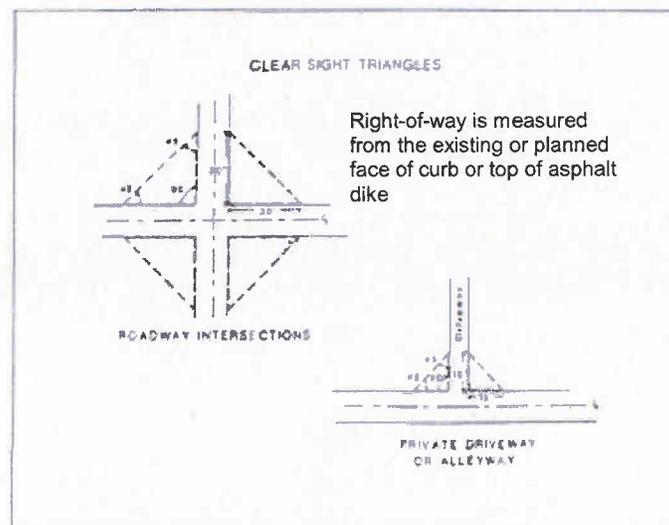
b. The intersection of the edge of a private driveway or alley as measured from the face of curb, top of asphalt dike, or if unpaved, the location of the curb or dike as per the standard street cross section of the ~~and the edge of the ultimate planned~~ right-of-way of an intersecting roadway.

2. The two forty-five (45) degree angles of a clear sight triangle shall each be located as follows:

a. Roadway Intersections. Thirty (30) feet from the roadway intersection.

b. Private Driveway or Alleyway. Fifteen (15) feet from the intersection.

3. Diagrams:



Article III. Projection Into Yards

16.20.065 General provisions.

All required yards or court areas shall be open and unobstructed from finished grade or from such other specified level at which the yard or court is required, to the sky, except for structures allowed in yard or court by the table in Section 16.20.075. The architectural projections listed in Section 16.20.075 must be attached to the principal building allowed on the lot.

(Ord. 250 (part), 1997; SBCC § 87.0801)

Section 16.20.070 is hereby amended to read as follows:

16.20.070 Clear areas.

The projections listed in the table in Section 16.20.075 may not, in any event, encroach on the following:

- A. The clear sight triangle required at traffic intersections by Section 87.0701(c).
 - B. Within five feet of any yard in which the projection is not allowed.
 - C. Within five feet of any lot line (three feet for substandard lots). (Exception: Projections listed in items 1 and 6 in Section 16.20.075 may encroach to within three feet of a lot line.)
- (Ord. 250 (part), 1997; SBCC § 87.0805)

D. Fences and walls within the front yard setback may be approved by the planning director as provided in subsection (E) and shall require the approval of a plot plan.

E. Standards for Fences and Walls within the Front Yard Setback Area.

The maximum height of a wall, fence or hedge shall be limited to a maximum of thirty-six (36) inches above grade when view-obscuring; however, non-view-obscuring estate type fences (i.e., those constructed of ornamental metal and masonry pillars) may be constructed in the front yard up to a maximum of six feet above grade. (Chain link with slats is not considered an ornamental fence, and is limited in height to thirty-six inches unless on a lot at least 15,000 square feet or larger). In no event shall any view-obscuring portion of the estate type fence, other than pillars consistent with Section 16.20.045, exceed the maximum height of thirty-six (36) inches above grade. The maximum height of fences, walls, and hedges shall be as provided within the table below:

| Fencing & Hedges | Front and Street Side Yards | Rear and Interior Side Yards |
|--|-----------------------------|------------------------------|
| Fences, screening, safety guard rails, walls and dense hedges. | Allowed | Allowed |
| <u>Commercial and all zones other than Agricultural, Residential or Industrial</u> | 6 ft. max. height | 10 ft. max. height |
| <u>Industrial</u>
† In accordance with Section 16.16.585 | 12 ft. max. height† | 12 ft. max. height† |

| <u>Fencing & Hedges</u> | Front and Street Side Yards | Rear and Interior Side Yards |
|--|---|------------------------------|
| <p><u>Agricultural & Residential</u></p> | <p>3 ft. <u>max. high solid and open wire with slats fencing</u>. 4 ft. open wire max. height in <u>the front setback yard of lots under 15,000 square feet in net area.</u>
 <u>(16.20.070 D & E)</u></p> <p><u>5-6 ft. max. height in front yards for open wire fencing without slats in "A" zones on lots at least 15,000 square feet in net area. 6 ft. high solid or open wire fencing with slats shall be allowed in the area of the front yard which overlaps the street side yard if the fence does not encroach within a required clear sight triangle. The fence may also extend across the front yard to connect to a logical portion of the residence to form a private yard as approved by the planning director or his designee (chain link is not considered an ornamental fence and is limited in height as provided herein).</u></p> <p>6 ft. max. height within street side yards</p> | <p>6 ft. max. height</p> |

