

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: October 14, 2010

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Joline Bell Hahn, Commissioner

Stephen James, Commissioner

Julie Jensen, Commissioner

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

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney



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

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

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

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

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

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

October 14, 2010

**AGENDA
HESPERIA PLANNING COMMISSION**

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

CALL TO ORDER

6:30 p.m.

- A. Pledge of Allegiance to the Flag
- B. Invocation
- C. Roll Call:

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

JOINT PUBLIC COMMENTS

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

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

CONSENT CALENDAR

- D. Approval of Minutes: September 9, 2010 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Development Code Amendment (DCA10-10197) and Specific Plan Amendment (SPL10-10198), restricting motion picture theatres to the Pedestrian Commercial zone district. (Applicant: City of Hesperia; Area Affected: Citywide) (Staff Person: Stan Liudahl). 1-1
- 2. A Conditional Use Permit application (CUP10-10193), to install a 62-foot high wireless communications facility on an existing 125-foot high Southern California Edison electric transmission tower located south of Dartmouth Street and west of Topaz Avenue (Applicant: T-Mobile; APN: 3057-191-21) (Staff Person: Stan Liudahl). 2-1

PRINCIPAL PLANNER'S REPORT

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

- E. DRC Comments
- F. Major Project Update

3-1

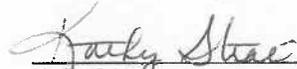
PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, October 7, 2010 at 5:30 p.m. pursuant to California Government Code §54954.2.


Kathy Stine
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION
REGULAR MEETING
September 9, 2010
MINUTES**

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

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

Pledge of Allegiance to the Flag

Invocation

Roll Call:

Chair Chris Elvert

Vice Chair William Muller

Commissioner Joline Bell Hahn

Commissioner Stephen James

Commissioner Julie Jensen

Present: Julie Jensen
Joline Bell Hahn
William Muller
Chris Elvert

**Motion by Joline Bell Hahn to excuse the absence of Stephen James due to illness.
Seconded by Chris Elvert, passed with the following roll call vote:**

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

JOINT PUBLIC COMMENTS

Chair Elvert Opened Public Comments: 6:32 PM

No Comments to Consider.

Chair Elvert Closed Public Comments: 6:33 PM

CONSENT CALENDAR

D. **Approval of Minutes: August 12, 2010 Planning Commission Meeting Draft Minutes.**

Motion by Chris Elvert to approve the Draft Minutes of August 12, 2010. Seconded by Julie Jensen, passed with the following roll call vote:

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

PUBLIC HEARING

1. No items to consider.

PRINCIPAL PLANNER'S REPORT

- E. Discussion of Development Standards for Vehicle Storage and Dismantling Yards

Principal Planner, Dave Reno AICP introduced **Senior Engineer, Tom Thornton** to help answer any questions for discussion item. Dave Reno stated that he was seeking direction and consensus from the Commission which ultimately will result in developing an ordinance.

Principal Planner, Dave Reno stated that stakeholders were invited and we were seeking their input as well. There were two issues at hand: State and Federal regulations as well as the City's development standards. He then started the Power Point Presentation. (See Attachment 1 - On file in the Planning Division for public reference)

Chair Elvert questioned the adoption of County Ordinance and why we are requiring our own.

Principal Planner, Dave Reno responded that upon incorporation we originally adopted every County ordinance and now the City has updated requirements.

Discussion took place regarding County designations compared to the City's and the adoption of new requirements.

Commissioner Jensen asked if the new requirements will include current yards.

Senior Engineer, Tom Thornton responded that under the existing permit, they will not have to adhere to the new requirements. It will only affect new development and redevelopment.

Discussion took place regarding permits that have been issued but not developed and requirements of the new proposed ordinance.

Discussion of observations ensued regarding the State requirements.

Commissioner Jensen asked how runoff was measured and monitored.

Senior Engineer, Tom Thornton responded that with hydrology studies you can anticipate runoff. He also stated that it is an art and science and with historical data you can determine the amount of flow.

Chair Elvert opened Public Comments: 6:58 p.m.

Christopher Cocks, owner of the Small Car Connection, Inc., was concerned about the photo of his yard and stated that he was proactive and had put up privacy fencing. He gave a photo to the Commissioners showing City Hall with trash and stated that the photo of his yard was taken on the back side and not from the street view. He stated he has always been treated fairly by the City and was alarmed by the letter and that it did not state whether paving was required of current yards. He stated his yard is already involved with storm water pollution prevention and he complies with current State and City regulations.

Commissioner Elvert asked if the regulations of this ordinance were changed, would he be able to open a new yard.

Christopher Cocks stated it depended on financing but the cost of paving would be prohibitive.

Jerr Jaeckels, Pick-a-Part, stated he has a green yard and it will soon will be run by solar panels. He referred to the State of California Auto Dismantlers Association (SCADA) regulations. A letter and binder from SCADA (On file in the Planning Division for public reference) was given to the panel and discussion ensued.

Pam Steel from Hogle-Ireland, Inc. stated they have worked with Pick-a-Part and on various projects in Southern California and have always respected the way they developed and run their yards. Discussion ensued regarding the SCADA booklet and letter. She felt the recommendation to pave yards with dry vehicles needed to be reviewed.

Jerry Miles, Civil Engineer, worked with Pick-a-Part and others and feels like they have good practices with storm water and drainage. He stated that the State regulations are unclear and felt the BMP's intent was not to pave the whole yard but to pave and cover the areas where there are hazardous vehicles.

Tom Steeno, Steeno Design Studio, feels that removing land rights from property owners based on an environmental and economic feasibility study is an injustice to the citizens. He stated that to pave and cover this type of business is infeasible. He also stated that the BMP's interpretation is loose and felt this was not the intent of the document. He discussed the highest and best use of the land area.

Chair Elvert closed Public Comments: 7:26 p.m.

Chair Elvert brought the discussion back to the Commissioners and staff.

Chair Elvert asked if the intent was to receive comments or direction from the Commission.

Principal Planner, Dave Reno responded that individual comments from the Commissioners would be taken for the record.

Chair Elvert agreed with the public and said that paving was infeasible and if we feel that we do not want this kind of business, we should limit it in the future.

Discussion took place regarding the type of business conducted within the yards.

Commissioner Jensen stated that she was taken aback by the statement regarding wrecking yards and feels it devalues this kind of business. She stated that the High Desert is a good place for the recycling business.

Commissioner Muller stated that SCADA has interest in the environment. He stated that the area where the yards are located does not seem detrimental to Hesperia. Depending on the State and Federal mandate, he stated it is out of our hands but in the meantime it is our interest to serve business.

