

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: May 12, 2011

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Bill Jensen, Commissioner

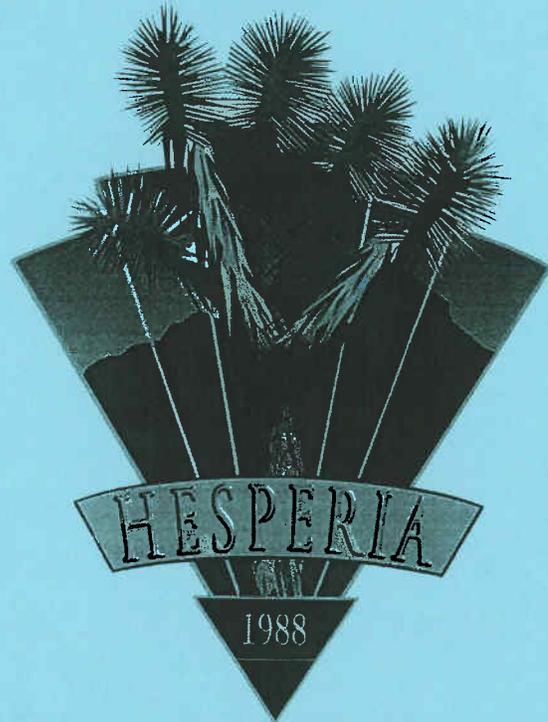
Julie Jensen, Commissioner

Paul Russ, Commissioner

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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.

MAY 12, 2011

**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 Bill Jensen
Commissioner Julie Jensen
Commissioner Paul Russ

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: April 14, 2011 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit CUP11-10116, to construct a 75-foot high wireless communications facility adjacent to the play fields within Hesperia Junior High School at 10275 Cypress Avenue (Applicant: T-Mobile West Corp.; APN: 0408-232-08) (Staff Person: Stan Liudahl) 1-1
- 2. Consideration of Conditional Use Permit CUP11-10151, to establish the sale of beer and wine as part of a restaurant/catering business at 13567 Main Street (Applicant: Gabrielle Major; APN: 3057-011-10) (Staff Person: Lisette Sanchez Mendoza) 2-1

- 3. Consideration of Conditional Use Permit CUP11-10147, to construct a 12-screen motion picture theatre with ancillary uses including the sale of beer and wine for on-site consumption in conjunction with Variance VAR11-10144, to allow the building and its towers to exceed the maximum allowable 35-foot and 52.5-foot height limitations; and Tentative Parcel Map TPM11-10145, to create three parcels on five gross acres within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Smoketree Street and Ninth Avenue (Applicant: Cinema West; APNs: 0407-262-01 & 0407-263-01) (Staff Person: Stan Liudahl) 3-1

- 4. Consideration of Site Plan Review SPR09-10210, to establish an event center on a portion of 103 acres located on the south side of Lemon Street, 450 feet east of Choiceana Avenue. (Applicant: Jim and Gail Hasty; APN: 0411-191-69) (Staff Person: Daniel Alcayaga) 4-1

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 5-1

- F. 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, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, May 5, 2011 at 5:30 p.m. pursuant to California Government Code §54954.2.


 Kathy Stine
 Planning Commission Secretary

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
April 14, 2011
MINUTES**

DRAFT

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

CALL TO ORDER **6:31 p.m.**

Pledge of Allegiance led by Commissioner Paul Russ.

Invocation by Commissioner William Muller.

Roll Call:

Chair Chris Elvert

Vice Chair William Muller

Commissioner Bill Jensen

Commissioner Julie Jensen

Commissioner Paul Russ

Present: Chris Elvert
William Muller
Bill Jensen
Julie Jensen
Paul Russ

JOINT PUBLIC COMMENTS

Chair Elvert opened Public Comments at 6:32 p.m.

Al Vogler spoke regarding the Alternative Energy Technology Workshop and the current ordinance. He felt that one size does not fit all. He agreed with the City that the height of the tower should be no higher than the half width of the lot. He stated that our City should allow creation of renewable energy with wind generation.

Chair Elvert closed Public Comments at 6:37 p.m.

CONSENT CALENDAR

D. **Approval of Minutes: March 10, 2011 Planning Commission Meeting Draft Minutes.**

Motion by Paul Russ to approve Draft Minutes of March 10, 2011 Planning Commission Meeting. Seconded by Julie Jensen, passed with the following roll call vote:

AYES: Chris Elvert, William Muller, Bill Jensen, Julie Jensen, and Paul Russ
NOES: None

PUBLIC HEARING

1. Consideration of Site Plan Review SPR09-10210 to establish an event center on a portion of 103 acres located on the south side of Lemon Street, 450 feet east of Choicena Avenue. (Applicant: Jim and Gail Hasty; APN: 0411-191-69) (Staff Person: Daniel Alcayaga)

Commissioner Paul Russ recused himself because he owns property next to the project site.

Chair Elvert opened the Public Hearing item at 6:39 p.m.

No Comments to Consider.

Chair Elvert closed the Public Hearing item at 6:39 p.m.

Jim Hasty, owner of the property was ill and sent an email requesting a continuance.

Motion by Chris Elvert to continue the proposal to May 12, 2011. Seconded by William Muller and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, Bill Jensen, and Julie Jensen
RECUSE: Paul Russ
NOES: None

2. Consideration of a Conditional Use Permit CUP11-10123 to construct a 9,360 square foot medical building and a Variance VAR11-10124 to allow a 10-foot encroachment into the required 20-foot west side yard setback on 1.2 gross acres zoned Office Commercial (OC) located 660 feet west of Eleventh Avenue on the north side of Main Street. (Applicant: Arvind Salwan; APN: 0408-181-05) (Staff Person: Daniel Alcayaga)

Daniel Alcayaga, Senior Planner gave a PowerPoint presentation.

Paul Russ and Chris Elvert had questions regarding the vinyl fencing. Daniel Alcayaga and Tom Thornton responded and discussion ensued.

Chair Elvert opened the Public Comments at 6:51 p.m.

Ed Hewitt of Apple Valley made comments regarding the vinyl fencing and opposed the look and longevity of vinyl in the High Desert.

Chair Elvert closed the Public Comments at 6:53 p.m.

Chair Elvert and Paul Russ voiced their concerns regarding the fencing. Tom Thornton responded and discussion ensued.

Motion by Julie Jensen to adopt Resolution No. PC-2011-12, as presented approving Conditional Use Permit CUP11-10123 and Resolution No. PC-2011-13, as presented approving Variance VAR11-10124. Seconded by Bill Jensen and passed with the following roll call vote:

AYES: William Muller, Bill Jensen, Julie Jensen, and Paul Russ
NOES: Chris Elvert

For the record, Chair Elvert voted no because he did not like the vinyl fencing.

3. [Consideration of Conditional Use Permit CUP11-10135, to establish the sale of beer and wine for on-site consumption within a restaurant at 16301 Main Street. \(Applicant: Carolina Ramirez; APN: 0413-081-07\) \(Staff Person: Stan Liudahl\)](#)

Stan Liudahl, Senior Planner gave a PowerPoint presentation.

Chair Elvert opened Public comments at 7:02 p.m.

No Comments to Consider.

Chair Elvert closed Public comments at 7:02 p.m.

Motion by Paul Russ to adopt Resolution No. PC-2011-14, as presented approving Conditional Use Permit CUP11-10135. Seconded by Julie Jensen and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, Bill Jensen, Julie Jensen, and Paul Russ
NOES: None

4. [Consideration of Development Code Amendment DCA11-10103 regarding medical marijuana dispensaries. \(Applicant: West Coast Patients Group; Area affected: Citywide\) \(Staff Person: Stan Liudahl\)](#)

Stan Liudahl gave background information on the issue and a PowerPoint presentation. He stated that Staff recommended denial of the Development Code Amendment.

Commissioner Bill Jensen polled the audience as to who was in favor of the dispensaries. He asked staff if anyone had been in contact with L.A. County or any other city that had approved this and Stan said they had not. Bill Jensen also asked where staff had received their crime facts and Stan replied from a staff report from San Bernardino County.

Commissioner Julie Jensen asked if we are enforcing our ban and how other cities are enforcing the ban. Stan responded by saying Code Enforcement has been enforcing the ban on three locations. Discussion ensued regarding the Claremont lawsuit.

Paul Russ asked about a lawsuit in Orange County regarding State and Federal law. Assistant City Attorney, Jeff Malawy responded that Federal law does not pre-empt California State Law but it still allows Federal or Localities to make dispensing illegal and discussion ensued.

Paul Russ asked what the Sheriff Department, Prosecutors and the County are doing and Jeff Malawy responded by saying the Sheriff Department are not arresting people for dispensing or using medical marijuana.

Chair Elvert wanted to confirm that the Commission was not discussing the legality whether medical marijuana was allowed by State law or not, just if the City of Hesperia wanted to have dispensaries and Jeff Malawy confirmed that.

Commissioner William Muller asked what the difference was between a marijuana dispensary and business that sells hydroponics. Principal Planner Dave Reno, AICP responded and discussion ensued.

Chair Elvert had questions regarding the way the ordinance was written and if staff had issues with just the ordinance. Stan Liudahl responded that they did and explained why.

Chair Elvert made a comment regarding crime and said that even though 27 dispensaries are currently in the High Desert; crime has gone down so he is confused as to how we came about with linking crime with this and if it was just because the County said so. Stan Liudahl responded by saying Los Angeles stated that they had seen an increase in crime in the location of the dispensaries. Discussion ensued.

Bill Jensen asked what the revenue stream is in other cities that have the dispensaries and felt that if there are going to be dispensaries anyways, they should be taxed.

Chair Elvert opened Public comments at 7:36 p.m.

Applicant Scott McMurtrey with West Coast Patients Group stated that he wants to work with the City rather than have endless litigation with illegal dispensaries. Commission discussion ensued with the applicant.

Chair Elvert asked approximately how many patients are in the High Desert. Mr. McMurtrey replied that he thought there are thousands.

Tim McNeary of Hesperia stated that he is a medical marijuana patient and basically wanted safe access to purchase medicine and not in some back alley.

Erica Jones stated she has no problem with people who need medical marijuana to be able to get it here.

Brian Novak of Hesperia doesn't use marijuana but supports the use of it. He stated that he has been diagnosed with Tourettes and wanted to know if he needed it he could get it from a dispensary here in his City. He stated that he felt it would eliminate some traffic, would bring jobs to the High Desert, tax money, and safety to our children and would stop excessive fees to some that have to have it delivered from Riverside.

Larry Krogsgaard of Hesperia is a medical marijuana user after back surgery. He stated he was on several pain medications for 5 years. Now he is down to one pill since he started using medical marijuana. He feels like medical marijuana is a pharmaceutical and should be accessible.

Tom Place of Hesperia is a Stage III Aids patient. He stated that one of his kidneys was shutting down because of the 27 medications he was using. Medical marijuana concentrate took the place of the medications and he is healthy again and down to one pill.

Edward Munoz Jr., owner of Desert Gem Health and Wellness, stated that the City should partake in the revenue that the dispensaries bring in. He stated he has donated money to the City of Hesperia's Police Department and Fire Department as well as toy drives and feels the city should take advantage of the revenue. He stated that the City shouldn't waste money on trying to ban dispensaries since they will be here anyways.

Bill Jensen asked how many customers a day he had and Mr. Munoz replied that at the most, 250 but his database has about 2,000 patients and they are mostly in the City of Hesperia.

Kevin Sutman of Hesperia read the staff report and wanted the city to look at all the facts and keep an open mind.

Kelly Rock of Hesperia stated he works for a living and is an honest guy. He uses medical marijuana and stated that he needs a safe place to get it rather than going down the hill and having the expense of gas.

Laticia Pepper, Director of Legal and Legislative Analysis spoke on behalf of Crusaders for Patients Rights. She stated that she thinks recreational use should be banned and works hard against it. She stated that it is important for sick people to be able to use medical marijuana safely and that includes children. She followed up with stories of patients that marijuana has helped. She stated that she is a lawyer that has a lawsuit pending with the County of San Bernardino for this issue. She is also a user of medical marijuana because of MS. She submitted information for the Commission to review on the following items: (Copies provided under separate cover)

- Bans are indefensible
- Bodies make their own cannabinoids
- DEA not qualified to determine appropriate medical use

- Undue pharmaceutical lobby influence
- “Storefront” dispensaries vs. collectives
- There are thirty times amount of patients as cards issued in San Bernardino County
- Impairing access is illegal under State law
- Access to health care and facilities

Mark Skubish of Hesperia and **Aimee Sutman** of Hesperia gave their time to **Laticia Pepper**.

Bruce Mueller of Hesperia from West Coast Patients Group would like the ordinance to be approved. He uses medical marijuana for pain from a back injury and explained the process of cannabinoids use in the body.

Christopher Manack of Apple Valley has been a medical marijuana patient since 1999. He has seizures and when he quits smoking for a few days he has more seizures and would like for the ordinance to pass.

Chris Johnson of Hesperia has medical marijuana cards and stated there is a place here in the City that offers them and he was trying to be legitimate. He would like to have dispensaries here rather than travel elsewhere.

Robert Potter of Hesperia wanted to point out that there are 14+ dispensaries in the City and Hesperia is seeing no revenue from them. He stated that if the City would approve the ordinance there would be a financial gain.

Ron Williams of Hesperia is not a user and was against marijuana use but now works at a marijuana facility and has learned a lot. He sees people that come into the facilities that are very ill that need it.