Section 16.20.075 is hereby amended to read as follows:

16.20.075 Table of projections into yards and courts.

TABLE INSET:

| Facilities | Front and Street Side Yards | Interior Side Yards and Courts | Rear Yard |
|---|--|--------------------------------|--|
| 1. Eaves; awnings, canopies, louvers and similar shading devices; sills, cornices, planting boxes and similar features; skylights, flues, and chimneys, <u>and bay windows and media alcoves not exceeding 7 ft. in width and not constituting floor area;</u> similar architectural features. (May encroach to within 3 feet from lot line.) | <u>Eaves, awnings, and canopies may encroach up to 10 ft., provided they are a minimum of 6 ft. from the right-of-way and do not extend over any portion of a septic system. 4 ft. for all others.</u> | 2 ft. | 4 ft. |
| 2. <u>HVAC and other mechanical equipment, evaporative coolers, air conditioner compressors and pool /spa equipment.</u> | 4 ft. when screened from view | 5 ft. from side property line | 4 ft. |
| 3. Attached patio, <u>portico</u> , or similar residential <u>accessory structure</u> having open, unwall sides along not less than 50% of their perimeters. | <u>4-10 ft. The structure shall be a minimum of 6 ft. from the right-of-way and shall not extend over any portion of a septic system.</u> | Not Allowed | 15 ft. May occupy no more than 25% of <u>15 ft.</u> rear yard. Minimum 5 ft. separation from rear lot line. |
| 4. Breezeways and similar roofed passageways projecting from a residential building. | <u>4-10 ft. The structure shall be a minimum of 6 ft. from the right-of-way and shall not extend over any portion of a septic system.</u> | Allowed | 2 ft. |

| Facilities | Front and Street Side Yards | Interior Side Yards and Courts | Rear Yard |
|---|---|--|---|
| 5. Cantilevered decks; and cantilevered bay windows located above the first story of a building, if the total width of bay windows on any one story does not exceed 50% of the length of the wall containing them. | 4 ft. | 3 ft. <u>(May encroach to within 3 ft. of lot line.)</u> | 4 ft. |
| 6. Roofed stairways, landings corridors and fire escapes that are enclosed. (May encroach to within 3 feet from <u>of</u> lot line.) | 5 ft. | 3 ft. | 10 ft. |
| 7. Porches, platforms or stairways that are uncovered, or landings of average height not greater than 4 feet above required yard or court level, plus railings up to 4 feet high. | <u>4-10 ft. The structure shall be a minimum of 6 ft. from the right-of-way and shall not extend over any portion of a septic system.</u> | 4 ft. | 10 ft. |
| 8. Open storage of boats, trailers, appliances and similar materials and temporary trash storage. (Not applicable to parking of commercial vehicles.) | Not Allowed | Not Allowed | Allowed |
| 9. Slides, clotheslines and similar equipment and radio or television masts or antennas. | Not Allowed | Not Allowed | Allowed |
| 10. Non-metallic Garages, carports, sheds and other detached, enclosed accessory buildings. Metal residential and agricultural accessory buildings, cargo containers, trailers without axles and similar storage structures are also regulated by Section 16.20.420, whichever is more restrictive. | Not Allowed | Not Allowed | Allowed
May occupy no more than 25% of rear yard |

| Facilities | Front and Street Side Yards | Interior Side Yards and Courts | Rear Yard |
|--|---|--|--------------------------------------|
| 11. Unroofed parking and loading areas. Commercial and Industrial. Includes parking of commercial vehicles in Residential and Agricultural Zones. (Per Residential Parking Standards.) | Allowed | Allowed in Side Yards.
Not Allowed in Courts. | Allowed |
| 12. Covered, underground or partially excavated structures, such as garages, fallout shelters, wine cellars and basements. | Allowed, provided that:
1. The top surfaces of the facilities are landscaped or developed as patios or terraces without roofs.
2. The facilities do not extend more than 30 inches above the average adjoining level of finished grade. | | |
| <u>13. Permanently mounted barbeque equipment</u> | <u>Permitted if screened within a porch or other approved accessory structure</u> | <u>Min. 3 ft. from property line</u> | <u>Min. 3 ft. from property line</u> |
| 13. (a) Fences, screening, safety guard rails, walls and dense hedges. | Allowed | Allowed | Allowed |
| Commercial and all zones other than Residential or Industrial | 6 ft. max. height | 10 ft. max. height | 10 ft. max. height |
| Industrial
† In accordance with Section 16.16.585 | 12 ft. max. height† | 12 ft. max. height† | 12 ft. max. height† |
| Residential | 3 ft. solid and 4 ft. open wire max. height in front setback* | 6 ft. max. height | 6 ft. max. height |
| * Decorative fences and walls within the front yard setback may be approved by the planning director as provided in subsection 13(b) of this table and shall require the approval of a plot plan. | — | — | — |
| — | 6 ft. max. height within street side yards | — | — |