Commissioner Elvert stated the yards need to be kept away from the fence line but does not feel comfortable with paving and roofing. He also stated he wanted to help business and if we feel there are enough acres devoted to this type and we are not going to allow anymore dismantling yards, we can do that. He stated he wants to compromise for what is best for everybody.

Commissioner Hahn agreed with the rest of the Commission. She had questions regarding the permits that have been pulled and not built. She stated she has concerns about concrete cracking and earthquakes and subsequent leakage. She concluded stating that increasing regulations from State would eventually drive these businesses out of the country.

F. DRC Comments

Principal Planner, Dave Reno updated the Commission on the adoption of the General Plan by the City Council.

G. Major Project Update

Principal Planner, Dave Reno stated the City is down to one property acquisition on the Ranchero Road Underpass and has initiated the imminent domain process.

PLANNING COMMISSION BUSINESS OR REPORTS

No comments to consider.

ADJOURNMENT

Chair Elvert Adjourned the Meeting: 7:47 p.m.

Chris Elvert
Chair

By: Kathy Stine,
Commission Secretary

City of Hesperia
STAFF REPORT



DATE: October 14, 2010
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Stan Liudahl, AICP, Senior Planner
SUBJECT: Development Code Amendment DCA10-10197 and SPL10-10198, restricting motion picture theatres to the Pedestrian Commercial zone district; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2010-20, recommending that the City Council introduce and place on first reading an ordinance approving DCA10-10197 and SPL10-10198, restricting motion picture theatres to the Pedestrian Commercial zone district.

BACKGROUND

On September 7, 2010, the City Council and the Hesperia Community Redevelopment Agency adopted resolutions authorizing execution of a Disposition and Development Agreement with a motion picture theatre developer to construct a 12-screen theatre complex in the western portion of the Hesperia Civic Plaza, adjacent to the park (Attachment 1). The City has been actively pursuing a developer for a theatre complex for ten years. Due to various reasons, mostly economic, efforts to entice a theatre has been unsuccessful. The Hesperia Branch Library and the Hesperia Civic Plaza Park, with the weekly farmer's market has increased the demand for new restaurants and shops in the area and development of the High Desert Government Center and Police station in the Hesperia Civic Plaza will further increase demand for services in the vicinity of the Civic Plaza. Construction of a movie theatre will accelerate this demand and promote the pedestrian-oriented service uses supported by the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan).

ISSUES/ANALYSIS

Theatres are currently allowed as a permitted use within the General Commercial (C-2) and Regional Commercial (C-4) Zone Districts as well as the Regional Commercial (RC) District of the Specific Plan. Theatres are also allowed as a conditional use within the Pedestrian Commercial (PC) and Neighborhood Commercial (NC) Districts of the Specific Plan. In total, this encompasses approximately 100 acres. Staff reviewed the Development Code as well as the Specific Plan and has recommended changes as shown on Exhibits "A" through "D." The recommended amendments to the Development Code and Specific Plan will result in restricting motion picture theatres to a portion of the downtown area generally located north of Orange Street, south of Smoketree Street, east of Eleventh Avenue, and west of Fifth Avenue, which includes the Hesperia Civic Plaza. Prior to development of a motion picture theatre, approval of a site plan review application will be required.

The amendments will also allow such theatres and similar entertainment venues as permitted as opposed to conditional uses. This amendment will not restrict the establishment of live theatrical venues, dinner theatres, or other similar assembly uses, which will be permitted generally as "live performance theatres." This amendment will also not change any of the restrictions for "adult uses," which are regulated by Article IX of Chapter 16.20. If enacted, motion picture theatre uses would only be allowed in the PC District for a period of ten (10) years. After the time period tolls, the City would have the discretion to amend the Development Code and the Specific Plan to "re-allow" such use in other zones (in 2020). Additions are shown on the resolution Exhibit "A" using red underlined text and deletions are represented by strikethroughs.

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. It reduces the allowable uses.

CONCLUSION

The Development Code Amendment is consistent with City Council direction, to provide an opportunity to attract a motion picture theatre complex to the City while providing a reasonable restriction on the number and location of motion picture theatres.

FISCAL IMPACT

None.

ALTERNATIVES

1. The Planning Commission may decide not to recommend elimination of motion picture theatres from one or more zone districts.
2. Provide alternative direction to staff.

ATTACHMENTS

1. September 7, 2010 City Council staff report
2. Resolution No. PC-2010-20, with the recommended revisions
 - Exhibit "A" - Regional Commercial (RC) District
 - Exhibit "B" - Neighborhood Commercial (NC) District
 - Exhibit "C" - Pedestrian Commercial (PC) District
 - Exhibit "D" - Development Code



DATE: September 7, 2010

TO: Mayor and Council Members
Chair and Board Members, Hesperia Community Redevelopment Agency

FROM:  Mike Podegracz, City Manager

BY:  Steven J. Lantsberger, Deputy Director Economic Development
 Rod Yahnke, Management Analyst

SUBJECT: Disposition and Development Agreement for Cinema West, LLC and 33433 Summary Report

RECOMMENDED ACTION

It is recommended that the City Council, acting as the Legislative Body of the Hesperia Community Redevelopment Agency, conduct a public hearing for the purpose of accepting testimony on the Summary Report prepared to set forth the salient points of the intended disposition of Agency-owned land pursuant to California Health & Safety Code (H&SC) Section 33433.

At the conclusion of the public hearing, it is recommended that the Legislative Body and the Board of Directors of the Hesperia Community Redevelopment Agency adopt Resolution No. 2010-069 and HCRA 2010-013 approving and authorizing execution of a Disposition and Development Agreement (DDA) by and between the Agency and Cinema West, LLC (Developer) and make certain findings in connection therewith.

BACKGROUND

Pursuant to H&SC Section 33433 a noticed public hearing must be held to review a Summary Report and to make certain findings relative to the disposition of real property that has been purchased with tax increment funds. H&SC also requires that after the public hearing, the legislative body approve the sale of the property and the DDA. The Summary Report must consider costs of the DDA, including those related to the purchase and sale of the property, how the project will alleviate blighting conditions, and its consistency with the Agency's 2010-2014 Implementation Plan.

The City and Agency have, since February 2004, assembled over 31 acres of vacant property in Hesperia's downtown to facilitate development of the Civic Center Plaza. Hesperia's City Hall and Hesperia Branch Library were completed in October 2006 with the Civic Park opening in mid 2008. Currently, final construction activities are underway on the Hesperia Police Headquarters and San Bernardino High Desert Government Center which will add some 100,000 square feet of office/professional space to the Civic Plaza environs. To compliment and advance the City's master plan for the Civic Plaza the Agency has been aggressively marketing the area with the intent of developing complimentary retail, restaurant, and entertainment establishments. The ultimate goal is to develop a vibrant, participatory multi- and mixed-use civic/downtown environment.