Dan Johnson of Hesperia is a medical marijuana patient. He represents All Seasons Organics, one of the dispensaries in Hesperia, and hears stories such as these, all day long. He stated that their goal was to help people that are sick and he extended an invitation to the Commission to come to the dispensary and see for themselves.

Bill Jensen asked how much an average patient spends per visit and Mr. Johnson said \$50.00 and stated it varies how often, some per day or week or month depending on the individual's pain.

Nicole Skubish of Hesperia is in favor of medical marijuana and the safe receipt of it.

Kendall Threat represents Alternative Pain Solutions. He is not a medical marijuana patient but has seen how it has helped patients with PTSD. He would the City to tax it, provide permits and let the City benefit from the sales.

Ed Hewitt spoke in favor of the dispensaries and felt there was compelling testimony from the public who need options for their care.

Kevin Sasser of Victorville was speaking for his wife who had passed away and had chronic pain. Marijuana helped her tremendously and he was in favor of dispensaries.

Holly Smith of Victorville was a medical assistant that worked for a pain clinic and felt that the option of marijuana was better than the addictive pain medication.

Chair Elvert closed Public comment at 8:39 p.m.

Chris Elvert clarified that the Commission was not in the position to decide whether marijuana was beneficial or not but to decide whether the City of Hesperia can safely regulate it and have it dispensed within the City limits. He also stated that he would like staff to bring back an ordinance that the Commission can vote on and pass on to the City Council.

Paul Russ stated that he was conflicted because of pain he has endured and gave his medical background. He had to work and never had marijuana but in the same situation again, he would find a dispensary. He stated he can see the individual need but was concerned about the greater abuse and crime and needs to see more actual statistics.

Julie Jensen stated that she did not support the original ban by the Council (in 2005) and she is for the dispensaries. She has had personal experience with family members who had cancer and because of medical marijuana; her cousin received relief and was able to raise her children. She stated that the City should not promote legislation that discriminates against a specific segment of our community. Julie Jensen stated she will only support an alternative option to what Staff recommended.

William Muller concurred with Paul Russ that the stories are heart wrenching and there are people that legally use it and others that do it recreationally. He would like to see the State sell medical marijuana through our local drug stores. He stated that we need to look at the community at large. He commented that the audience represents a handful of people in a 90,000 populated city. He felt like the medical community was the answer to dispensing marijuana without crime and the other uncontrolled aspects.

Bill Jensen would like to hear more information on the medical side. He gave personal background information and acknowledged what could be a monetary gain for the City. He stated he broke his back and wasn't allowed to use marijuana for pain but could use vicodin or oxycontin in the military. He said he knew the value of marijuana medically but could not use it since it would end his military career. He posed the question of how does the City protect themselves against the evils that can come out of this as opposed to good. He also wanted statistics on crime and direction from staff on how the ordinance should be written.

Principal Planner, Dave Reno, AICP summarized what the Commission wanted in order to regulate dispensaries.

1. Reconstruction of the proposed ordinance to fit in the City's code.
2. Present better crime data.
3. Address issues with the medical and science facts.

The Commission requested that this item be brought back on or before the July Planning Commission meeting.

Motion by Bill Jensen to continue the proposal and have staff bring it back to the Commission on or before the July 14, 2011 Planning Commission Meeting. Seconded by Julie Jensen and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, Bill Jensen, Julie Jensen, and Paul Russ
NOES: None

5. [Alternative Energy Technology Workshop discussion regarding potential changes to the current ordinance. \(Area affected: Citywide\) \(Staff Person: Stan Liudahl\)](#)

Stan Liudahl gave a PowerPoint presentation on energy technology and rooftop windmills. Discussion ensued between the Commission and Staff.

Sophie Steeno made comment on the issue and stated that the noise level was minimal and the City should allow the rooftop windmills within reason.

Councilman Russ Blewett spoke regarding wind turbines. He was a San Bernardino County Planning Commissioner and approved many wind turbines and feels the Hesperia ordinance needs to be tuned up. He felt that it should be allowed up to a height of at least 60 feet.

Ed Hewitt of Gridnot spoke in favor of rooftop mounted and pole windmills. His company owns and installs windmills and has people waiting in line to receive them.

Tom Steeno spoke in favor but would like to get more efficiency from them. He stated that without the rebate people will not be purchasing them.

Ruth Valis of Hesperia wanted to have a pole mounted wind turbine but because of the distance in the ordinance the pole would be in the middle of her pool. She would like the City to approve her pole.

Mary Pritchit, distributor for DICOR Products, said the rebate program has been suspended and will return when they fine-tune the program in which the homeowner will bear some of the cost so they have a responsibility for the windmills. She was in favor of roof mounts and they were designed for the roof.

The Commission responded with 3 in favor of roof mounts for SFR and 2 against. They stated the permits should be allowed over the counter and not brought to the Planning Commission if the lot is over 15,000 square feet.

Chris Elvert stated, for the record, that he has no problem with the energy aspects of this but his concerns were for the future and what our City will look and sound like in 20 years.

William Muller stated that the economics for this are not supported and he felt the aesthetics are bad.

Anthony Guasti of Guasti Construction in Hesperia submitted written comments. (Attachment 1)

George Stanford of Victorville submitted written comments. (Attachment 2)

PRINCIPAL PLANNER'S REPORT

Capital Improvement Program Report by Scott Priester, Director of Development Services

Scott Priester presented a PowerPoint presentation and received questions from the Commission.

Motion by Julie Jensen to adopt Resolution No. PC-2011-16, approving Capital Improvement Program Conformity. Seconded by Paul Russ and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, Bill Jensen, Julie Jensen, and Paul Russ
NOES: None

DRC Comments

Dave Reno gave update on the Civic Plaza Theatre and stated that it will be brought before the Commission on May 12, 2011. He also informed the Commission that the Association of Environmental Professional's gave the City its 2011 Merit Award for the Climate Action Plan.

ADJOURNMENT

Chair Elvert closed the meeting at 11:37 p.m. until Thursday, May 12, 2011.

Chris Elvert
Commission Chair

By: Kathy Stine,
Commission Secretary

Hesperia City Council Members,

Work shop meeting on alternative energy on 4/14/11

To whom it may concern, we here at Guasti Construction are asking you to consider changing your alternative energy legislation on small wind. Currently, your **Residential** laws restrict the height of your wind systems to **52' to the tip of the blade at 12 o' clock on 1/3 of an acre**. We would like to see this height be changed to **60' to the top of the fixed structure** given they had the room (large enough lot) for the setbacks to be met. We would also like to see homeowners with larger lots be able to get taller towers maybe 80' up to 100'. Lets put into affect a system that would govern the tower heights based on lot size much like San Bernardino County.

In your **Commercial and Industrial** areas we are suggesting a **height of 100' to the top of the fixed structure**. The reason for this is in your commercial and industrial areas you find, businesses on acreage. Businesses use a lot of power and therefore would require a larger wind system, most of these systems require a 100' tower.

Wind is encouraged by the State of California, with a rebate program that covers \$30,000 toward the cost of a Bergey wind turbine. There is also a 30% federal tax credit that also encourages these projects to move forward. San Bernardino County set up a plan, which waved the fees for green projects. Thus, showing they were becoming a green county. This helped to encourage homeowners to go forward with alternative energy options. Hesperia should follow in San Bernardino County's footsteps and instate a program that will offer assistance for homeowners moving toward alternative energy solutions.

Best regards,

Joe and Bev Guasti

Owners of Guasti construction Inc.

To – City of Hesperia

In the interest of Encouraging Renewable Energy we would like the City Council to consider the following idea for change on item

#1 of Exhibit “A” of 16.16.063. These ideas are based on the type of unit at City Hall.

#1. Set back from property line to be a minimum of 5 ft. to center of pole.

EXHIBIT "A"

Chapter 16.08 Definitions

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

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

Chapter 16.16 Zone Districts Article III. Additional Uses

16.16.063 Alternative Energy Technology standards.

A. Windmills as defined by Section 16.08.890 shall be permitted in accordance with Section 16.16.064 and subject to the provisions as provided herein.

1. The structure and all appurtenant equipment for all tower-mounted windmills shall be located behind the primary building, not within the front or street side yard, and a minimum of 1.1 times the overall structure height from the side and rear property lines. Guy wires may encroach into the minimum setbacks, but shall not encroach over property lines.
2. The structure may need to be farther from the property lines based upon the required specifications regarding noise identified in Section 16.16.063(A)(3).
3. Specifications on the noise produced by the windmill shall be submitted for windmills within all zone districts, identifying the distance from the structure to the property line to meet the City's Noise Ordinance. The setback shall be increased should the manufacturers' specifications evidence that the windmill would exceed the evening noise standard at any property line.
4. Tower-mounted windmills shall not exceed the height limitation of the zone district in conjunction with the special height increases of Section 16.20.060. The height shall be measured to the top of the blades or rotors or any other portion of the windmill, which extends farthest above ground level. The blades and rotors of the windmill shall be a minimum of 15 feet above ground level at the lowest point to ensure the safety of persons and property beneath. Approval of additional height beyond the special height increases within Section 16.20.060 shall require approval of a variance.
5. Multiple tower-mounted windmills are allowed subject to compliance with the minimum setback and accessory structure lot coverage limitations as well as in conformance with the Noise Ordinance. The area of a windmill is defined as the circular area measured horizontally at the farthest spread of the rotors/blades of the windmill from the pole in determining accessory structure lot coverage.
6. Roof-mounted windmills shall not exceed 50 feet or the height regulation of the zone district, whichever is greater. Approval of a minor exception is needed to exceed the height restriction by up to 10 percent and approval of a variance shall be required to exceed the allowed height beyond 10 percent. Roof-mounted windmills do not qualify for the special height increases of Section 16.20.060. The height shall be measured from the ground to the top of the blade/rotor or any other portion of the windmill.



DATE: May 12, 2011
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Stan Liudahl, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP11-10116; Applicant: T-Mobile West Corp.; APN: 0408-232-08

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2011-20, approving Conditional Use Permit CUP11-10116.

BACKGROUND

Proposal: A Conditional Use Permit to construct a 75-foot high wireless communications facility adjacent to the play fields within Hesperia Junior High School.

Location: The property address is 10275 Cypress Avenue (Attachment 1).

Current General Plan, Zoning and Land Uses: The site is within the Public School (P-School) General Plan Land Use designation and zone district. The surrounding land is designated and zoned as noted on Attachment 2. The proposed 75-foot high monopine will be located east of the portable classrooms, between the soccer fields and the football field. The surrounding properties are almost entirely developed with single-family residences. A church is located to the southeast (Attachment 3).

ISSUES/ANALYSIS

Land Use: T-Mobile West, the service provider, has demonstrated on a service plan that there is a 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 as well as provide coverage for two additional carriers. The wireless communications facility encompasses a 75-foot high monopine and mechanical equipment within a 538 square foot fenced lease area (Attachment 5).

The elevations and photosimulation of the proposed monopine illustrates its ability to blend into the neighborhood (Attachments 6 and 7). Attachment 5 also shows the facility's ground equipment surrounded by a seven-foot high chain link fence with view-obscuring slats. Staff supports the additional fence height in this case, as safety is paramount given that the facility is within school grounds. The antennae will be installed at a height of 68 feet and will be hidden by the tree branches. Staff has included two alternative monopole designs (Attachment 8), each simulating a stadium light. The proposed wireless communications facility is consistent with the General Plan land use and zoning standards, including accessory structure height. The P-School designation is implemented by the Public Institutional (P-I) zone district, which does not include a height limitation.

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 lease area to Eleventh Avenue in accordance with Condition 6 (Attachment 9).

Environmental: Approval of the conditional use permit 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.