| — | 5 ft. in front yards for open wire fence in "A" zones (chain link is not considered an ornamental fence and is limited in height as provided herein)— | — | — |
|---|---|--------------------------------|-----------|
| <p>13. (b) Standards for Decorative Fences and Walls within the Front Yard Setback Area.
 The maximum height of a wall, fence or hedge shall be limited to a maximum of thirty six (36) inches above grade when view obscuring; however, non-view obscuring estate type fences (i.e., those constructed of ornamental metal and masonry pillars) may be constructed in the front yard up to a maximum of six feet above grade. (Chain link is not considered an ornamental fence, and is limited in height to forty eight (48) inches). In no event shall any view obscuring portion of the estate type fence, other than pillars located no less than six feet apart, exceed the maximum height of thirty six (36) inches above grade.
 In no event shall any fence, wall or hedge obscure any clear sight triangle.—</p> | | | |
| Facilities | Front and Street Side Yards | Interior Side Yards and Courts | Rear Yard |
| 14. Trees, shrubs and landscaping, other than dense hedges with a screening effect; sculpture and similar decorations; flagpoles; unroofed paving; driveways; walkways; and utility poles and lines. | Allowed | Allowed | Allowed |
| 15. Signs | Allowed subject to Sign Standards as specified in the applicable zone/land use district and/or Chapter 16.36. | | |
| 16. Swimming pools | Not allowed in front yards. Allowed in street side yards no closer than 5 ft. to property line. | 5 ft. from side property line | Allowed |
| 17. Residential and agricultural accessory structures, including metal accessory structures (not metal buildings) and other accessory structures not enumerated elsewhere in this table | Not allowed | Not allowed | Allowed |



DATE: August 13, 2009
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY:  Stan Liudahl, AICP, Senior Planner
SUBJECT: Development Code Amendment DCA09-10229 regarding the definition of a front lot line; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-40, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10229.

BACKGROUND

This Development Code Amendment is proposed in response to a code enforcement case involving a chain link fence installed within the front yard at 18486 Dunkirk Street within the R1-18000 Zone District (Attachment 2 of DCA09-10205) and is in coordination with Development Code Amendment DCA09-10205, revising the regulations regarding clear areas and allowable projections into yards. Currently, the Development Code defines the front lot line as the narrowest frontage of a lot fronting on a street. This definition has posed some problems over the years, due to orientation of homes facing the widest street frontage.

ISSUES/ANALYSIS

This Development Code Amendment will revise the definition of the front lot line. This recommendation is based upon the situations created on corner lots when the residence faces the widest street frontage. The current definition has limited the height of solid fencing across that portion of the lot that normally functions as the rear yard to three feet, reducing the private yard area afforded the homeowner. Current regulations limit the height of chain link, or open wire fencing, to four feet in the front yard of all residential zones except the agricultural zone districts, which are allowed a five-foot height limitation. Chain link and solid fencing is allowed up to six feet high in street side yards. These regulations are being addressed in another development code amendment, also on this agenda.

The front lot line definition has also required accessory buildings to be located farther behind the lot line than needed if the lot line was deemed the street side lot line, further reducing the usable rear yard. A typical front yard for a one-half acre lot is 50 feet deep, while the street side yard may be from 15 to 25 feet deep. Therefore, staff believes that the rigid definition of the front lot line is unfair and should be made flexible to account for the orientation of the residence, particularly on reverse corner lots, the location of driveways and detached accessory buildings, and other factors, to ensure that the usable rear yard is not unfairly reduced.

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

CONCLUSION

Staff supports the Development Code Amendment, as it will provide a common sense approach to determining the front yard, eliminating unnecessary restrictions on privacy fencing heights and excessive accessory building setbacks.

FISCAL IMPACT

None.

ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENT

1. Resolution No. PC-2009-40, with Exhibit "A"

ATTACHMENT 1

RESOLUTION NO. PC-2009-40

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE REGARDING THE DEFINITION OF A FRONT LOT LINE (DCA09-10229)

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

WHEREAS, The City of Hesperia has filed DCA09-10229, to amend the Development Code regarding the definition of a front lot line; and

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

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Development Code revision regarding the definition of a front lot line can have a significant adverse effect on the environment; and

WHEREAS, On August 13, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

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

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA09-10229, amending the definition of a front lot line as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 13th day of August 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT “A”

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

Section 16.08.465 is hereby amended to read as follows:

16.08.465 Lot line, front.

"Front lot line" means in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, ~~the~~ a line separating the ~~narrowest street~~ frontage of the lot from the street which functions as the front yard, based upon the orientation of the residence and other factors as determined by the Planning Director or his designee, except in those cases where the latest tract deed restrictions or the recorded map specify another line as the front lot line.
(Ord. 250 (part), 1997; SBCC § 83.011286)

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DATE: August 13, 2009
TO: Planning Commission
FROM: ✓ Dave Reno, AICP, Principal Planner
BY: (SL) Stan Liudahl, AICP, Senior Planner
SUBJECT: Development Code Amendment DCA09-10228 regarding the approval periods for land use decisions; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2009-39, recommending that the City Council introduce and place on first reading an ordinance approving DCA09-10228.

BACKGROUND

This Development Code Amendment is proposed in response to the lowest level of new construction activity since the City's incorporation in 1988. Only five new single-family residences were permitted in 2008 and so far, none have been issued this calendar year. Although multiple-family residences, commercial, and industrial permits have been issued this year, the activity is a miniscule portion of the activity of past years.

In response to current economic conditions, in 2008 the state granted an automatic one-year extension for approved tentative maps which had not expired as of July 15, 2008. On July 15, 2009, the state approved an additional two-year extension. On May 5, 2009, the City Council adopted an ordinance providing a one-year automatic extension for active building permits. Approval of this ordinance would provide a one-year automatic extension for entitlements effective as of January 1, 2007 and replace the two-year effective life of specified entitlements with a three-year effective life, consistent with the effective life of tentative maps. In addition, the ordinance will allow multiple extensions of time.

ISSUES/ANALYSIS

This development code amendment will provide an automatic one-year extension for all projects approved between January 1, 2007 and the effective date of approval of this Development Code Amendment, reinstating some entitlements which may have expired earlier this year. This amendment would reinstate 54 site plan review and four conditional use permit applications which expired earlier this year. This amendment will also revise the regulations to allow multiple extensions of up to one-year for private projects, as is currently afforded public projects. In addition, the procedure for granting extensions is recommended to be subject to approval by the Development Review Committee, as is current practice, instead of by the Planning Director, his designee, or the Planning Commission. Finally, staff proposes that Section 16.12.060 be entitled "Approval period for land use decisions," omitting the term "conditional," which could be misconstrued as applicable to conditional use permits alone. This ordinance would also set time limits to second dwelling units, temporary dependent housing units, and exotic animal permits consistent with that of site plan review and conditional use permits.

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

CONCLUSION

Staff supports the Development Code Amendment, as it will provide project applicants additional time to obtain building permits, resulting in more shovel-ready projects when the economy improves, and update the extension of time permitting procedures to reflect current practices.

FISCAL IMPACT

Staff would not recommend providing automatic extensions during “normal” business times, as it would result in loss of considerable revenue and precludes the addition of any new development standards that were adopted since the project’s original approval. Staff supports this amendment at this time, given the current business environment. Unless financial institutions begin funding construction projects, it is unlikely that many projects will be constructed in the short term. The application fee for an extension of time is \$144.72. Therefore, this amendment is not expected to have a significant fiscal impact.

ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENT

1. Resolution No. PC-2009-39, with Exhibit “A”

ATTACHMENT 1

RESOLUTION NO. PC-2009-39

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE REGULATIONS REGARDING THE APPROVAL PERIODS FOR LAND USE DECISIONS (DCA09-10228)

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

WHEREAS, The City of Hesperia has filed DCA09-10228, to amend the Development Code regulations regarding the approval periods for land use decisions; and

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

WHEREAS, The proposed Development Code amendment is exempt from the provisions of CEQA under Section 15061(b)(3) of the CEQA Guidelines, as there is no possibility that the proposed Development Code revisions regarding clear areas and projections into yards can have a significant adverse effect on the environment; and

WHEREAS, On August 13, 2009, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

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

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA09-10205, amending the regulations regarding clear areas and projections into yards as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 13th day of August 2009.