Hesperia does not have a cinema within its city limits. Residents desiring to attend a movie must travel outside the City for such entertainment. Over the course of the past ten years staff has met with numerous theater groups/operators with the intent of facilitating the construction of a state-of-the-art cinema experience in Hesperia. For a litany of reasons, mostly financial, to this date no theaters have been developed. However, in March 2010, staff was introduced to the Developer, who articulated a cogent plan to develop a new, 12-screen digital cinema immediately west of the Civic Plaza Park.

ISSUES/ANALYSIS

As a result of the meetings held earlier this year, on March 24, 2010 the Developer submitted a proposal to develop a theater at the southeast corner of Smoketree and 9th. Deal points of the proposal include: 1) the Agency conveying 54,248 square feet of real property to the Developer at fair market value (FMV); 2) Developer constructing a 36,000 square foot, twelve-screen digital theater (Project); 3) Agency constructing the necessary parking lot and providing reciprocal access and use of said parking lot; 4) Agency developing a water retention system for the Project and the parking lot; 5) Agency installing off-site improvements including curb, gutter and sidewalks; 6) City, via ordinance or similar legislative action, providing exclusivity, which is typical of many theater projects and agreements between cities and theater groups; and 6) Developer executing a ten-year operating agreement with the Agency.

Although the net benefit of the DDA to the Agency is a negative number, the Agency believes that the Project is worthwhile and will result in the development of a long-awaited entertainment amenity which will benefit the community. The Project will act as a catalyze future retail and restaurant development proximate to the Civic Plaza and downtown. The Project will create approximately 40 new jobs and increase foot traffic in the area, which is one of goals of the City Center District of the downtown area. This increased traffic will bring people and their discretionary funds to the area, benefiting other businesses in the community.

The findings and deal points are outlined in the attached resolutions and Summary Report.

FISCAL IMPACT

Project underwriting reflects: 1) approximately \$32,882 in property tax increment generated each year; 2) sales tax paid to the general fund of over \$8,000 annually; 3) development related fees of approximately \$227,486 will be paid by Developer; 4) the Project demonstrates a twenty year Internal Rate of Return (IRR) of a negative 3.5%; 5) Net Present Value (NPV) of a negative \$903,546 and; 4) a 27.8 year payback period. However, the negative NPV, IRR, and long payback period do not take into consideration that the costs borne to construct the parking lot, off and on-site improvements are not without benefit to the City and Agency, as they will remain under City/Agency ownership. Furthermore, the City and surrounding civic uses will have access to the parking lot and therefore it is not equitable to associate the entire cost burden on the Project. But to stay consistent with the City/Agency underwriting guidelines tertiary benefits are not evaluated and thus the negative ratios must be set forth in the interest of full cost disclosure.

Development of the parking lot and related amenities will cost approximately \$1,443,834. The fair market value of the property to be conveyed is \$102,529 as determined by an appraisal

conducted on July 26, 2010 by Thompson Appraisals, Inc. Therefore, the total cost to the Agency pursuant to its obligations under the DDA is \$1,546,363 and will be paid out of the Economic Development Fund (586). Based upon funding availability at disbursement other sources may be utilized including the City's Economic Development Revolving Loan Fund (EDRLF) and Community Development Block Grant (CDBG) resources.

ALTERNATIVE(S)

1. Provide alternative direction to staff

ATTACHMENT(S)

1. Resolution No. 2010-069
2. Resolution No. HCRA 2010-013
3. Summary Report

ATTACHMENT 2

RESOLUTION NO. PC-2010-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL RESTRICT MOTION PICTURE THEATRES TO THE PEDESTRIAN COMMERCIAL ZONE DISTRICT (DCA10-10197 & SPL10-10198)

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

WHEREAS, The City of Hesperia has initiated DCA10-10197 and SPL10-10198, amendments to Title 16 of the Hesperia Municipal Code and the Main Street and Freeway Corridor Specific Plan, to restrict motion picture theatres to the Pedestrian Commercial District of the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, The City of Hesperia is actively promoting development of the Main Street and Freeway Corridor Specific Plan (Specific Plan) and particularly the Hesperia Civic Plaza/downtown area, which will create a vibrant retail and service area for both the residents and visitors of Hesperia as outlined within the goals and policies of the Specific Plan and the City's General Plan; and

WHEREAS, the City of Hesperia has determined that development of a motion picture theatre within the Hesperia Civic Plaza will become an entertainment focal point for the downtown area, enhancing retail and service opportunities, and creating a destination within the downtown area, consistent with the goals and policies of the Specific Plan and the City's General Plan; and

WHEREAS, The City of Hesperia has determined that in order to safeguard the development of the sense of place and in furtherance of enhancing the downtown area consistent with the goals and policies of the Specific Plan and General Plan, it is appropriate to restrict development of all motion picture theatres to the area within the Pedestrian Commercial District of the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, The City of Hesperia has determined that limiting development of motion picture theatres to the downtown area is a necessary step towards creating a vibrant downtown corridor consistent with the Specific Plan and General Plan; and

WHEREAS, The proposed Development Code Amendment and Specific Plan 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 and Specific Plan revisions restricting motion picture theatres within specific zone districts can have a significant adverse effect on the environment; and

WHEREAS, On October 14, 2010, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and Specific Plan 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 Main Street and Freeway Corridor Specific Plan and the General Plan.

Section 3. This Commission has determined that limiting development of motion picture theatres to within the Pedestrian Commercial District of the Specific Plan will ensure an entertainment focal point for the downtown area, enhancing retail and service opportunities, and furthering the sense of place being developed within downtown; and is a necessary step towards creating a vibrant downtown corridor consistent with the goals and policies of the Specific Plan and General Plan.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA10-10197 and Specific Plan Amendment SPL10-10198, modifying the zone districts that allow for motion picture theatres from the uses permitted within specific zone districts of the Main Street and Freeway Corridor Specific Plan and the Development Code as shown on Exhibits "A" through "D."

Section 5. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 14th day of October 2010.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

EXHIBIT "A"

Non-Residential Zones Chapter 9

A. INTRODUCTION

The primary purpose of the commercial zones is to provide appropriate areas for retail and service establishments, office uses, and neighborhood convenience uses required for local residents, as well as regional populations. The several commercial zones are intended to fulfill the need for shopping areas, which range in size and composition from pedestrian-oriented neighborhood shopping centers to a regional shopping center.

The Specific Plan area contains six commercial and two industrial zones. Three of the commercial zones (Regional Commercial, Auto Sales Commercial, Office Park) are large-scale and primarily freeway-oriented, while the other three zones (Office Commercial, Neighborhood Commercial and Pedestrian Commercial) are smaller in scale and oriented towards arterial streets. The Specific Plan area also contains two industrial zones, namely, Commercial/Industrial Business Park, and General Industrial. These zones are intended to provide consolidated areas for employment-creating uses.