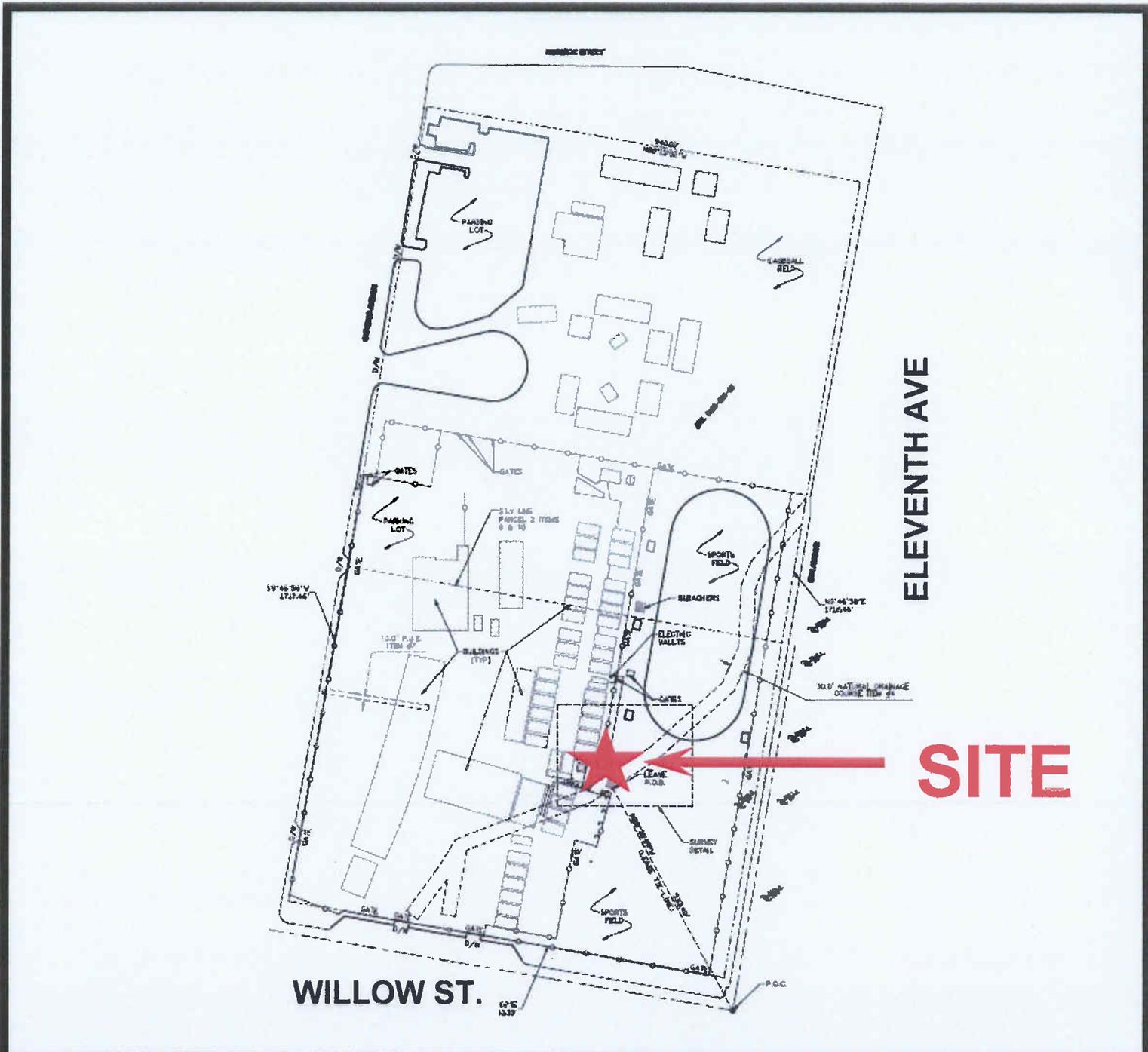
ALTERNATIVES

1. The Planning Commission may choose to approve the wireless communications facility with one of the alternative stadium light designs instead of the monopine. In this case, the lights would be ornamental, as the neighborhood is unaccustomed to the additional traffic and illumination that would no doubt occur with an actual light installation. Further, the Hesperia Unified School District has allowed soccer league play and other uses during non-school hours, but only during the daytime. Staff has supported use of stadium lights for wireless communications installations on sites with existing lighting, but believes that the City would receive criticism for approving a "false" stadium light to conceal a wireless communications facility. As such, staff does not support this alternative.
2. 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. Elevations of the monopine
7. Photo simulation of the monopine
8. Elevations of the stadium light monopoles
9. Resolution No. PC-2011-20, with list of conditions

ATTACHMENT 1



APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL



LOCATION MAP

ATTACHMENT 2



APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL



GENERAL PLAN LAND USE AND ZONING MAP

ATTACHMENT 3



APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

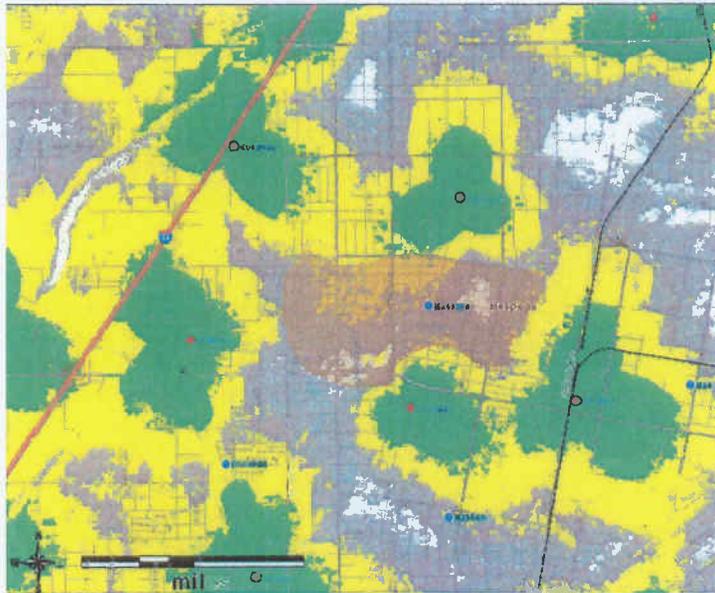
PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL



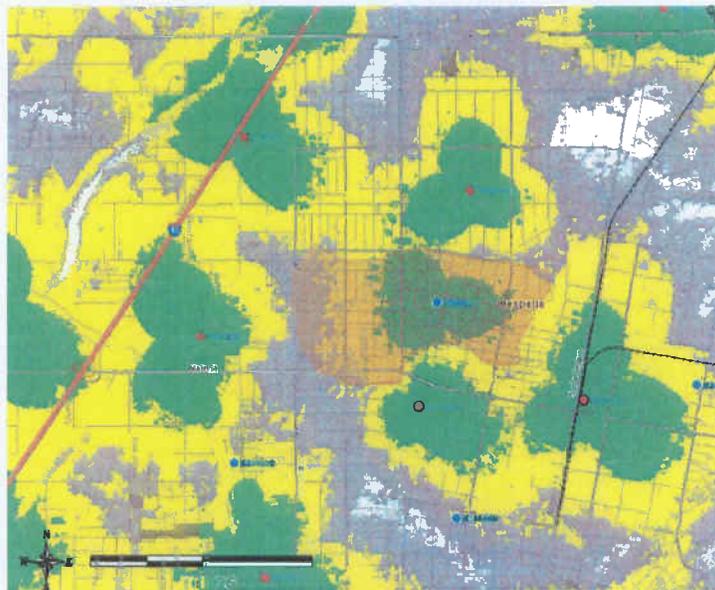
AERIAL PHOTO

ATTACHMENT 4

-  Indoors
-  In vehicle
-  Outdoors



Service without the facility



Service with the facility

APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL



SERVICE PLAN

ATTACHMENT 7



APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

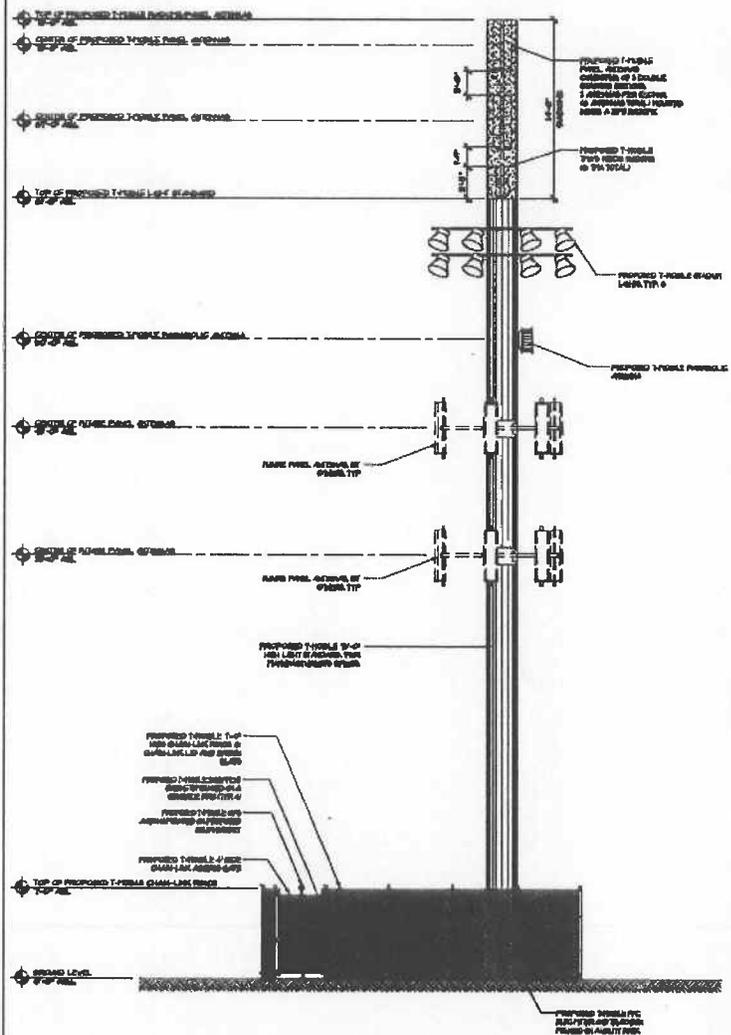
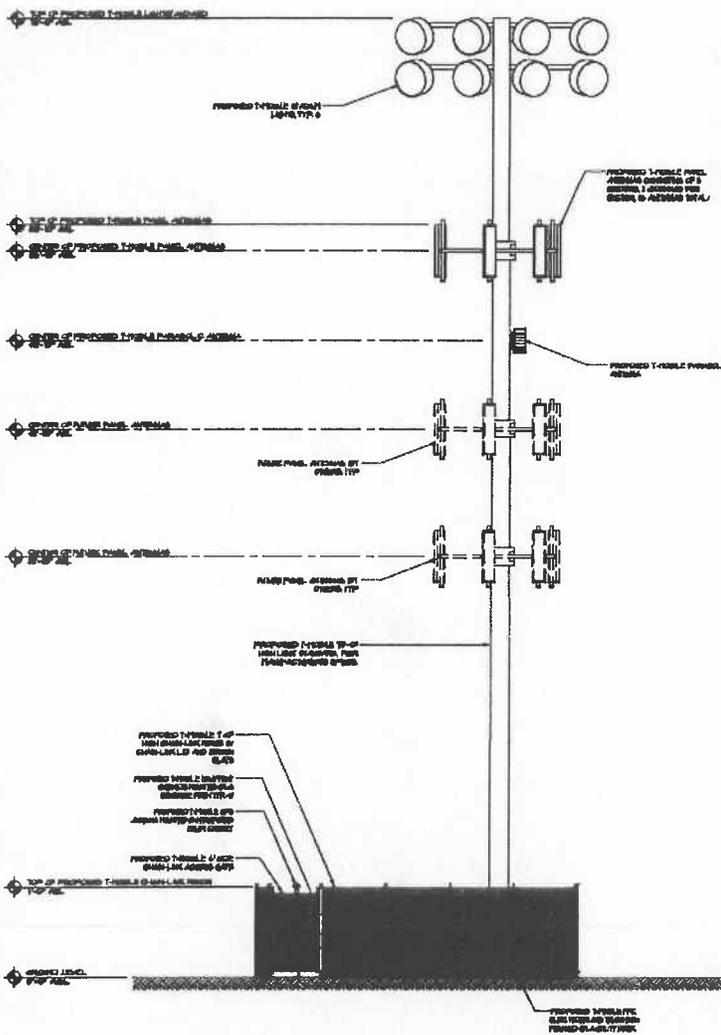
LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

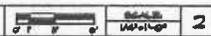
PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL

PHOTOSIMULATION OF THE MONOPINE

ATTACHMENT 8



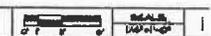
SOUTHEAST ELEVATION (ARRAY)



SCALE: 1/8\"/>

2

SOUTHEAST ELEVATION (RADOME)



SCALE: 1/8\"/>

1

APPLICANT(S):
T-MOBILE WEST CORP.

FILE NO(S):
CUP11-10116

LOCATION:
10275 CYPRESS AVENUE

APN(S):
0408-232-08

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL

ELEVATIONS OF THE STADIUM LIGHT MONOPOLES

ATTACHMENT 9

RESOLUTION NO. PC-2011-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 75-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ADJACENT TO THE PLAY FIELDS WITHIN HESPERIA JUNIOR HIGH SCHOOL AT 10275 CYPRESS AVENUE (CUP11-10116)

WHEREAS, T-Mobile West Corp. has filed an application requesting approval of Conditional Use Permit CUP11-10116 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to land adjacent to the play fields within Hesperia Junior High School, which is within the Public-School (P-School) General Plan land use designation and Zone District at 10275 Cypress Avenue and includes Assessor's Parcel Number 0408-232-08; and

WHEREAS, the Application, as contemplated, proposes to construct a 75-foot high wireless communications facility on the subject property; and

WHEREAS, the subject site is within thin the Hesperia Junior High School grounds. The surrounding properties are almost entirely developed with single-family residences. A church exists to the southeast; and

WHEREAS, the subject site is within the P-School General Plan land use and zone district. The properties to the north, south, and west are within the Rural Residential with a minimum lot size of 20,000 square feet (RR-20000) designation and zone district. The properties to the east are within the Limited Agriculture (A1) designation and zoning and Low Density Residential (LDR) under the Main Street and Freeway Corridor Specific Plan; 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 May 12, 2011, 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 May 12, 2011 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 to Eleventh 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 CUP11-10116, 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 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP11-10116

Approval Date: May 12, 2011
Effective Date: May 24, 2011
Expiration Date: May 24, 2014

This list of conditions apply to a conditional use permit to construct a 75-foot high wireless communications facility adjacent to the play fields within Hesperia Junior High School at 10275 Cypress Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: T-Mobile West Corporation; APN: 0408-232-08).