Chris Elvert, Chair, Planning Commission

ATTEST:

Eva Heter, Secretary, Planning Commission

EXHIBIT "A"

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

Section 16.12.005 is hereby amended to read as follows:

16.12.005 Development review procedures.

A. Land use applications will be reviewed and approved in accordance with four basic procedures:

1. Noticed public hearing by the city council and/or planning commission, in which the reviewing authority hears public testimony for and against the land use proposal, reviews evidence and renders its decision;

2. Administrative review with notice, in which a posted and/or published notice is given to affected and interested parties, followed by a decision by the reviewing authority. The notice shall be designed to ensure that all interested parties are aware of the pending decision and are given a chance to comment before the reviewing authority renders its decision. The reviewing authority shall be the ~~planning director, or his or her designee, with concurrence with other city agencies~~ Development Review Committee;

3. Administrative review without notice, used when land use decisions made by the reviewing authority are based upon standards that have been adopted by the city as law or policy, and the reviewing authority is allowed to render a decision without giving notice to surrounding property owners and other parties. The reviewing authority shall be the ~~planning director, or his or her designee, with concurrence with other city agencies~~ Development Review Committee;

4. Tenant improvement review, used when a proposed land use is to be located within a facility that meets the city's development standards, or when the existing facility has been previously approved for the same or similar use. The reviewing authority is not required to give notice prior to rendering a decision. The reviewing authority shall be the building official, or his or her designee, with concurrence with other city agencies.

B. Review procedures for each application type are specified in Articles II through XII of this chapter. (Ord. 192 Exh. A (§ 83.01.010), 1994)

Section 16.12.060 is hereby amended to read as follows:

16.12.060 Approval period for ~~conditional~~ land use decisions.

Any ~~conditional~~ land use decision made in accordance with the provisions of this Title 16 shall be subject to the following time limitations:

A. Unless substantial construction in reliance upon building permits has occurred or division of land authorized by the land use decision has taken place or been recorded within the time specified for each land use application type within this Title 16, the land use decision shall become null and void.

B. Where circumstances warrant, the ~~planning director or designee~~ Development Review Committee may grant ~~an extension~~ of time for a period of time not to exceed ~~a total of twelve (12) months each.~~ The Development Review Committee shall consider each extension of time on its own merits and may amend the conditions as necessary to bring the project into compliance with the Development Standards in effect at the time of review of the extension. The ~~planning director~~ Development Review Committee may refer such request for extension to the planning commission for action.

C. Public projects shall not be subject to a time limitation unless specific time limits are included within conditions placed upon the project's approval. When time limits are placed within the conditional approval of a public project, extensions of time may be granted whenever warranted; provided, no single action is taken to grant an extension greater than twelve (12) months.

D. All entitlements subject to this section effective between January 1, 2007 and the effective date of approval of this amendment shall be granted one automatic 12-month extension of time.

(Ord. 192 Exh. A (§ 83.01.120), 1994)

Section 16.12.095 is hereby amended to read as follows:

16.12.095 Approval requirements.

A. Site plan approval shall apply only to the property for which the application was made, and shall apply to that property as long as the use for which approval was granted is in effect, regardless of changes in ownership.

B. Site plan approval shall be granted for a period not to exceed ~~twenty-four~~thirty-six (24~~36~~) months from the effective date of the decision; ~~an extensions~~ of time to complete compliance with conditions of approval may be granted where warranted, pursuant to Section 16.12.060.

C. The following requirements may be placed upon the development project by the reviewing authority as conditions of approval:

1. Dedications and/or easements for streets, alleys, drainage, public utilities, recreational trails, flood control, and such other rights-of-way as may be determined essential to the orderly development of the site and abutting properties;

2. On and off-site improvements, including but not limited to the following:

a. Grading, drainage and drainage structures necessary to protect the public safety,

b. Curbs and gutters, street pavement, sidewalks, and traffic control devices; all road improvements are to be constructed pursuant to plans and specifications of the public works department of the city,

c. Adequate water system and fire protection equipment, pursuant to plans and specifications of the public works department and fire department of the city,

d. Sanitary sewer facilities and connections,

e. Services from public utilities where provided,

f. Street trees,

g. Landscaping, walls and/or fences, trash enclosures, and lighting fixtures,

h. Street lights and street name signs,

i. In addition to the above requirements, the reviewing authority shall require such additional improvements and facilities as determined necessary for the proper development of the site and area.

Section 16.12.120 is hereby amended to read as follows:

16.12.120 Approval requirements.

A. Conditional use permit approval shall apply only to the property for which the application was made, and shall apply to that property as long as the use for which approval was granted is in effect, regardless of changes in ownership.

B. A conditional use permit shall be granted for a period to be specified by the planning commission, not to exceed ~~twenty-four~~thirty-six (24~~36~~) months from the effective date of the decision; ~~extensions~~ of time to complete compliance with conditions of approval may be granted where warranted, pursuant to Section 16.12.060.