This chapter defines the allowable land uses and property development standards for these zones within the Specific Plan area consistent with the goals and policies of the City's General Plan and this Specific Plan.

B. REGIONAL COMMERCIAL ZONE

The Regional Commercial zone is intended for regional-serving commercial and service uses that are designed to serve the region as a whole. The regional commercial uses envisaged in this zone include large-scale "big box" regional shopping centers, hospitality and entertainment uses such as ~~movie complexes~~ live performance theatres, a casino, hotels, convention spaces, as well as restaurants, specialty and supporting retail. The design and development standards for this zone are designed to provide a high-quality appearance from the Interstate-15 freeway corridor and compatibility with the adjacent commercial, residential and recreational uses.

The Regional Commercial zone falls in four of the land use districts along the Interstate-15 corridor, as described in Chapter 5 (Land Use Districts) of this Plan. These districts provide enhanced regional accessibility and visitor draw. When this zone falls in the Interstate-15j Main Street Interchange District, high density multi-family residential uses, as a part of a mixed-use development, are permitted to create an active, vibrant, mixed-use precinct for "live-work-shop play" with 24-hour activity.

This section describes the permitted, conditionally permitted and prohibited uses, as well as development standards for the Regional Commercial zone.



1. Permitted Uses

The following uses are permitted in the Regional Commercial zone:

- a) Artist studio (including photo).
- b) Assemblies of people — live entertainment venues - (e.g., ~~theater~~ theatre - live performance, ~~motion picture~~, auditoriums, banquet halls, nightclubs, etc.).
- c) Banks and financial institutions/services.
- d) Business support services and facilities (including graphic reproduction, computer-services, etc.).
- e) Catering establishments.
- f) Grocery stores.
- g) Health and fitness clubs.
- h) Home improvement sales and service, retail (e.g., hardware, lumber and building material stores).
- i) Hotel.
- j) Medical services - clinic, medical/dental offices, laboratory, urgent/express care, and optometrist (not including hospital).
- k) Motel.
- l) Offices (administrative, business, executive and professional, but not including medical or dental).
- m) Outdoor sales and display, incidental to the primary use.
- n) Personal services (e.g., barber shop, beauty salon, spa, tailor, dry cleaner, self-service laundry, etc.).
- o) Repair shop - small items (computers, small appliances, watches, etc), with incidental sales.
- p) Restaurants (sit down and take out), including outdoor dining.
- q) Retail sales.
- r) Schools - specialty non-degree (e.g., dance and martial arts).
- s) Shopping center - more than 10 acres in size.
- t) Vehicle parts and accessories sales.
- u) Accessory structures and uses customarily incidental to any permitted uses when located on the same site with the main building and use.
- v) Other similar uses, as interpreted by the Development Services Director or his/her designee.

2. Conditionally Permitted Uses

The following uses are conditionally permitted in the Regional Commercial zone:

- a) Alcohol sales - on-site, incidental to the primary use.
- b) Alcohol sales - off-site.
- c) Assisted living (residential care facilities).
- d) Bars, saloons, cocktail lounges and taverns.
- e) Bus terminals.



EXHIBIT "B"

Non-Residential Zones Chapter 9

2. Conditionally Permitted Uses

The following uses are conditionally permitted in the Neighborhood Commercial zone:

- a) Alcohol sales - off-site.
- b) Alcohol sales - on-site, incidental to the primary use.
- c) Assemblies of people - entertainment - (e.g., ~~theater~~ theatre - live performance, ~~motion picture~~, auditoriums, banquet halls, nightclubs, etc.)
- d) Bars, saloons, cocktail lounges and taverns.
- e) Bus terminals.
- f) Day care centers - child or adult, pursuant to the HMC.
- g) Drive thru lanes, incidental to the primary use, pursuant to the HMC.
- h) Equipment (small) sales and rental.
- i) Home improvement sales and service, retail (hardware, lumber and building material stores) - 10,000 square feet or more.
- j) Medical services - clinic, medical/dental offices, laboratory, urgent/express care, and optometrist (not including hospital).
- k) Recreational facilities - commercial (e.g., billiard parlors and pool halls, bowling alleys, etc.).
- l) Schools - vocational and technical.
- m) Shopping center - more than 5 acres in size.

1)

Examples of appropriate Neighborhood Commercial uses.



EXHIBIT "C"

Section II Private Development

This section describes the permitted, conditionally permitted and prohibited uses, as well as development standards for the Pedestrian Commercial zone.

1. Permitted Uses

The following uses are permitted in the Pedestrian Commercial zone:

- a) Artist studio (including photo).
- ~~b)~~ b) ~~Assemblies of people - entertainment - (e.g., theatre - live performance, motion picture, auditoriums, banquet halls, nightclubs, etc.)~~
- ~~b)c)~~ c) Business support services and facilities (including graphic reproduction, computer - services, etc.).
- ~~e)d)~~ d) Home improvement sales and service, retail (e.g., hardware, lumber and building material stores) - under 10,000 square feet.
- ~~d)e)~~ e) Offices (administrative, business, executive and professional, but not including medical or dental), on upper floors only.
- ~~e)f)~~ f) Outdoor sales and display, incidental to the primary use.
- ~~f)g)~~ g) Personal services (e.g., barber shop, beauty salon, spa, tailor, dry cleaner, self-service laundry, etc.).
- h) Restaurants (sit down and take out), including outdoor dining.
- i) Retail sales - under 10,000 square feet.
- j) Schools - specialty non-degree (e.g., dance and martial arts).
- k) Accessory structures and uses customarily incidental to any permitted uses when located on the same site with the main building and use.
- l) Other similar uses, as interpreted by the Development Services Director or his/her designee.

2. Conditionally Permitted Uses

The following uses are conditionally permitted in the Pedestrian Commercial zone:

- a) Alcohol sales - off-site.
- b) Alcohol sales - on-site, incidental to the primary use.
- ~~e)~~ ~~Assemblies of people - entertainment - (e.g., theater - live performance, motion picture, auditoriums, banquet halls, nightclubs, etc.)~~
- c) Bars, saloons, cocktail lounges and taverns.
- d) Farmers' markets - certified.
- ~~e)f)~~ f) Health and fitness clubs - 4,000 square feet or less.
- f) Recreational facilities - commercial (e.g., billiard parlors and pool halls, bowling alleys, etc.).
- g) Schools - vocational and technical - total enrollment 20 persons or less or a total size of 2,000 square feet or less.

3. Prohibited Uses

The following uses are prohibited in the Pedestrian Commercial zone:

- a) Agricultural uses.
- b) Bus terminals.