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

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- _____ 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. **Soils Report.** The Developer shall provide soils reports to substantiate the foundation design. (B)

- _____ 3. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the 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 BUILDING PERMIT ISSUANCE:

- _____ 4. **Facility Requirements.** The monopole, antennae and all other equipment installed upon the monopine shall be installed consistent with the approved elevations and photo simulations. (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 conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E, P)

- _____ 6. **Access Easement.** An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for the benefit of each wireless communications provider using the site for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

- _____ 7. **Co-location Agreement.** The applicant shall record a co-location agreement permitting at least two other wireless communications providers to place at least two other communications facilities upon the site. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

- _____ 8. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

- _____ 9. **Utilities.** The wireless communications facility shall be served by independent utility connections and shall be separately metered. (B, P)

- _____ 10. **Removal Bond.** The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 30 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

- _____ 11. **Fencing Requirements.** A seven-foot high chain link fence with view-obscuring slats shall be used to screen and secure the mechanical equipment and other appurtenant elements of the wireless communications facility. The use of barbed wire or other types of fencing is not permitted. (P)

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 12. **Utility Clearances.** The Building Division will provide utility clearances after required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)
- _____ 13. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan, floor plan, and elevations shall be completed in accordance with all applicable Title 16 requirements. The wireless communications tower, equipment shelter, landscaping, and fencing shall also be designed consistent with the approved site plan, elevations and photo simulations. In addition, all co-locations shall be designed consistent with and shall not detract from the aesthetic look of the monopole, providing identical tree branches and foliage, equipment shelter building materials and perimeter fencing. Any exceptions shall be approved by the Deputy Director of Development Services / Community Development. (P)

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

- _____ 14. **Maintenance of the Facility.** The monopole, landscaping, perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P)
- _____ 15. **Use of Generator(s).** A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Deputy Director of Development Services / Community Development. (P)
- _____ 16. **Removal Bond.** The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 30-year term in which the facility is to be used. Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)
- _____ 17. **Abandonment of the Facility.** Should the facility fail to be used as approved for more than 180 consecutive days or should its 30-year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facility's removal is verified by the Planning Division. (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 |



DATE: May 12, 2011
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: *LSM* Lisette Sánchez-Mendoza, Assistant Planner
SUBJECT: Conditional Use Permit CUP11-10151; Applicant: Gabrielle Major; APN: 3057-011-10

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2011-22, approving Conditional Use Permit CUP11-10151.

BACKGROUND

Proposal: A Conditional Use Permit to establish the sale of beer and wine within a restaurant/catering business.

Location: 13567 Main Street

Current General, Plan, Zoning and Land Uses: The site is located on the south side of Main Street between the California Aqueduct and Fuente Avenue within the Planned Mixed Use (PMU) General Plan Land Use designation and the Regional Commercial (RC) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan) (Attachment 1). The site is currently developed with commercial buildings. The property to the north is also commercially developed. The site is bounded by vacant land to the south and east. The California Aqueduct is located to the west (Attachment 2).

ISSUES/ANALYSIS:

Land Use: The Specific Plan requires that all uses selling alcohol obtain approval of a conditional use permit. A Type 41 license is proposed for the restaurant/catering business, which would allow the sale of beer and wine for on-site consumption. The applicant may also choose to periodically acquire a one-day alcohol license from ABC for catering events. The subject property is located in Census Tract 100.18 (Attachment 3). ABC has determined that the site is located in an over-concentrated census tract, as this census tract exceeds its limitation of three licenses (Table 1). Although DeGarcias is no longer in business and holds a surrendered ABC license, ABC continues to count it as an issued license to the census tract. Absent this license, there would still be three licenses active in the tract.

Table 1 Existing On-Sale Licenses in Census Tract 100.18 (13567 Main Street)

| Status | Business Name | Business Address | License |
|--------|---------------|------------------------------|---------------------------|
| SUREND | DEGARCAS | 14343 MAIN ST | 47-BEER, WINE, AND LIQUOR |
| ACTIVE | MIYAKO SUSHI | 14073 MAIN ST, UNIT 109 | 41-BEER AND WINE |
| ACTIVE | KIDS PLANET | 15075 MAIN ST | 47-BEER, WINE, AND LIQUOR |
| ACTIVE | PIZZA FACTORY | 14135 MAIN ST, STE 101 & 102 | 41-BEER AND WINE |

The Planning Commission has previously expressed concerns over the proliferation of establishments selling alcohol along Main Street. The commercial portion of Main Street currently holds 24 onsite licenses, which consist primarily of restaurants, and the area between I Avenue and Seventh Avenue has approximately half of the total on-site licenses. The table shows only the businesses located within Census tract 100.18, of which all are considered bona fide eating establishments. Furthermore, the closest establishment similar in nature to the proposed site and holding an active ABC license within the same Census tract is Miyako Sushi, located approximately ½ mile east of the site.

Inasmuch as ABC’s criteria considers population and the need for services based on population, staff’s recommendation for approval is based upon the City’s unique land use characteristics. Unlike other cities, the City of Hesperia offers commercial services primarily along three major thoroughfares, in contrast to other cities which may offer commercial services every mile. This results in concentration of commercial uses primarily along Bear Valley Road, Main Street, and portions of Hesperia Road.

Schools and Parks: The project site is located approximately ¾ mile southeast of the nearest school, Topaz Elementary. The site is approximately ½ mile from Hesperia Community Park.

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

Conclusion: The over-concentration of alcohol sales along Main Street is based on ABC’s criteria. However, when determining over-concentration within this city, staff’s recommendation is based on the City’s concentration of commercial land uses, primarily along Main Street, Bear Valley Road, and Hesperia Road. Finally, approval of alcoholic beverage licenses is supportive of the land uses intended within the RC District.

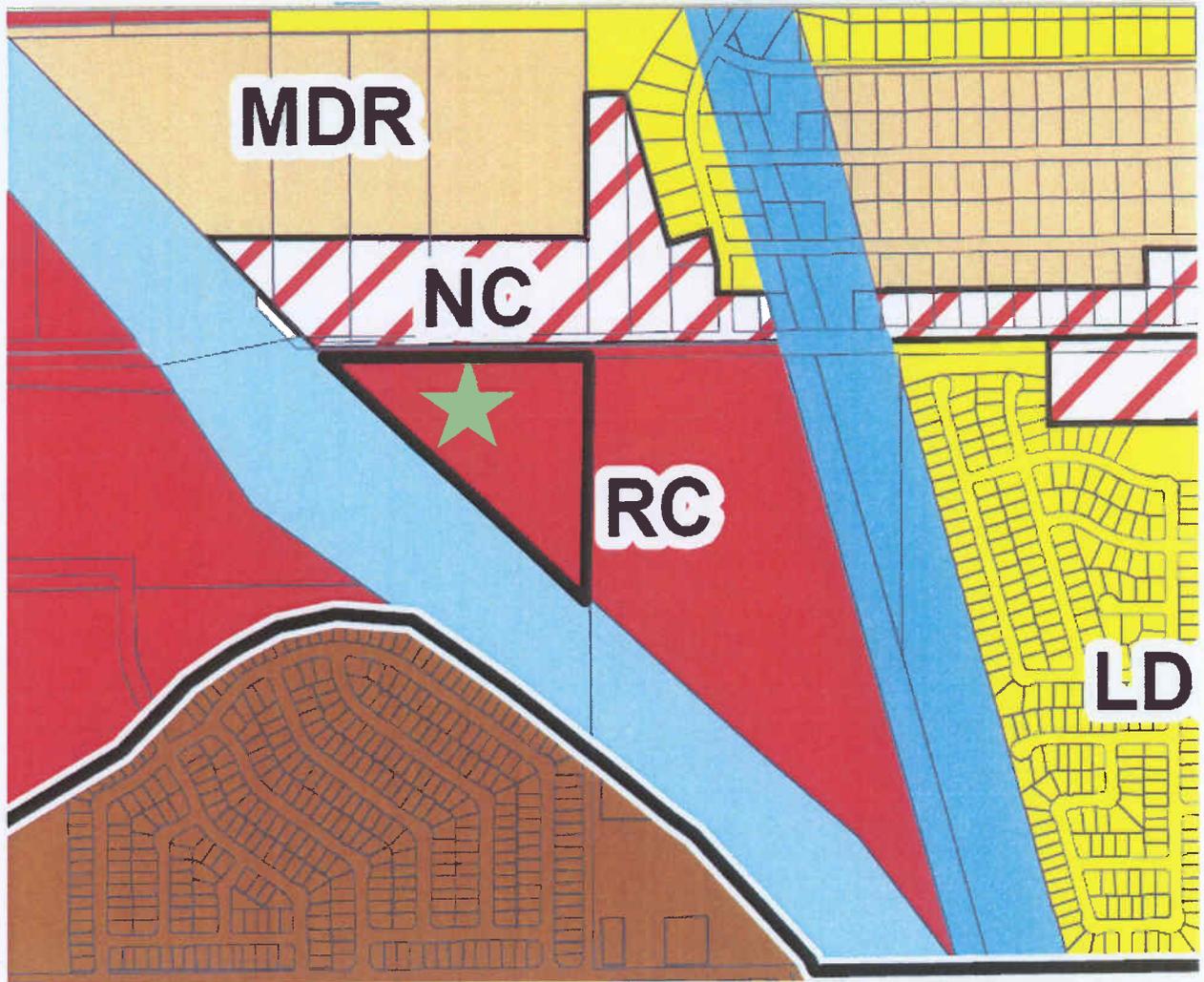
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan/Zoning
2. Aerial photo
3. Census Tract 100.18
4. Resolution No. PC-2011-22, with list of conditions

ATTACHMENT 1



 PROJECT SITE

| | | | |
|---|--|-----------------------------------|---------------|
| APPLICANT(S):
GABRIELLE MAJOR | | FILE NO(S):
CUP11-10151 | |
| LOCATION:
13567 MAIN STREET | | APN(S):
3057-011-10 | |
| PROPOSAL:
A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE AS PART OF A RESTAURANT/CATERING BUSINESS | | | N
↑ |

GENERAL PLAN/ZONING

ATTACHMENT 2



**PROJECT
SITE**

APPLICANT(S):
GABRIELLE MAJOR

FILE NO(S):
CUP11-10151

LOCATION:
13567 MAIN STREET

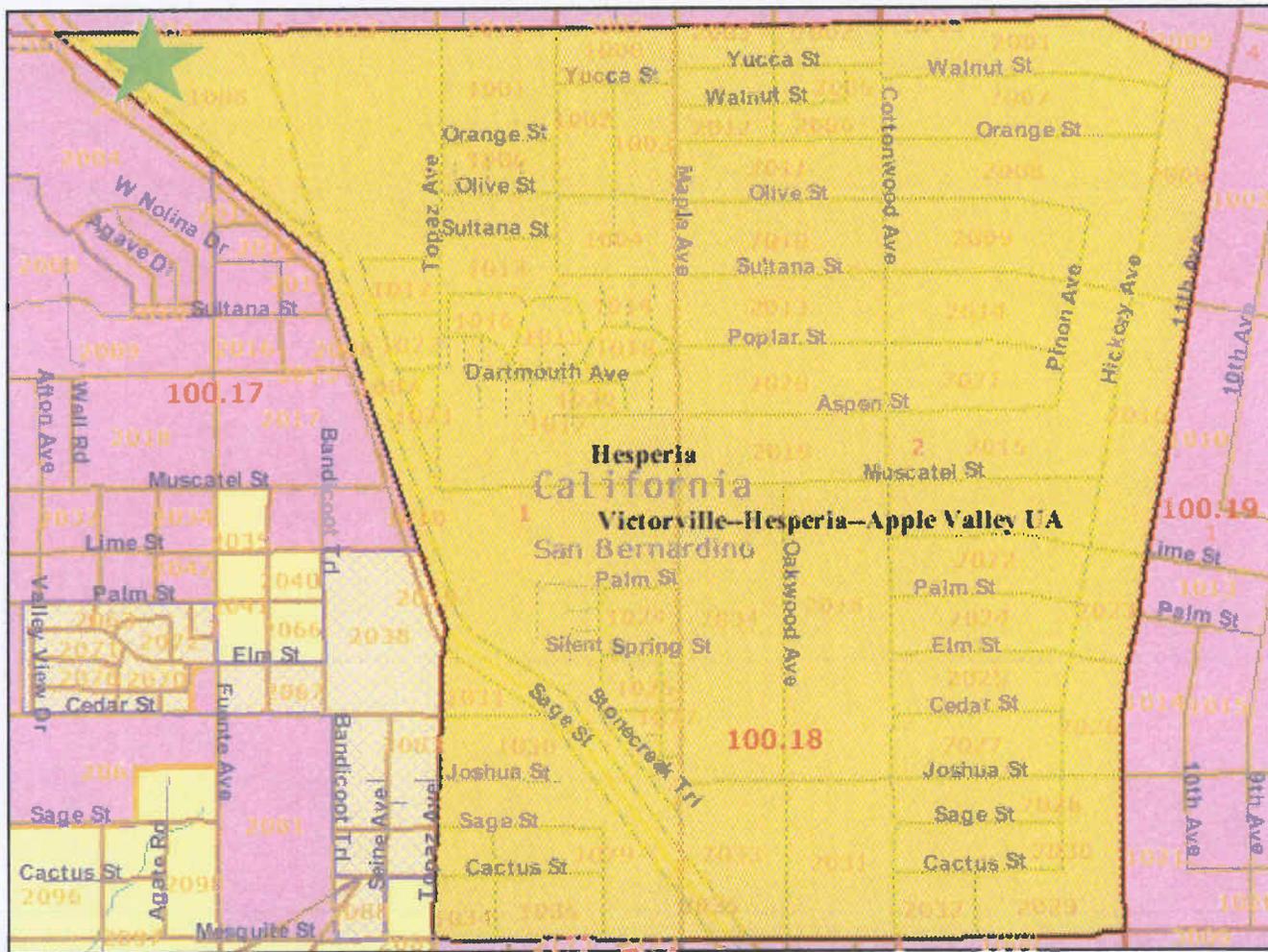
APN(S):
3051-011-10

PROPOSAL:
A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE AS PART OF A RESTAURANT/CATERING BUSINESS



AERIAL PHOTO

ATTACHMENT 3



**PROJECT
SITE**

APPLICANT(S):
GABRIELLE MAJOR

FILE NO(S):
CUP11-10151

LOCATION:
13567 MAIN STREET

APN(S):
3057-011-10

PROPOSAL:
A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE AS PART OF A RESTAURANT/CATERING BUSINESS



CENSUS TRACT

ATTACHMENT 4

RESOLUTION NO. PC-2011-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH THE SALE OF BEER AND WINE AS PART OF A RESTAURANT/CATERING BUSINESS AT 13567 MAIN STREET (CUP10-10151)

WHEREAS, Gabrielle Major has filed an application requesting approval of Conditional Use Permit CUP11-10151 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an existing restaurant/catering business at 13567 Main Street and consists of Assessor's Parcel Number 3057-011-10; and

WHEREAS, the Application, as contemplated, proposes to establish the sale of beer and wine as part of a restaurant/catering business; and

WHEREAS, the subject site is presently developed as a commercial property. The property to the north is also commercially developed. The properties to the south and east are vacant, and the California Aqueduct is located to the west; and

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

WHEREAS, the subject property is zoned Regional Commercial (RC), as well as properties to the east and west. The properties to the north are zoned Neighborhood Commercial (NC), and the properties to the south are zoned R-1; and

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

WHEREAS, on May 12, 2011, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced May 12, 2011 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed use is conditionally allowed within, and would not impair the integrity and character of the Regional Commercial District of the Main Street and Freeway Corridor Specific Plan and complies with all applicable provisions of the Development Code as per Section 16.12.120. The site is suitable for the type and intensity of the use that is proposed. The expansion of the business is restricted to the sale of beer and wine.

- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public convenience, health, safety or general welfare. The proposed serving of beer and wine as part of the dining experience will not have a detrimental impact on adjacent properties.
- (c) The proposed use is consistent with the objectives, policies, general land uses and programs of the General Plan, Specific Plan and Development Code. The proposed use will take place in a permitted restaurant/catering business. The sale of beer and wine is consistent with the allowable uses within the Regional Commercial District.
- (d) There are adequate provisions for sanitation, water and public utilities and services to ensure the public convenience, health, safety and general welfare. The proposed use will occur in a restaurant/catering business with adequate infrastructure. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP11-10151, 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 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for CUP11-10151

Approval Date: May 12, 2011
Effective Date: May 24, 2011
Expiration Date: May 24, 2014

This list of conditions apply to a Conditional Use Permit to establish the sale of beer and wine as part of a restaurant/catering business at 13567 Main Street (Applicant: Gabrielle Major; APN: 3057-011-10).

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.

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

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

Init Date

- | | |
|-------|--|
| _____ | 1. <u>Valid License.</u> At all times during the conduct of the use allowed by this permit, the use shall obey all laws and shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void. (P) |
| _____ | 2. <u>Indemnification.</u> As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Review Committee, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P) |

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

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



DATE: May 12, 2011
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Stan Liudahl, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP11-10147, VAR11-10144 & TPM11-10145;
Applicant: Cinema West; APNs: 0407-262-01 & 0407-263-01

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2011-17, PC-2011-18 and PC-2011-19, approving CUP11-10147, VAR11-10144, and TPM11-10145.

BACKGROUND

Proposal: Conditional Use Permit CUP11-10147, to construct a 12-screen motion picture theatre with ancillary uses including the sale of beer and wine for on-site consumption in conjunction with Variance VAR11-10144, to allow the building and its towers to exceed the maximum allowable 35-foot and 52.5-foot height limitations; and Tentative Parcel Map TPM11-10145, to create three parcels on five gross acres (Attachments 1 and 2).

Location: The property is located on the southeast corner of Smoketree Street and Ninth Avenue.

Current General Plan, Zoning and Land Uses: The site is within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated and zoned as noted on Attachment 3. The site is currently vacant and is being used as a soil stockpile site for use in the Rancho Road grade separation project. The site is bounded to the north by the Hesperia Police Station, to the east by the Hesperia Civic Plaza Park and Hesperia City Hall, on the west by single-family residences, and on the south by a vacant property (Attachment 4). The property is part of the overall Civic Plaza project, which will include a combination of service and retail businesses to support a vibrant, pedestrian-oriented civic center.

ISSUES/ANALYSIS

Conditional Use Permit

This application will allow for construction of a 37,168 square foot motion picture theatre with 12 screens, including two 32'-6" high IMAX screens. Besides showing first run movies, boxing and other major sporting events will be featured. In addition, a stage in one of the screen rooms will be designed and available for live performances. The cinema will also include a party room, game room, and two wine bars. The cinema, including the IMAX screens, will be unique to the High Desert and will provide a more formal dining experience while movie watching. The sale of beer and wine also necessitates the approval of this conditional use permit application. Alcoholic beverages will only be consumed within the theatre and will be required to meet all state alcoholic beverage control regulations.

The building meets the architectural requirements of the Specific Plan. The building incorporates changes in wall and roof planes, including carrying forward a similar building roof shape as all of the buildings within the Civic Plaza. In addition, the building exhibits enhanced architectural features, including three towers, a steel patio over the cinema entry, metal awnings on the west elevation, use of decorative bronze metal veneer, decorative glass panels, differing color lines and three contrasting wall plane colors (Attachment 5). The building is also designed to be energy efficient, using LED lighting as opposed to traditional incandescent lighting and will have a white roof, reducing cooling costs consistent with Leadership in Energy and Environmental Design (LEED) guidelines.

The project complies with all site development regulations, including the minimum building setback, landscaping, and number of parking spaces required utilizing reciprocal access and parking with the police station, city hall, library, and county government center. The theatre requires a minimum of 427 parking spaces, based upon the one space for every four seat parking requirement. The site design will provide 312 spaces. The police station, city hall, library, and county government center contain 740 parking spaces. The Parking Ordinance allows up to one-half of the parking of primarily day uses to be used for evening uses. Therefore, patrons of the theatre have access to 370 additional parking spaces within the Civic Plaza. Consequently, 255 surplus parking spaces will be available for the cinema.

The Specific Plan requires that all uses selling alcohol obtain approval of a conditional use permit. A Type 41 license is proposed, which would allow the sale of beer and wine for on-site consumption. The subject property is located in Census Tract 100.15 (Attachment 6). The state Department of Alcoholic Beverage Control (ABC) has determined that the site is located in an over-concentrated census tract, as this census tract currently meets its limitation of four licenses (Table 1).

Table 1 Existing On-Sale Licenses in Census Tract 100.15

| Status | Business Name | Business Address | License |
|--------|-----------------------------------|----------------------------|---------------------------|
| ACTIVE | GO BANGKOK THAI CUISINE | 15800 MAIN ST., #200 | 41-BEER AND WINE |
| ACTIVE | CASA JIMENEZ | 15800 MAIN ST., #210 & 220 | 41-BEER AND WINE |
| ACTIVE | CANCUN MEXICAN SEAFOOD RESTAURANT | 15550 MAIN ST., A1 & A2 | 47-BEER, WINE, AND LIQUOR |
| ACTIVE | CORRAL FAMILY RESTAURANT | 15550 MAIN ST., C14 & C15 | 41-BEER AND WINE |

In addition, the Planning Commission has previously expressed concerns over the proliferation of establishments selling alcohol along Main Street. The commercial portion of Main Street currently holds 24 onsite licenses, which consist primarily of restaurants, and the area between I Avenue and Seventh Avenue has approximately half of the total on-site licenses. The table shows only the establishments located within the Census tract 100.15 considered bona fide eating establishments. Furthermore, this establishment is unique to the entire High Desert.

Inasmuch as ABC's criteria considers population and the need for services based on population, staff's recommendation for approval is based upon the exclusiveness of this theatre offering the sale of beer and wine as well as the City's unique land use characteristics. Unlike other cities, the City of Hesperia offers commercial services primarily along three major thoroughfares, in contrast to other cities, which may offer commercial services within every square mile. This results in the concentration of commercial uses primarily along Bear Valley Road, Main Street, and portions of Hesperia Road.

Variance

The building meets the standards of the Specific Plan, except the maximum 35-foot building and 52'-6" tower height limitations. Approval of the proposed variance will allow the proposed 44'-5" building and the 59'-10" tower. The additional building height is needed to allow for the two 32'-6" tall IMAX digital screens as well as to create a similar roof silhouette as all of the other buildings within the Civic Plaza. The additional tower height is also necessary to provide appropriate scale consistent with the additional building height.

The Hesperia Development Code allows a variance to be granted if the following findings outlined within Section 16.12.235 can be made. These findings include:

- There is an unusual circumstance applicable to the property that does not generally apply to other properties in the vicinity;
- The applicant is deprived of privileges enjoyed by other property owners in the same zone;
- The enforcement of the code would result in a physical hardship;
- The granting of the variance will not constitute a grant of a special privilege; and
- The granting of the variance will not be detrimental to the public health, safety, and welfare to properties in the vicinity.

Staff believes that these findings can be made by considering the limited area within the City in which motion picture theatres are allowed. This use also requires a taller building necessary for accommodating the 32'-6" high IMAX screens in conjunction with allowing the building to incorporate a similar roof angle to that of all buildings within the Civic Plaza. In addition, staff supports exceeding the tower height limitation so the towers will be in scale with the building height. Granting this variance would also not constitute a special privilege, as any application for a theatre with IMAX screens would receive the same consideration and granting of the variance will not be a detriment to the public, health, safety, and welfare.

Tentative Parcel Map

The subdivision will create three parcels from the two existing parcels to allow the central parcel containing the theatre to be transferred to Cinema West. The City must create a third parcel in order to secure Community Development Block Grant funding utilizing separate funding sources for each parcel retained by the City. An easement will be recorded to provide access to the theatre parcel, as it will not have frontage upon any of the surrounding streets. The tentative parcel map is consistent with the site design and is in accordance with the Specific Plan and the subdivision map act.

Drainage: Any increase in storm water runoff as a result of construction of this project will be conveyed to an underground storm water retention system constructed beneath a portion of the parking lot surrounding the theatre. The retention system will be sized to handle the additional storm water due to the additional impervious surface area created by the building and the parking lot. Consequently, the development will not increase surface drainage flow. The site is adjacent to Ninth Avenue, which contains an underground storm drainage system which conveys upstream storm water flow. Therefore, the site will not be impacted by surface storm water.

Water and Sewer: The site may be served from either the 8-inch water line in Ninth Avenue or the 12-inch water line in Juniper Street. The project will connect to the 8-inch sewer main in Smoketree Street.

Street Improvements: Juniper Street, Smoketree Street and Ninth Avenue are all to be designed per the 80-foot wide Modified Local Street Standard, which provides two lanes within an 80-foot right-of-way. Sidewalks will also be constructed along the project frontage of all three streets.

Environmental: The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15332, In-fill Development Projects. This applies to developments on sites no larger than five acres, which are consistent with the General Plan and the applicable zoning district and are substantially surrounded by urban uses. Prior to issuance of a grading permit, a pre-construction survey conducted by an approved biologist shall be performed to determine whether the site contains burrowing owls.

Conclusion: The project conforms to the policies of the City's General Plan as well as the Specific Plan. Additionally, staff believes that the findings needed to approve the proposed variance can be made, as development of a motion picture theatre requires that the building be taller than the buildings housing typical uses allowed within the Specific Plan. The building will also be similar in bulk and shape to the other buildings surrounding the Civic Plaza Park.

Although this project is located within a census tract which is considered to have an over-concentration of alcoholic beverage control licenses, the sale of beer and wine will provide a unique dining experience not offered in other motion picture theatres. The over-concentration of alcohol outlets is based on ABC's criteria. However, when determining over-concentration within this city, staff's recommendation is based on the City's concentration of commercial land uses, primarily along Main Street, Bear Valley Road, and Hesperia Road. Finally, approval of an alcohol license is supportive of the land uses intended within the PC District of the Specific Plan.

FISCAL IMPACT

The City will be responsible for development of the parking lot pursuant to an existing agreement with Cinema West.