Section 16.12.360 is hereby amended to read as follows:

16.12.360 Second dwelling units and temporary dependent housing.

A. Purpose. The purpose of these provisions are to establish procedures for permitting a second dwelling unit (SDU) or continuing the use of a temporary dependent housing (TDH) unit on lots zoned for residential uses; to implement state law requiring consideration for such uses; to protect and preserve existing neighborhoods by ensuring, through established standards, that temporary dependent housing units shall not be permitted where incompatible with existing adjacent and neighboring residential uses; and to provide opportunities for affordable housing for persons sixty-two (62) years of age and older, or handicapped persons.

B. Second Dwelling Unit Defined. "Second dwelling unit (SDU)" means an additional detached or attached dwelling unit which provides complete independent living facilities for one or more persons. The unit shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary unit is situated.

C. Temporary Dependent Housing Unit Defined. "Temporary dependent housing unit (TDH)" means a temporary dependent housing unit is a detached or attached dwelling unit intended for the sole occupancy of one or two adult persons who have reached the age of sixty-two (62) years, or are handicapped. A TDH unit provides for complete, independent living facilities for one or two persons, inclusive of, but not limited to, provisions for living, sleeping, eating, cooking, access and sanitation, on the same lot as the permitted primary dwelling.

D. Application Procedure--Second Dwelling Units. Application for a SDU unit shall be made by applying for a ~~special use permit~~ second dwelling unit application, pursuant to this article. The review procedure shall be administrative review without notice, pursuant to Section 16.12.005(A)(3). Permits for second dwelling units will be issued for a period not to exceed thirty-six (36) months. Applications for renewal may be filed for additional twelve (12) month periods. Said renewal application must be filed prior to expiration of the second dwelling unit permit.

E. Requirements for Approval.

1. A second dwelling unit may only be permitted on lots within a single-family residential zone district on which there is already built one owner-occupied single-family detached dwelling unit (primary unit). The primary unit may be considered the second dwelling unit only if the lot can accommodate the existing and proposed structure in accordance with the provisions specified herein.
2. One dwelling unit on the property shall be owner-occupied.
3. Only one second dwelling unit shall be permitted on any one lot. Where planned unit or cluster development techniques are used, the total number of dwelling units permitted on a parcel may be developed on or divided between one or more sites, when total permitted net density is not exceeded, and when it can be shown that adequate access, utilities, and public safety can be provided.
4. The second dwelling unit shall provide complete and independent living facilities.
5. The second dwelling unit shall not be sold separately, and may be rented.
6. The second dwelling unit shall have adequate water supply pursuant to specifications of the Uniform Plumbing Code.
7. Lots not connected to sewer facilities shall be a minimum of one gross acre in size.
8. The second dwelling unit may be either an attached or detached unit. A detached second unit shall not exceed seventy-five (75) percent of the area of the principal dwelling unit up to a maximum gross floor area of three thousand (3,000) square feet per structure on any parcel. Second dwelling units attached to the principal unit may be up to fifty (50) percent of the area of the principal unit, up to a maximum of one thousand (1,000) square feet. The area of a second dwelling unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20. No second dwelling unit shall be less than four hundred (400) square feet in area.

F. Property Development Standards--Second Dwelling Units.

1. The lot upon which the second dwelling unit is to be established shall conform to all standards of the land use district in which it is located.
2. The yard standards for accessory buildings shall apply to a detached unit.
3. The yard standards for the primary unit shall apply to an attached unit.
4. The second dwelling unit shall be constructed in accordance with minimum standards for single-family residential uses on individual lots as specified in Section 16.20.160, unless otherwise specified herein.
5. Provision for emergency vehicle access to the second dwelling unit shall be addressed in the following manner:
 - a. Access roads shall be within one hundred fifty (150) feet of any portion of an exterior wall of the first story of the second dwelling unit and shall be measured in an approved route around the exterior of the structure.
 - b. Turning radius for emergency vehicles shall be a minimum of thirty-four (34) feet inside radius.
 - c. Emergency vehicle access roads in excess of one hundred fifty (150) feet in length shall be provided with a turnaround.
 - d. Maximum grade for the access road shall be twelve (12) percent for asphalt surfaces and fifteen (15) percent for concrete surfaces.

e. Emergency vehicle access roads shall have an unobstructed width of at least twelve (12) feet and an unobstructed vertical clearance of at least thirteen (13) feet six inches.

f. Addresses shall be posted with numbers measuring a minimum of four inches in height and shall be visible from the public right-of-way. In addition, during the hours of darkness the numbers shall be internally illuminated.