EXHIBIT "D"

16.16.465

COMMERCIAL AND INDUSTRIAL DISTRICTS LIST OF PERMITTED USES

Table 1 (Continued)

| | C-1 | C-2 | C-3 | C-4 | I-1 | I-2 |
|---|-----|-----|-----|-----|-----|-----|
| Signs (manufacturing) | | | R | | R | R |
| Silk screening | R | R | R | R | | |
| Small arms | | R | R | R | R | |
| Specialty cleaning, polishing and sanitation preparations | | | | | R | R |
| Specialty fabrication, manufacturing and rebuilding | | | R | R | R | R |
| Stationery supplies | R | R | R | R | | |
| Studio for professional work in or the teaching of any form of fine arts | R | R | R | R | | |
| Surface active agents, finishing agents, sulfonated oils and assistants (manufacturing) | | | | | | R |
| Swap meets | | C | | | R | |
| Tailor | R | R | | | | |
| Textiles (manufacturing) | | | | | R | R |
| Theater Theatre – live performance | | R | | R | | |
| Theatre – motion picture | | | | | | |
| Thrift shop | | R | | | | |
| Tire shop | | R | R | R | R | |
| Toys, amusement, sporting and athletic goods | | R | R | R | | |
| Truck rental | | | | R | R | |
| Truck terminal, storage parking and repair | | | | R | C | C |
| Truss yards | | | | | R | R |
| Uniform rental | | R | R | R | | |
| Upholstery and furniture repair | | R | R | | R | |
| Urgent care facilities | R | R | R | R | | |
| Veneer and plywood (manufacturing) | | | | | | C |
| Veterinary clinic, exclusive of outdoor operations | R | R | | R | | |



DATE: October 14, 2010
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Stan Liudahl, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP10-10193; Applicant: T-Mobile; APN: 3057-191-21

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2010-21, approving Conditional Use Permit CUP10-10193.

BACKGROUND

Proposal: A Conditional Use Permit to install a wireless communications facility on an existing 125-foot high Southern California Edison electric transmission tower.

Location: The property is located south of Dartmouth Street and west of Topaz Avenue (Attachment 1).

Current General Plan, Zoning and Land Uses: The site is within the Utility Corridor General Plan Land Use designation and zone district. The surrounding land is designated and zoned as noted on Attachment 2. The site contains a major electric transmission line, with a substation located nearby. The surrounding properties are presently vacant to the north, south, and west. An electric substation exists to the east (Attachment 3).

ISSUES/ANALYSIS

Land Use: T-mobile, the service provider, has demonstrated on a service plan that there is an in-home service gap which necessitates installation of an additional wireless communications facility in the area (Attachment 4). The proposed facility will provide the necessary coverage to improve the network in this residential area without construction of a new tower. The facility's ground equipment will be surrounded by a six-foot high chain link fence (Attachment 5). Staff has included Condition 2 (Attachment 7), which will require that the fence include view-obscuring slats, consistent with similar facilities. The antennae will be installed at a height of 62 feet and painted to match the electric transmission tower (Attachment 6). The proposed wireless communications facility is consistent with the General Plan land use and zoning standards.

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

Street Improvements: Public street improvements are not required. Recordation of an irrevocable access easement will be required from the site to Topaz Avenue in accordance with Condition 4 (Attachment 7).

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

Conclusion: The project is consistent with the City's intent to locate new wireless facilities on existing buildings and structures, or to conceal their appearance through other means (i.e. use of monopines and other stealth technologies). The project meets the standards of the Development Code and staff recommends approval.

FISCAL IMPACT

None.

ALTERNATIVE(S)

Provide alternative direction to staff.

ATTACHMENTS

1. Location map
2. General Plan land use and zoning map
3. Aerial photo
4. Service plan
5. Site plan
6. Photo simulation
7. Resolution No. PC-2010-21, with list of conditions