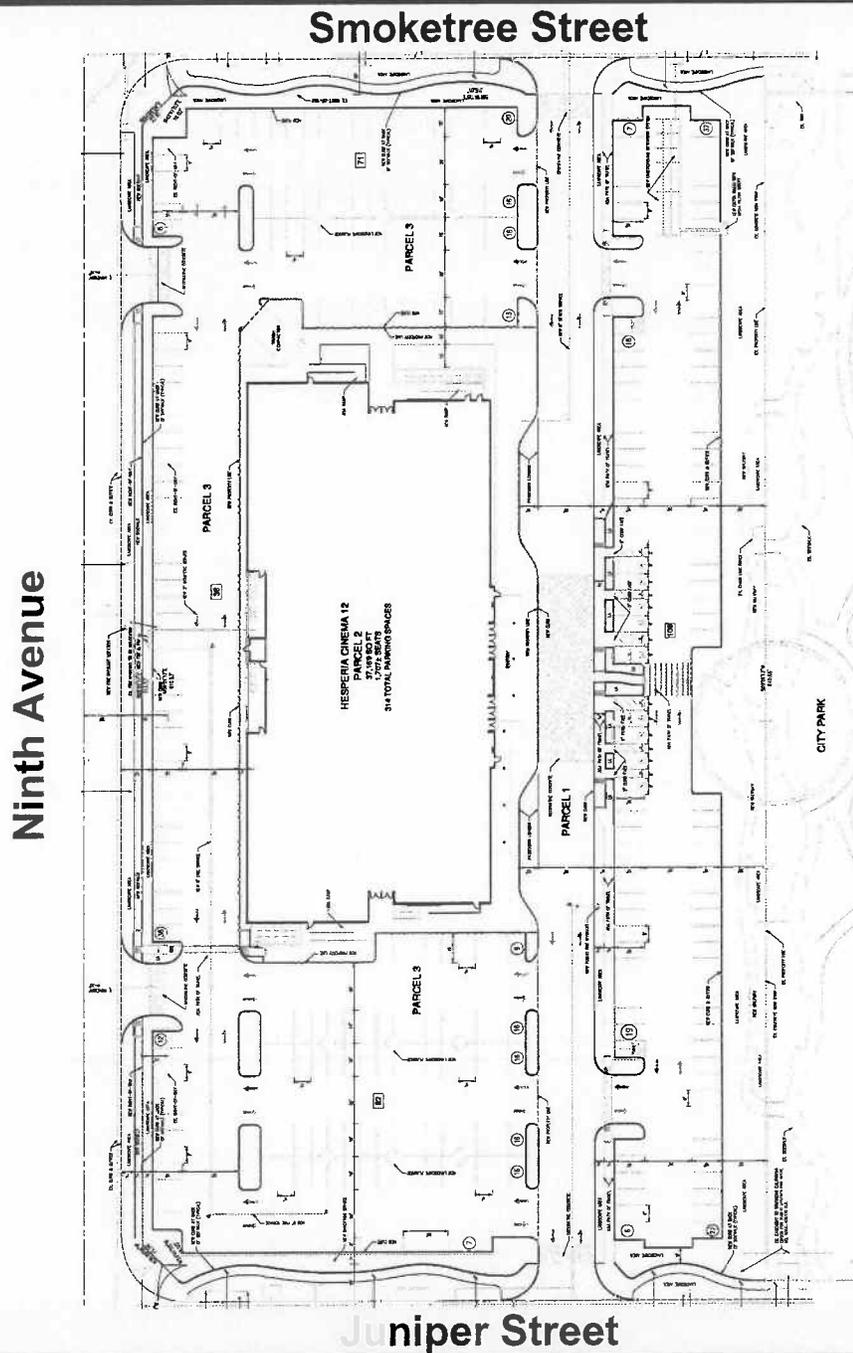
ALTERNATIVES

1. The Planning Commission could approve the conditional use permit without authorizing the sale of beer and wine, which will change the unique nature of the dining experience within the cinema. Based upon meeting state alcoholic beverage control regulations and the site's proximity to the police station, the use is not expected to pose a negative impact upon the area. Consequently, staff does not support this alternative.
2. The Commission may deny the proposed variance to allow the building and/or its towers to exceed the height limitations. Denial would require that the two IMAX screens be eliminated and a reduction in the height of the towers. These features are part of the architectural elements necessary to meet the requirements of the Specific Plan.
3. Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. Tentative parcel map
3. General Plan land use and zoning map
4. Aerial photo
5. Building elevations
6. Census tract
7. Resolution No. PC-2011-17, with list of conditions (CUP11-10147)
8. Resolution No. PC-2011-18 (VAR11-10144)
9. Resolution No. PC-2011-19, with list of conditions (TPM11-10145)

ATTACHMENT 1



APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE

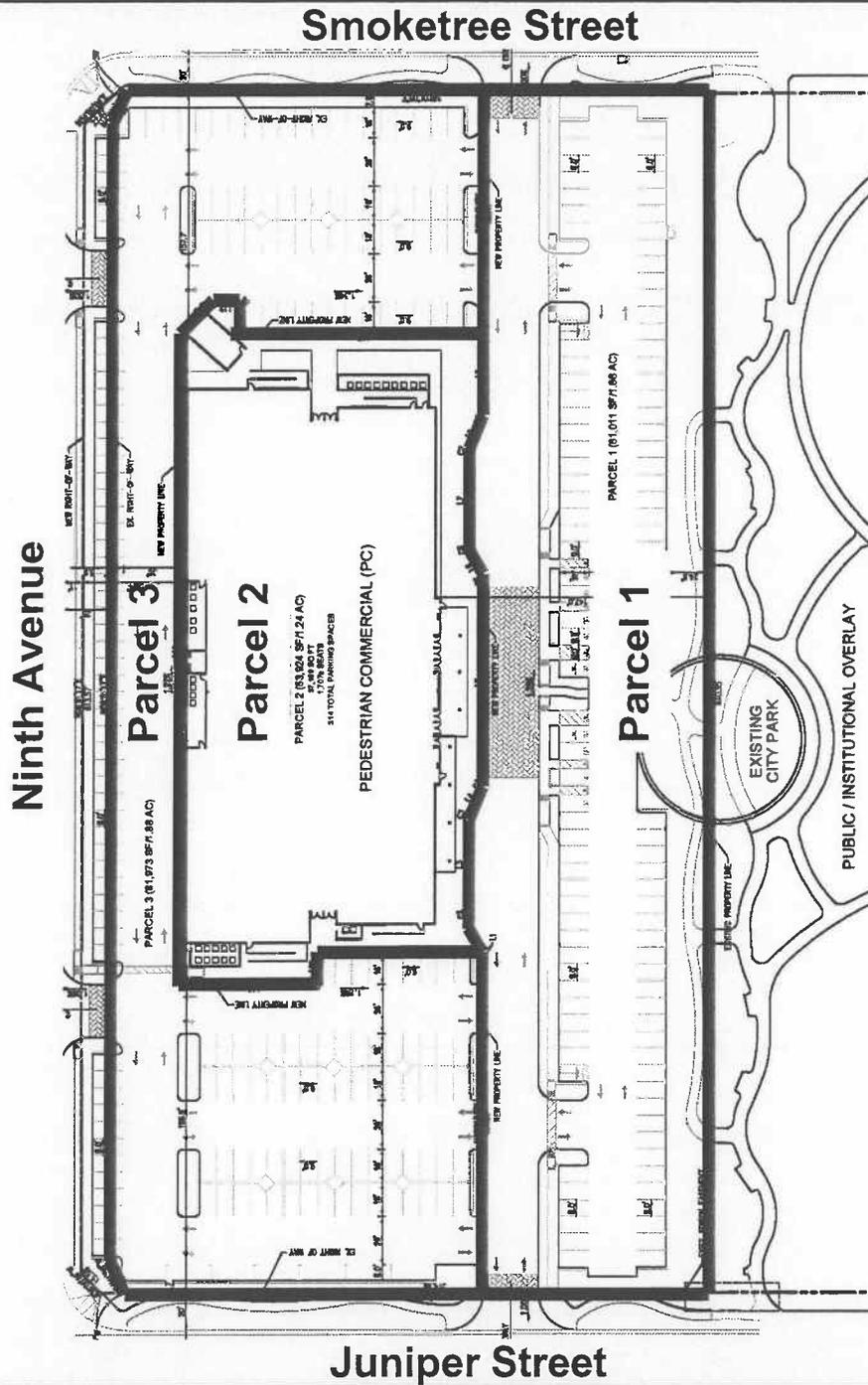
APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH ANCILLIARY USES INCLUDING THE ON-SITE SALE OF BEER AND WINE



SITE PLAN

ATTACHMENT 2



APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE

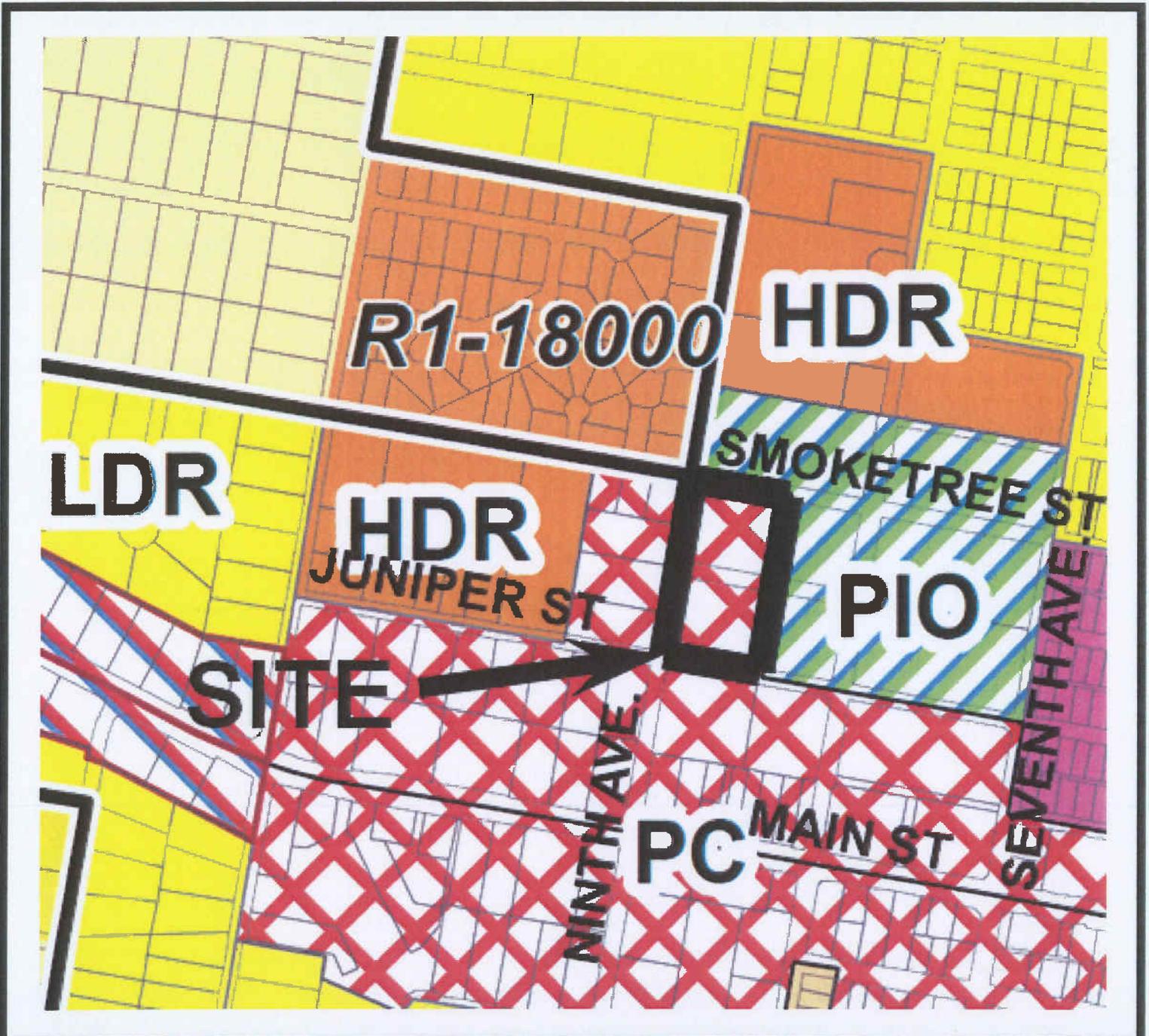
APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH ANCILLIARY USES INCLUDING THE ON-SITE SALE OF BEER AND WINE