In cases where the second dwelling unit is located more than one hundred (100) feet from the public right-of-way, additional nonilluminated contrasting numbers measuring a minimum of six inches in height shall be displayed at the property entrance.

6. The entrance to an attached second dwelling unit shall be separate from entrance to the primary unit and shall be installed in a manner as to eliminate an obvious indication of two units in the same structure.

7. The maximum lot coverage provisions of the land use district shall apply.

8. Parking for the second dwelling unit shall be provided by a fully-enclosed one-car garage with a minimum interior size of nine feet in width and nineteen (19) feet in depth, plus one additional parking space in an approved location on the lot.

9. The second dwelling unit shall be compatible with the design of the primary unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, and shall not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.

10. The construction of a second dwelling unit shall not be considered when calculating minimum distance requirements for animal uses on the subject lot or on adjacent lots. The second dwelling unit shall require a minimum twenty (20) foot setback for the rear and side yards.

G. Application Procedure--Temporary Dependent Housing.

1. A valid permit for TDH unit shall be considered for renewal provided that the unit and occupants continue to meet the requirements in this article. The review procedure for renewal of a TDH unit shall be administrative review without notice, pursuant to Section 16.12.005(A)(3). Those units that no longer meet these requirements may be considered for approval as a second dwelling unit, provided they meet the requirements of Section 16.12.355 et seq.

2. A TDH unit shall be located on property zoned for residential uses.

3. Only one TDH unit shall be permitted on any one lot. Where planned unit or cluster development techniques are used, the total number of dwelling units permitted on a parcel may be developed on or divided between one or more sites, when the total permitted net density is not exceeded, and when it can be shown that adequate access, utilities, and public safety can be provided.

4. The TDH unit shall provide complete and independent living facilities.

5. The lot shall contain an existing single family detached dwelling unit, and shall be owner-occupied.

6. The TDH unit shall be for the sole occupancy of one or two adult persons who have reached the age of sixty-two (62) years, or are handicapped. A deed restriction, acceptable to the city attorney, specifying the occupancy limitations for the dependent housing unit, shall be recorded on the property.

7. The TDH unit may be either an attached or detached unit. The maximum livable floor area of a detached unit shall not exceed seventy-five (75) percent of the area of the principal dwelling unit up to a maximum gross floor area of three thousand (3,000) square feet per structure on any parcel. Temporary dependent housing units attached to the principal dwelling unit may be up to fifty (50) percent of the area of the principal dwelling unit, up to a maximum of one thousand (1,000) square feet. The area of a temporary dependent housing unit is in addition to and shall not be considered as part of the allowable accessory building area authorized under Article X of Chapter 16.20.

8. The TDH unit shall not be sold separately.

9. There shall be no separate utility service to the TDH unit.

10. Permits for a TDH unit will be issued for a period not to exceed ~~twenty-four~~ thirty-six (2436) months. Applications for renewal may be filed for additional ~~twenty-four~~ twelve (2412) month periods. Said renewal application must be filed ~~at least thirty~~ (30) days prior to expiration of the TDH permit.

H. Property Development Standards--Temporary Dependent Housing.

1. The lot upon which the TDH unit is to be created shall conform to the minimum area and dimension standards of the zoning district in which it is located.

2. The yard for accessory buildings shall apply to a detached unit.

3. Detached TDH units shall be located in the rear yard area and shall not extend beyond the primary unit when the primary unit faces a right-of-way.
 4. The yard standards for the primary residence shall apply to an attached unit.
 5. One parking space in a permitted location shall be provided on the same lot as the TDH unit, in addition to the required parking spaces serving the primary unit. The driveway serving the primary dwelling unit shall also serve the TDH unit.
 6. Each TDH unit shall be provided with a separate outside entrance, not visible from the street, with adequate pedestrian access from a public street to the entrance.
 7. The maximum lot coverage provisions of the zone shall apply.
 8. A TDH unit shall be designed and constructed with the materials of construction that are comparable to and compatible with the residence and other residences in the vicinity.
- I. Minimum Construction Standards--Temporary Dependent Housing.
1. Manufactured home foundation systems shall comply with all state and local laws, including the California Administrative Code and Uniform Building Code, which shall include tie down, clip, or anchoring systems designed by a registered civil engineer to resist lateral forces for the subject manufactured home. Anchoring systems shall be nonvisible.
 2. Siding material shall consist of stucco, wood, brick, stone, or decorative concrete block. Synthetic products of a similar appearance, equivalent durability and providing equivalent fire resistance shall be permitted. Metal siding, if utilized, shall be non-reflective and horizontally lapping. The exterior covering material shall extend to a point at or near grade except if an approved solid wood, metal, concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.
 3. The roofing material shall be of materials customarily used in the local area and shall be approved by the building official. All TDH units shall have eave and gable overhangs of not less than twelve (12) inches measured from the vertical side of the residential structure, unless overhangs are architecturally incompatible with the design of the structure as approved by the building official.
 4. All entries/exits shall be completed per the Uniform Building Code.
 5. A building permit for the installation of a manufactured home to be used as a TDH unit shall not be issued, if more than ten years have elapsed between the date of manufacture and the date of the application for the issuance of the permit to install such manufactured home.
- J. Removal of Temporary Dependent Housing Unit. At such time that the permit for the TDH unit, or any renewal thereof, expires or becomes null and void, the TDH unit shall be removed from the lot in a safe and efficient manner as determined by the city.
- K. Nonconforming Conditions. Any conditions pertaining to parking, building code and property development standards of the zone that are nonconforming for the primary use shall be corrected as a condition for approval of a TDH unit.
(Ord. 2003-05 § 4 (part), 2003; Ord. 299 § 4 (Exh. A § 3 (part)), 2000; Ord. 250 (part), 1997; Ord. 192 Exh. A (§ 83.10.020), 1994)