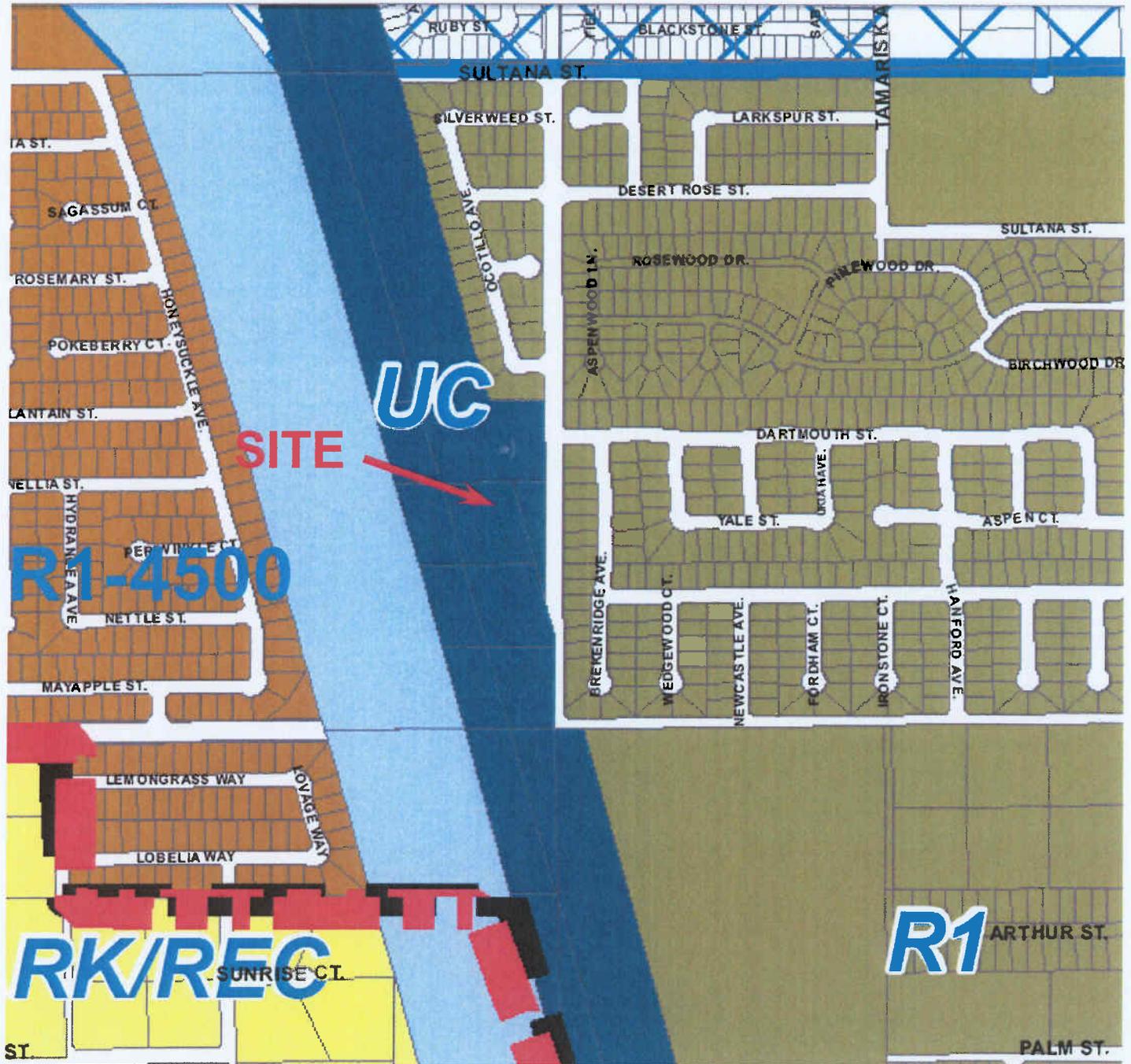
ATTACHMENT 1



| | | |
|--|-----------------------------------|---------------|
| APPLICANT(S):
T-MOBILE | FILE NO(S):
CUP10-10193 | |
| LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE | APN(S):
3057-191-21 | |
| PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER | | N
↑ |