TENTATIVE PARCEL MAP

ATTACHMENT 3



APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE

APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH ANCILLIARY USES INCLUDING THE ON-SITE SALE OF BEER AND WINE



GENERAL PLAN LAND USE AND ZONING MAP

ATTACHMENT 4



APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE
STREET AND NINTH AVENUE

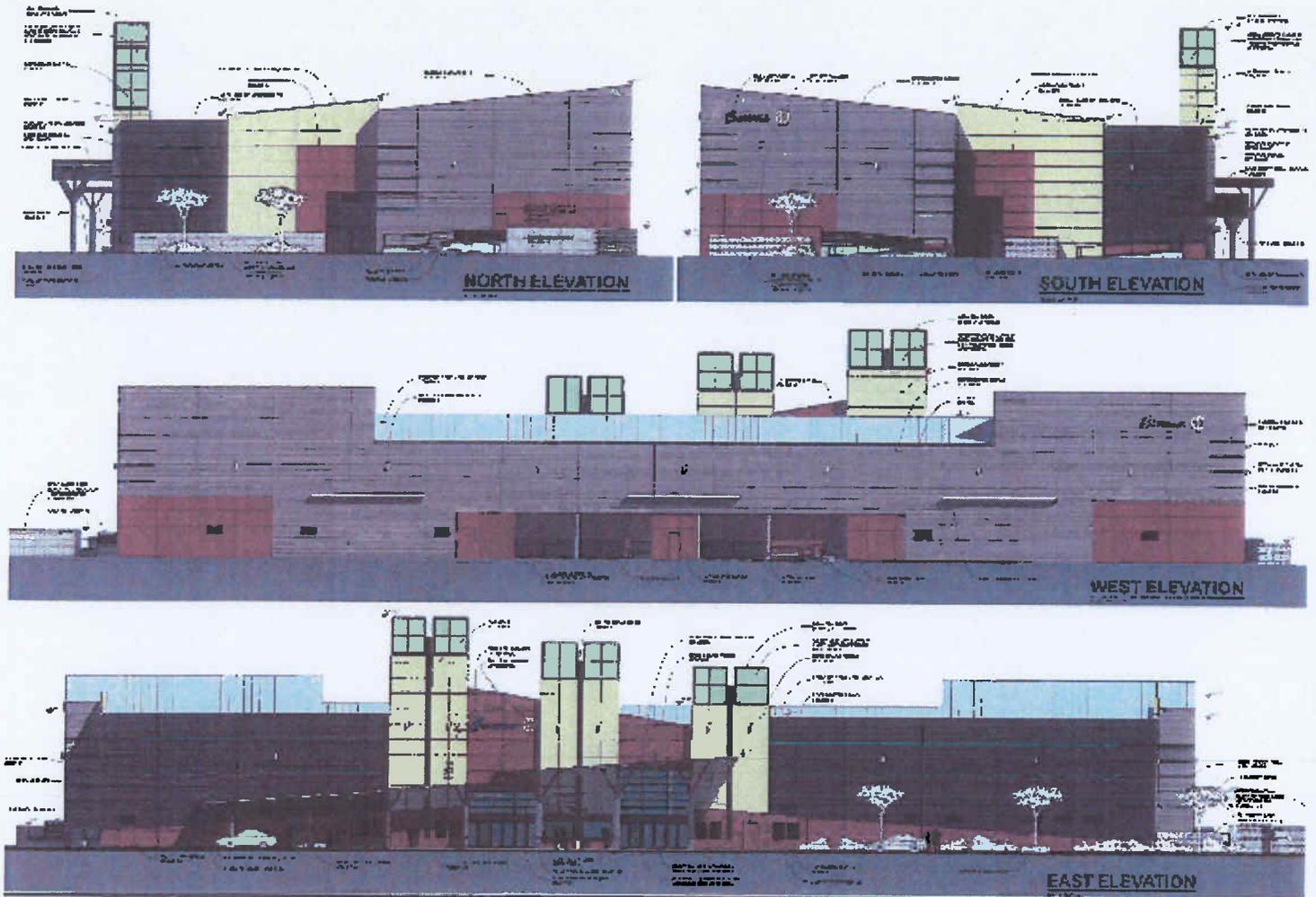
APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE
PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH
ANCILLIARY USES INCLUDING THE ON-SITE SALES OF BEER AND WINE



AERIAL PHOTO

ATTACHMENT 5



APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE
STREET AND NINTH AVENUE

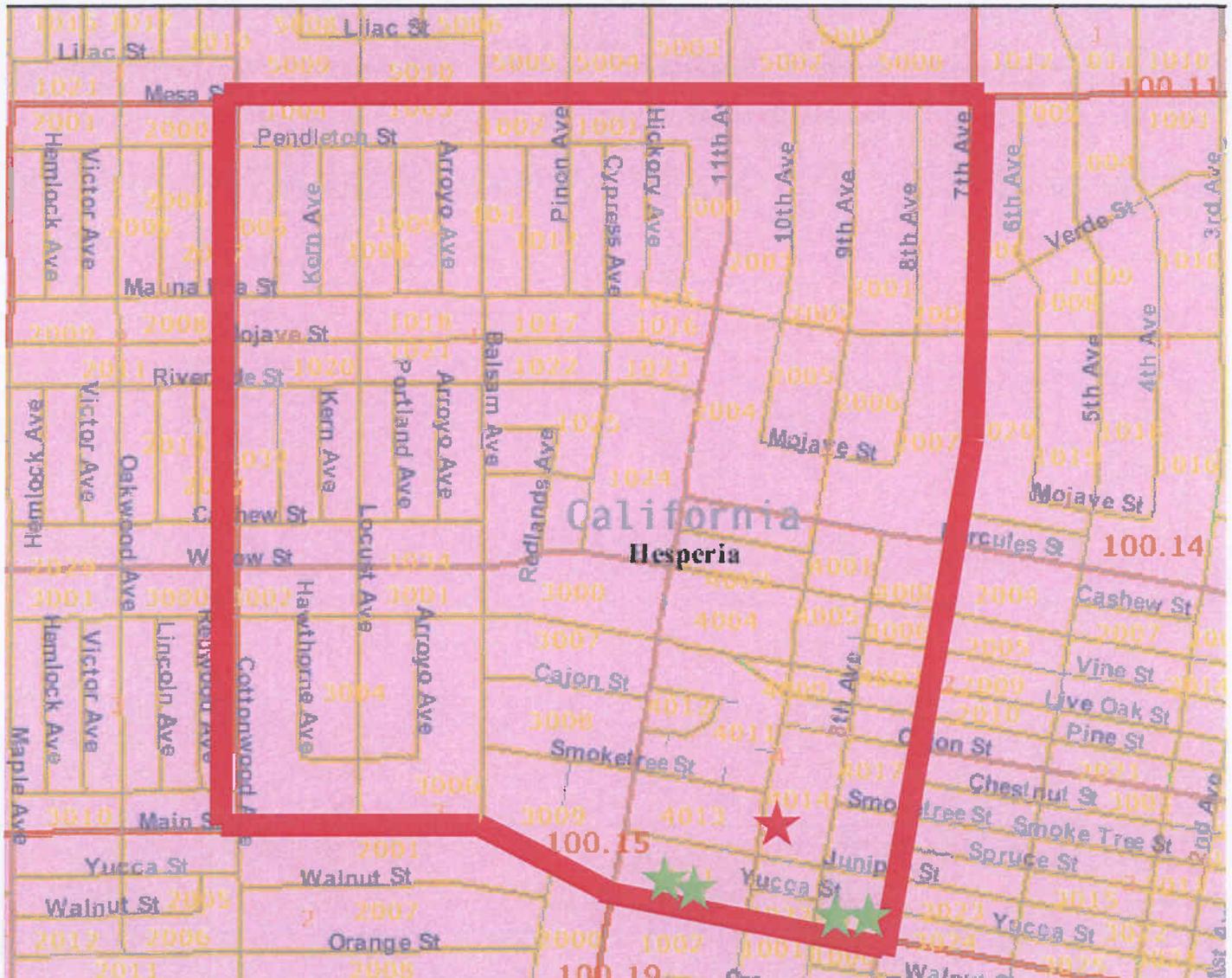
APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE
PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH
ANCILLIARY USES INCLUDING THE ON-SITE SALE OF BEER AND WINE



BUILDING ELEVATIONS

ATTACHMENT 6



 **Subject property**

 **Existing uses selling alcoholic beverages for on-site consumption**

APPLICANT(S):
CINEMA WEST

FILE NO(S):
CUP11-10147, VAR11-10144 & TPM11-10145

LOCATION:
ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE

APN(S):
0407-262-01 & 0407-263-01

PROPOSAL:
CONSIDERATION OF A CONDITIONAL USE PERMIT, VARIANCE, AND TENTATIVE PARCEL MAP TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH ANCILLIARY USES INCLUDING THE ON-SITE SALE OF BEER AND WINE



CENSUS TRACT

ATTACHMENT 7

RESOLUTION NO. PC-2011-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 12-SCREEN MOTION PICTURE THEATRE WITH ANCILLARY USES INCLUDING THE SALE OF BEER AND WINE FOR ON-SITE CONSUMPTION ON FIVE GROSS ACRES WITHIN THE PEDESTRIAN COMMERCIAL (PC) DISTRICT OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE (CUP11-10147)

WHEREAS, Cinema West has filed an application requesting approval of Conditional Use Permit CUP11-10147 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to vacant property within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Smoketree Street and Ninth Avenue and consists of Assessor's Parcel Numbers 0407-262-01 & 0407-263-01; and

WHEREAS, Cinema West has also filed an application requesting approval of Variance VAR11-10144 and Tentative Parcel Map TPM11-10145, to allow the building and its towers to exceed the maximum allowable 35-foot and 52.5-foot height limitations and to create three parcels on five gross acres; and

WHEREAS, the Application, as contemplated, proposes to construct a 12-screen motion picture theatre with ancillary uses including the sale of beer and wine for on-site consumption on five gross acres; and

WHEREAS, the subject site is vacant and is being used as a soil stockpile site. The site is bounded to the north by the Hesperia Police Station, to the east by the Hesperia Civic Plaza Park and Hesperia City Hall, on the west by single-family residences, and on the south by vacant property; and

WHEREAS, the subject property is within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan. The adjacent land within the City is also designated and zoned Pedestrian Commercial (PC), except the properties to the north and east, which are within the Public Institutional Overlay (PIO) District; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 15332, In-fill Development Projects. This applies to developments on sites no larger than five acres, which are consistent with the General Plan and the applicable zoning district and are substantially surrounded by urban uses; and

WHEREAS, on May 12, 2011, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced May 12, 2011 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 in conformance with the development code.
- (b) The proposed use will not have a substantial adverse effect on abutting properties or the permitted use thereof because the proposed project is consistent with the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan. All properties surrounding this project are also within the PC District, except the properties to the north and east, which are within the Public Institutional Overlay (PIO) District.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Specific Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the project is consistent with the regulations allowing motion picture theatres within the PC District of the Main Street and Freeway Corridor Specific Plan. In addition, the development complies with standards for landscaping, driveway aisles, parking stall dimensions, building heights, fire lanes, trash enclosures, and loading areas. The development also complies with the Americans with Disability Act (ADA) by providing the required accessible parking spaces and path of travel. The development will also be constructed pursuant to the California Building and Fire Codes and adopted amendments. A variance has been filed to allow the building to exceed the maximum building and tower height limitations.
- (d) The site for the proposed use will have adequate access based upon the site's access from Smoketree Street, Juniper Street, and Ninth Avenue, which will be constructed to City standards.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia. The project site is within the Pedestrian Commercial (PC) designation and zoning. The sale of beer and wine is an allowable use with approval of a conditional use permit.
- (f) The proposed use is conditionally allowed within, and would not impair the integrity and character of, the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan and complies with all applicable provisions of the Development Code as per Section 16.12.120. The site is suitable for the type and intensity of the use that is proposed. The sale of alcoholic beverages is restricted to the sale of beer and wine.

- (g) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public health, safety or general welfare. The proposed serving of beer and wine as part of the dining experience within the theatre will not have a detrimental impact on adjacent properties.
- (h) The proposed sale of beer and wine for on-site consumption is consistent with the objectives, policies, general land uses and programs of the General Plan, Specific Plan and Development Code. The proposed use will take place in a permitted theatre. The sale of beer and wine is consistent with the allowable uses within the Pedestrian Commercial (PC) District with approval of a conditional use permit.
- (i) There are adequate provisions for sanitation, water and public utilities and other services to ensure the public health, safety and general welfare. The proposed use will occur in a theatre with adequate infrastructure. The existing transportation infrastructure is adequate to support the type and quantity of traffic that will be generated by the proposed use.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP11-10147 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 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP11-10147

Approval Date: May 12, 2011
Effective Date: May 24, 2011
Expiration Date: May 24, 2014

This list of conditions apply to a Conditional Use Permit to construct a 12-screen, 37,168 square foot motion picture theatre with ancillary uses including the on-site sale of beer and wine on 5.0 gross acres within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan, located on the southeast corner of Smoketree Street and Ninth Avenue. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Cinema West; APNs: 0407-262-01 & 0407-263-01).

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

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- _____ 1. **Final Map.** A Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)

- _____ 2. **Drainage Study.** The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)

- _____ 3. **Geotechnical Report.** The Developer shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)

- _____ 4. **Title Report.** The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)

- _____ 5. **NPDES.** The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)

- _____ 6. **Storm Water Pollution Prevention Plan.** The Developer shall provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off control during construction. (E)
- _____ 7. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **The improvement plans will not be accepted without the required documents and approval from the affected agencies.** (E)
- _____ 8. **Plan Check Fees.** Along with improvement plan submittal, the Developer shall pay applicable plan-checking fees. **Improvement Plans and requested studies shall be submitted as a package.** (E)
- _____ 9. **Easement, (Water, Sewer and Storm Drain).** The Developer shall submit a "Grant of Easement" to the City's Engineering Department for review and approval if needed. At time of submittal the developer shall complete the City's "application for document review" and pay all applicable fees. (E)
- _____ 10. **Specialty Plans.** The following additional plans/reports shall be required for businesses with special environmental concerns: (B)
- A. Restaurants and food handling facilities shall submit plans to the San Bernardino County Department of Environmental Health Services. One set of the approved plans shall be submitted to the Building Division with the required application fees.
- _____ 11. **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)
- _____ 12. **Variance.** These conditions are concurrent with Variance VAR11-10144 becoming effective. (P)
- _____ 13. **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 GROUND DISTURBING ACTIVITY:

- _____ 14. **Approval of Improvement Plans.** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)
- _____ 15. **Grant of Easement for Double Detector Check Valve.** The Developer shall grant to the City an easement for *any* part of a required double-detector check valve that encroaches onto private property. (E)
- _____ 16. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **Grading permits will not be issued until the required documents are reviewed and approved by all applicable agencies. Any fees associated with the required documents are the Developer's responsibility.** (E)
- _____ 17. **NPDES.** The Developer shall provide a copy of the approved original NPDES (National Pollutant Discharge Elimination System) permit from the Regional Water Quality Control Board and provide a copy of fees paid. The copies shall be provided to the City's Engineering Department. (E)
- _____ 18. **Storm Water Pollution Prevention Plan.** All of the requirements of the Storm Water Pollution Prevention Plan shall be incorporated and be in place prior to issuance of a grading permit. (E)
- _____ 19. **Grading Plan.** The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw), top of footing (tf), and the finish grade (fg) elevations. (E)