Section 16.12.365 is hereby amended to read as follows:

16.12.365 Exotic animals.

The keeping of exotic animals shall be permitted in a single-family residential zone subject to the requirements of this section.

A. Exotic Animal Defined. "Exotic animal" means any warm or cold-blooded animal not normally maintained in a dwelling unit with people or considered domesticated within California.

B. Application Procedure.

1. An application to keep an exotic animal shall be filed with the planning department in a manner prescribed by the planning director, along with a fee as established by resolution of the city council.
2. The review procedure shall be administrative review with notice, pursuant to Section 16.12.005(A)(2). Permits for an exotic animal will be issued for a period not to exceed thirty-six (36) months. Applications for renewal may be filed for additional twelve (12) month periods. Said renewal application must be filed prior to expiration of the exotic animal permit.

C. Requirements for Approval.

1. Prior to giving notice in accordance with the provisions of Section 16.12.010, the reviewing authority shall request that the applicant submit a statement from a city-approved veterinarian regarding the particular animal's mature behavior and personality characteristics. Notice given to adjacent property owners shall include a description of the type of animal, and its behavior characteristics.

2. Any action to approve a request for an exotic animal as an accessory use to a primary single-family residential use shall not be effective until written evidence is received by the planning director that:

a. The applicant has applied for and obtained a permit from the county public health department; and

b. The applicant has applied for and obtained a permit from the State Department of Fish and Game.

D. Conditions of Approval. Any action to approve a request for an exotic animal as an accessory use to a primary single-family residential use shall include the following conditions, in addition to any conditions deemed appropriate by the reviewing authority:

1. The keeping of the animal must comply with all development code requirements, including setback from property lines and other dwellings;

2. The keeping of the animal must comply with all applicable federal and state requirements;

3. No more than two exotic animals over the age of six months may be kept as an accessory use to a single-family residence, unless a conditional use permit for a menagerie or zoo has been approved;

4. Each exotic animal must have sufficient area to be maintained and exercised in a normal healthy manner, as determined by a city-approved veterinarian;

5. Any noise, odor or activity associated with the exotic animal(s) shall be contained within the site. (Ord. 192 Exh. A (§ 83.10.040), 1994)

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, JULY 22, 2009

A. PROPOSALS:

1. Royal Street Communications (CUP09-10131 & VAR09-10192)

Proposal: To construct a 75-foot wireless monopole facility in lieu of the 35-foot high requirement at Timberlane Park.

Location: 9480 Timberlane Avenue.

Planner: Lisette Sanchez-Mendoza

Action: Forwarded to Planning Commission

2. LA Water, LLC (CUP09-10125)

Proposal: A Conditional Use Permit to establish a water purification and production facility on 10.0 gross acres zoned General Industrial (GI).

Location: 660 feet west of "I" Avenue on the south side of Hercules Street.

Planner: Daniel S. Alcayaga

Action: Forwarded to Planning Commission

3. Encore Education Corporation (SPR09-10208)

Proposal: A revised site plan review to establish a charter school within an abandoned 68,000 square foot juvenile detention complex.

Location: 16955 Lemon Street.

Planner: Stan Liudahl

Action: Administratively Approved

4. **David Walker (MEX09-10214)**

Proposal: Consideration of a Minor Exception to allow deviation from the required 5% accessory building area and construct a 3,000 square foot metal building, on 1.0 acres, zoned A-1.

Location: 8241 Eleventh Avenue.

Planner: Holly Effiom