LOCATION MAP

ATTACHMENT 2



APPLICANT(S):
T-MOBILE

FILE NO(S):
CUP10-10193

LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE

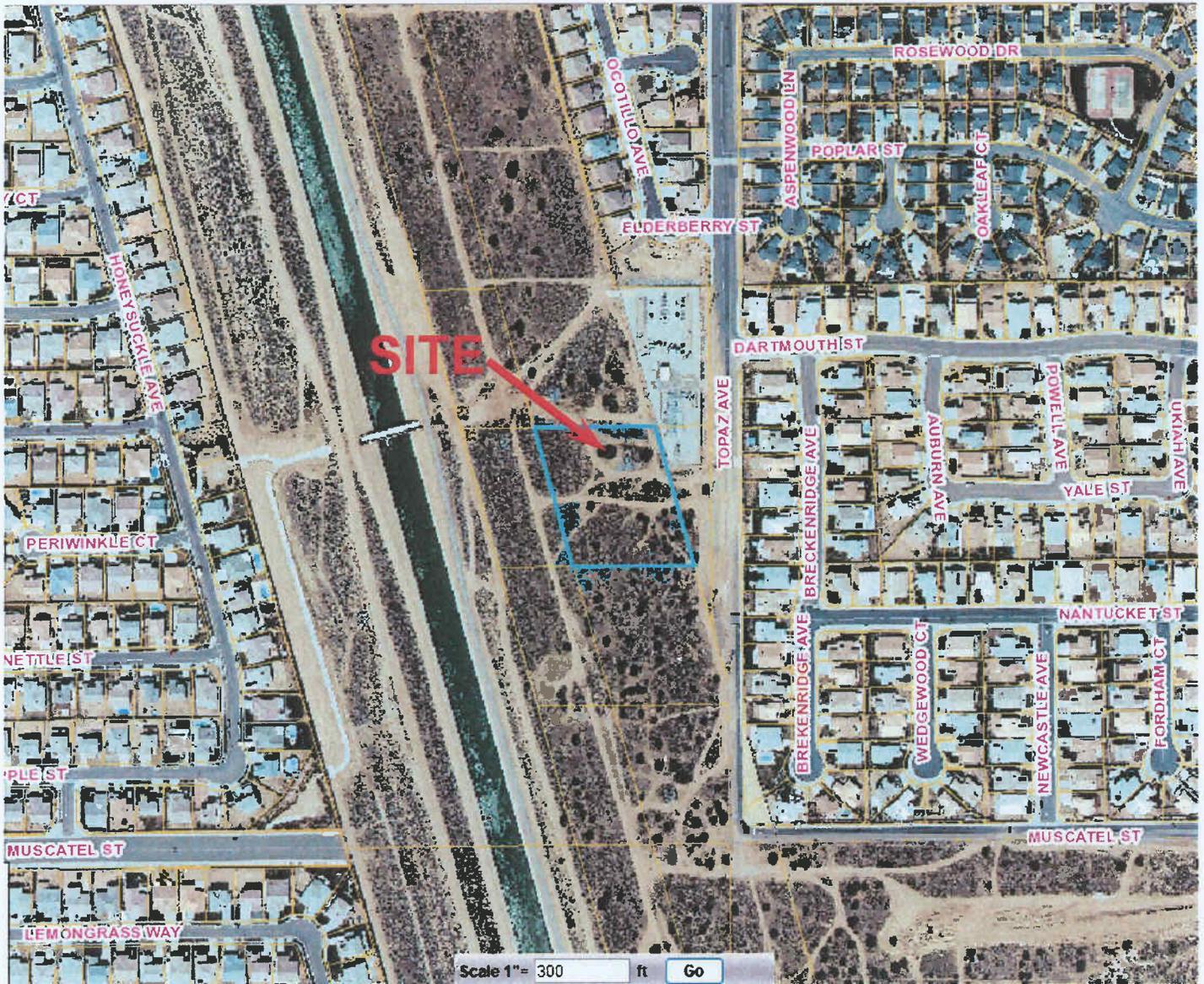
APN(S):
3057-191-21

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



GENERAL PLAN LAND USE AND ZONING MAP

ATTACHMENT 3



APPLICANT(S):
T-MOBILE

FILE NO(S):
CUP10-10193

LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE

APN(S):
3057-191-21

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER

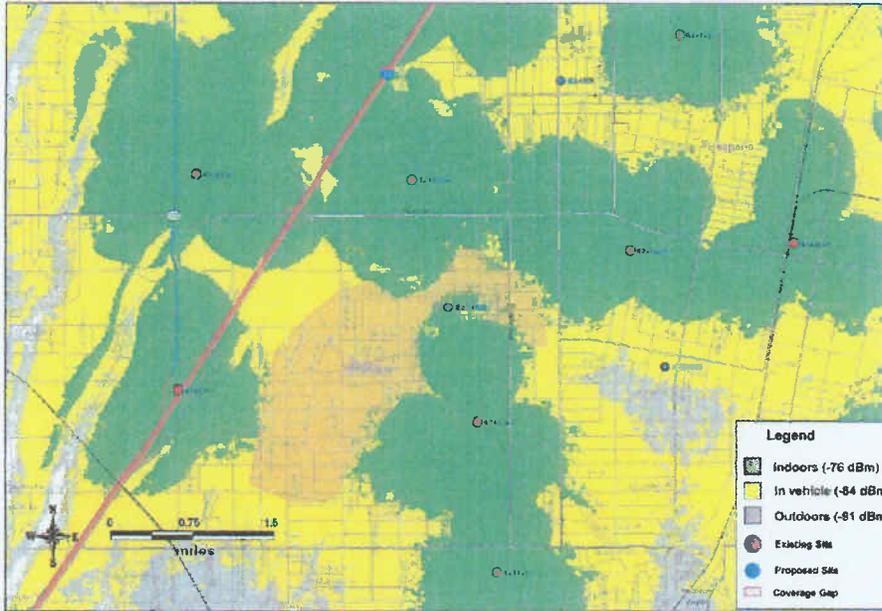


AERIAL PHOTO

ATTACHMENT 4

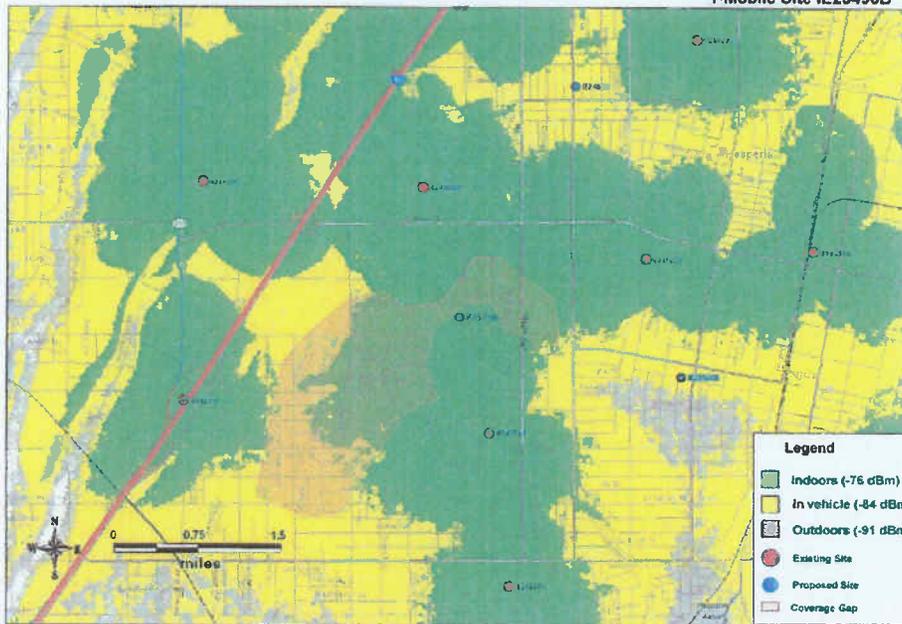
Predicted Coverage w/o the Proposed Site

T-Mobile Site IE25490B



Predicted Coverage with the Proposed Site

T-Mobile Site IE25490B



APPLICANT(S):
T-MOBILE

FILE NO(S):
CUP10-10193

LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE

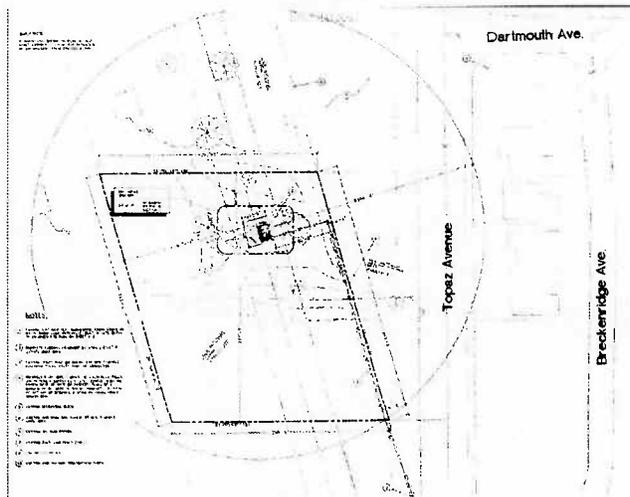
APN(S):
3057-191-21

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER

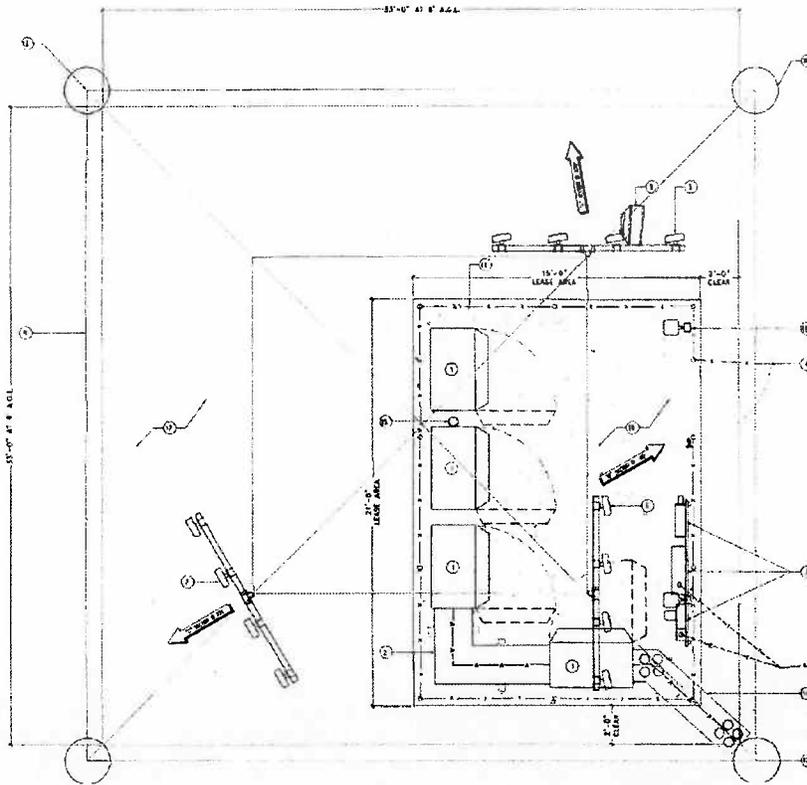


SERVICE PLAN

ATTACHMENT 5



Vicinity map



APPLICANT(S):
T-MOBILE

FILE NO(S):
CUP10-10193

LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE

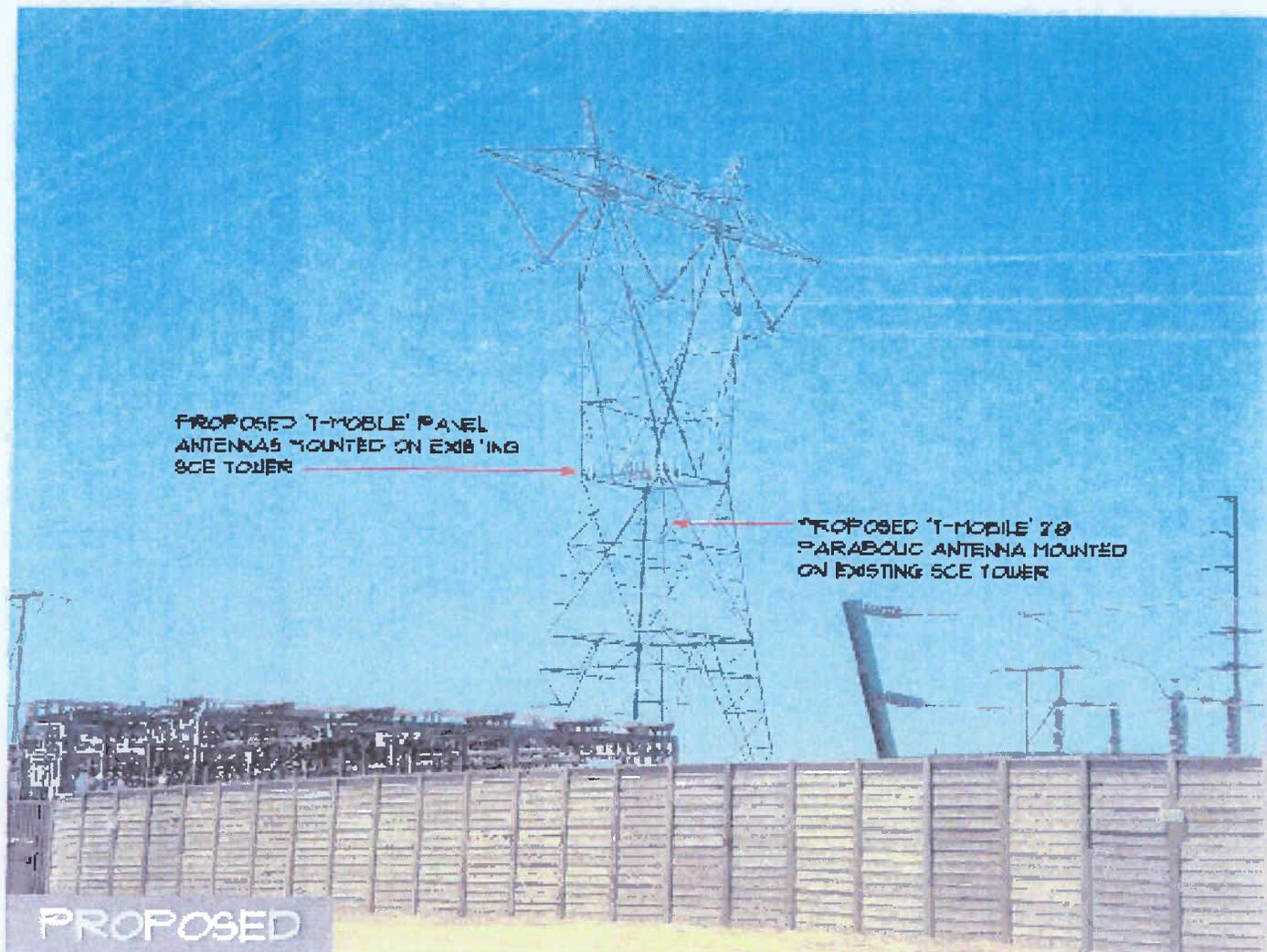
APN(S):
3057-191-21

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER



SITE PLAN

ATTACHMENT 6



APPLICANT(S):
T-MOBILE

FILE NO(S):
CUP10-10193

LOCATION:
SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE

APN(S):
3057-191-21

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER

N
↑

PHOTO SIMULATION

ATTACHMENT 7

RESOLUTION NO. PC-2010-21

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO INSTALL A 62-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 125-FOOT HIGH SOUTHERN CALIFORNIA EDISON ELECTRIC TRANSMISSION TOWER LOCATED SOUTH OF DARTMOUTH STREET AND WEST OF TOPAZ AVENUE (CUP10-10193)

WHEREAS, T-Mobile, has filed an application requesting approval of Conditional Use Permit CUP09-10138 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land within the Southern California Edison Transmission Lines, which is within the Single-family Residence with a minimum lot size of 18,000 (R1-18,000) Zone District located south of Dartmouth Street and west of Topaz Avenue and includes Assessor's Parcel Number 3057-191-21; and

WHEREAS, the Application, as contemplated, proposes to install a wireless telecommunications facility upon the existing Southern California Edison electric transmission tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs northeast to southwest, and is developed with existing transmission towers and associated equipment. The properties to the north, south, and west are vacant. An electric substation exists to the east; and

WHEREAS, the subject site is within the Utility Corridor (UC) General Plan land use and zone district. The properties to the north, south, and east are also within the UC designation and zone district. The property to the west is within the Aqueduct (AQ) designation and zoning; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on October 14, 2010, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced October 14, 2010, hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, without infringing on required setbacks or easements.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.
- (d) The site for the proposed use will have adequate access based upon the required access easement from the site through the parcel to the east to Topaz Avenue.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP10-10193, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 14th day of October 2010.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP10-10193

Approval Date: October 14, 2010
Effective Date: October 26, 2010
Expiration Date: October 26, 2013

This list of conditions apply to a Conditional Use Permit to install a 62-foot high wireless communications facility on an existing 125-foot high Southern California Edison electric transmission tower located south of Dartmouth Street and west of Topaz Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: T-Mobile; APN: 3057-191-21).

The use shall not be established until all conditions of this conditional use permit application have been met. This approved conditional use permit shall become null and void if all conditions have not been completed within three (3) years of the effective date. Extensions of time of up to twelve (12) months may be granted upon submittal of the required application and fee prior to the expiration date.

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

PRIOR TO ISSUANCE OF BUILDING PERMITS:

- _____ 1. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)
- _____ 2. **Facility Requirements.** The antennae and all other equipment installed upon the electric transmission tower shall be of a matching color to the tower. The six-foot high chain link fencing shall incorporate decorative view-obscuring slats. Barbed wire or razor wire is not permitted upon the top of the fencing. The antennae, any proposed perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P)
- _____ 3. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
- _____ 4. **Access Easement.** An access easement shall be recorded which allows for perpetual access from Topaz Avenue through an adjacent parcel to the wireless communications facility. The graphics shall show the proposed access. Location and width is subject to the review and approval of the Engineering Division. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (E, P)
- _____ 5. **Consistency with Approved Graphics.** Improvement plans for off-site and on-site improvements shall be consistent with the graphics approved as part of this site plan review application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

- _____ 6. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 7. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The facility shall be constructed consistent with the design shown upon the approved graphics. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

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

| | | |
|-------|---------------------------------------|----------|
| (P) | Planning Division | 947-1200 |
| (B) | Building Division | 947-1300 |
| (E) | Engineering Division | 947-1414 |
| (F) | Fire Prevention Division | 947-1012 |
| (RPD) | Hesperia Recreation and Park District | 244-5488 |