- _____ 20. **On-site Retention.** The Developer shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter elements. All dry wells / injection wells shall have a minimum depth of 30' with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Developer shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems.** (E)
- _____ 21. **Utility Plan.** The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. **Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development shall be removed / replaced or relocated and shall be constructed per City standards at the Developer's expense.** (E)
- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
 - B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the existing 8" PVC water line in Ninth Avenue or the 12" PVC water line in Juniper Street per City Standards.
 - C. It is the Developer's responsibility to connect to sewer and pay the appropriate fees. The Developer will be required to connect to the existing 8" PVC sewer main in Smoke Tree Street per City standards.
 - D. Complete V.V.W.R.A.'s "Wastewater Questionnaire for Commercial / Industrial Establishments" and submit to the Engineering Department. Complete the "Certification Statement for Photographic and X-ray Processing Facilities" as required. **The Wastewater Questionnaire is only required if the project is required to connect to sewer.**
- _____ 22. **Street Improvement Plan.** The Developer shall prepare street improvement plan that includes the following: (E)
- A. A modified sidewalk per the approved site plan on all perimeter streets.
 - B. Commercial drive approaches per City standards including handicapped accessible paths of travel.
- _____ 23. **Pre-construction Survey.** A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)

- _____ 24. **Pre-construction Meetings.** Pre-construction meetings shall be held between the City, the Developer, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, E)
- _____ 25. **Design for Required Improvements.** Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this site plan review application with the following revisions made to the improvement plans: (E, P)
- A. The building and its towers may exceed the height limitations of the Main Street and Freeway Corridor Specific Plan as approved by VAR11-10144.
- _____ 26. **Parcel Map.** Parcel Map 19317 shall be submitted, approved, and recorded. The parcel map 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)
- _____ 27. **Survey.** The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)
- _____ 28. **Water System.** Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code. [F-5]
- _____ 29. **Access.** The development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and for evacuation routes. (F)
- A. **Single Story Road Access Width.** All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.
- _____ 30. **Water System Commercial.** A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. The applicant is required to provide a minimum of one new six (6) inch fire hydrant assembly with two (2) two and one half (2 1/2) inch and one (1) four (4) inch outlet. All fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than one hundred fifty (150) feet from any portion of a structure. [F-54]

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

- _____ 31. **Construction Waste.** The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)
- _____ 32. **Landscape Plans.** The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and completed landscape packet to the Building Division. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number, size, type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)
- _____ 33. **Development Fees.** The Developer shall pay required development fees as follows:
- A. School Fees (B)
- _____ 34. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
- _____ 35. **Light and Landscape District Annexation.** Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)
- _____ 36. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Building and Safety Department for review and approval. The plans (minimum 1/8" scale) shall include hydraulic calculations and manufacturer's specification sheets. The contractor shall submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F-59]

- _____ 37. **Fire Alarm.** A **manual, automatic or manual and automatic** fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. [F-62a]

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 38. **As-Built Plans.** The Developer shall provide as-built plans. (E)
- _____ 39. **Public Improvements.** All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 40. **Development Fees.** The Developer shall pay required development fees as follows:
- A. Development Impact Fees (B)
 - B. Utility Fees (B)
- _____ 41. **Utility Clearance(s)/Certificate of Occupancy.** The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)
- _____ 42. **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 building shall be designed consistent with the design shown upon the approved materials board and color exterior building elevations identified as Exhibit "A." Any exceptions shall be approved by the Director of Development Services. (P)
- _____ 43. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. [F80]
- _____ 44. **KNOX Box®.** An approved Fire Department key box is required. The KNOX Box® shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. [F85]

- _____ 45. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. **[F88]**

THE FOLLOWING IS A CONTINUING CONDITION. FAILURE TO COMPLY WITH THIS CONDITION MAY RESULT IN REVOCATION OF THE AUTHORIZATION FOR THE ON-SITE SALES OF BEER AND WINE:

- _____ 46. **Valid License.** At all times during the conduct of the use allowed by this permit, the use shall obey all laws and shall maintain and keep in effect valid licensing from appropriate local, state and/or federal agencies as required by law. Should such required licensing be denied, expire or lapse at any time in the future, this permit shall become null and void. (P)

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 |

ATTACHMENT 8

RESOLUTION NO. PC-2011-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW THE BUILDING AND ITS TOWERS TO EXCEED THE MAXIMUM ALLOWABLE 35-FOOT AND 52.5-FOOT HEIGHT LIMITATIONS ON FIVE GROSS ACRES WITHIN THE PEDESTRIAN COMMERCIAL (PC) DISTRICT OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE (VAR11-10144)

WHEREAS, Cinema West has filed an application requesting approval of Variance VAR11-10144 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to vacant property within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Smoketree Street and Ninth Avenue and consists of Assessor's Parcel Numbers 0407-262-01 & 0407-263-01; and

WHEREAS, Cinema West has also filed an application requesting approval of Conditional Use Permit CUP11-10147 and Tentative Parcel Map TPM11-10145, to construct a 12-screen motion picture theatre with ancillary uses including the on-site sale of beer and wine on five gross acres; and

WHEREAS, the Application, as contemplated, proposes to allow the motion picture theatre building and its towers to exceed the maximum allowable 35-foot and 52.5-foot height limitations, respectively; and

WHEREAS, the subject site is vacant and is being used as a soil stockpile site. The site is bounded to the north by the Hesperia Police Station, to the east by the Hesperia Civic Plaza Park and Hesperia City Hall, on the west by single-family residences, and on the south by vacant property; and

WHEREAS, the subject property is within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan. The adjacent land within the City is also designated and zoned Pedestrian Commercial (PC), except the properties to the north and east, which are within the Public Institutional Overlay (PIO) District; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) by Section 16.12.415 of the Hesperia Municipal Code; and

WHEREAS, on May 12, 2011, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced May 12, 2011 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulties or unnecessary physical hardships because the building and tower height restrictions would prohibit development of the two 32'-6" IMAX screens and would not allow the building to exhibit a similar mass and bulk to that of the other buildings within the Civic Plaza. In addition, the additional tower height is justified, in order to maintain scale with the taller building.
- (b) There are exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone because motion picture theatres require special consideration given the size of the screens used. Further, this use is limited to those properties within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan.
- (c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone because other theatres will also need to exceed the height limitations within the Development Code to accommodate the stage as well as its overhead lighting and catwalks.
- (d) The granting of the variance would not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zone because other similar uses constructed in the City will likely exceed the height limitations within the Development Code. In approving the variance, there are special purpose buildings such as theatres which require additional building height.
- (e) The granting of the variance will not be detrimental to the public health, safety, or welfare, and will not be materially injurious to properties or improvements in the vicinity, as the facility is required to be outfitted with a fire sprinkler system and other improvements that will safeguard the public's health, safety, and welfare.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR11-10144.

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

ADOPTED AND APPROVED this 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 9

RESOLUTION NO. PC-2011-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP TO CREATE THREE PARCELS ON FIVE GROSS ACRES WITHIN THE PEDESTRIAN COMMERCIAL (PC) DISTRICT OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTHEAST CORNER OF SMOKETREE STREET AND NINTH AVENUE (TPM11-10145)

WHEREAS, Cinema West has filed an application requesting approval of Tentative Parcel Map TPM11-10145 (PM-19317) described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to vacant property within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Smoketree Street and Ninth Avenue and consists of Assessor's Parcel Numbers 0407-262-01 & 0407-263-01; and

WHEREAS, Cinema West has also filed an application requesting approval of Variance VAR11-10144 and Conditional Use Permit CUP11-10145, to construct a 12-screen motion picture theatre as well as to allow the building and its towers to exceed the maximum allowable 35-foot and 52.5-foot height limitations; and

WHEREAS, the Application, as contemplated, proposes to create three parcels on five gross acres; and

WHEREAS, the subject site is vacant and is being used as a soil stockpile site. The site is bounded to the north by the Hesperia Police Station, to the east by the Hesperia Civic Plaza Park and Hesperia City Hall, on the west by single-family residences, and on the south by vacant property; and

WHEREAS, the subject property is within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan. The adjacent land within the City is also designated and zoned Pedestrian Commercial (PC), except the properties to the north and east, which are within the Public Institutional Overlay (PIO) District; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) per Section 15315, Minor Land Divisions; and

WHEREAS, on May 12, 2011, the Planning Commission of the City of Hesperia conducted a hearing on the Application and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced May 12, 2011 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed map is consistent with the City's General Plan of the City of Hesperia, because the subdivision is consistent with the intent of the adopted land use element.
- (b) The design or improvement of the proposed subdivision is consistent with the General Plan of Hesperia, as the project supports the existing land use and circulation pattern in the area.
- (c) The site is physically suitable for the type of development because there are no known physical constraints to commercial development and the site has adequate area to accommodate the proposed parcels.
- (d) The site is physically suitable for the proposed density of development because the parcels are adequate in size and shape and all Development Code regulations for the permitted uses can be met, consistent with Conditional Use Permit CUP11-10147.
- (e) The design of the subdivision or type of improvements are not likely to cause serious public health problems because all construction will require necessary permits and will conform to the City's adopted building and fire codes.
- (f) That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Section 3. The Planning Commission hereby finds that there will be no significant environmental impacts resulting from the project, and recommends approval.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends approval of Tentative Parcel Map TPM11-10145 (PM-19317), subject to the Conditions of Approval as set forth in ATTACHMENT "A."

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

ADOPTED AND APPROVED on this 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Tentative Parcel Map TPM11-10145 (PM-19317):

Approval Date: May 12, 2011
Effective Date: May 24, 2011
Expiration Date: May 24, 2014

This list of conditions apply to a Tentative Parcel Map to create three parcels from 5.0 gross acres within the Pedestrian Commercial (PC) District of the Main Street and Freeway Corridor Specific Plan located on the southeast corner of Smoketree Street and Ninth Avenue (Applicant: Cinema West; APN(s): 0407-262-01 & 0407-263-01).

This approval shall become null and void if a Parcel Map is not recorded within three (3) years of the effective date. Extensions of time 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 RECORDATION OF THE PARCEL MAP:

- _____ 1. **Map (Commercial).** A Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66433 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Map Standards. (E)
- _____ 2. **Title Report.** The Developer shall provide a complete title report 90 days or newer from the date of submittal. (E)
- _____ 3. **Plan Check Fees.** A customer request form from Engineering shall be completed and submitted to the Engineering Department. Upon receipt of form, plan-checking fees will be provided to the developer. Fees must be paid along with submittal. (E)
- _____ 4. **All Easements of Record.** It shall be the responsibility of the Developer to provide all Easements of Record per recent title report. (E)
- _____ 5. **Driveways/Parking/Accessibility Easement.** An access easement shall be recorded which allows for the perpetual use of the driveways, off-street parking spaces, and handicapped accessibility from a public way to the main building entrances and exits pursuant to state law for the benefit of all three parcels within Parcel Map 19317. This easement may be included as part of the parcel map. 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. (B, E, P)

- _____ 6. **Approval of Parcel Map.** The parcel map shall be prepared per City standards, shall be consistent with the site plan approved under CUP11-10147, and shall be approved and signed by the City Engineer. The map shall be recorded with the San Bernardino County Recorder's Office. (E)
- _____ 7. **Electronic Copies.** The Developer shall provide electronic copies of the approved parcel map in AutoCAD format Version 2007 to the City's Engineering Department. (E)
- _____ 8. **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)

IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT 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 |



DATE: May 12, 2011
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: SPR09-10210; Applicant: Jim & Gail Hasty; APN: 0411-191-69

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2011-06, approving Site Plan Review SPR09-10210.

BACKGROUND

Proposal: A Site Plan Review to establish an event center within a portion of 103 acres zoned A-2.

Location: 300 feet east of Choiceana Avenue on the south side of Lemon Street (Attachment 1).

Current General Plan, Zoning and Land Uses: General Agricultural (A-2) General Plan Land Use (Attachment 2). Single-family homes exist to the north, south, and west of the property. The Mojave River exists to the east (Attachment 3).

The existing equestrian and agricultural activities are permitted in the A-2 zone (Attachment 4). The equestrian portion of the property includes boarding stables, barns, and pipe corrals. The agricultural portion of the property includes 12-acres of pastures, barns, chicken coops, feeding bins, an orchard and a vineyard. The site includes a playground area with tennis, basketball, and volleyball courts. The property also contains two caretaker's quarters, storage bins, and a 2-acre pond.

ISSUES/ANALYSIS:

Land Use: The site plan review is to establish an event center that caters to the public, which includes a 7,000 square foot pavilion (covered patio), a 3,600 square foot tent, and an outdoor stage for concerts adjacent to an existing 2-acre water pond (Attachments 5, 6, & 7). The event center will be used to hold weddings, banquets, and parties. The temporary tent, which is currently operating under a temporary special event (TSE) permit, is located where the 2,650 square foot lodge used to be. The lodge was destroyed in a fire in 2009. The TSE permit for the tent was issued to allow events to occur while the site plan review is being processed. While the pavilion has been used for events, the building permits issued for the structure have expired. As part of this site plan review, plan check, permits and inspections have to be completed. This site plan review will also permit the stage to be used for concerts.

The total number of parking spaces required is 266, including 7 handicap accessible parking spaces. The site plan shows a total of 388 parking spaces, including 7 accessible parking spaces. The parking lots are not required to be paved provided they are watered as needed to reduce dust on the days of the events. Two fully paved handicap parking spaces exist west of the tent. Three accessible parking spaces are proposed east of the pavilion and two accessible spaces near the equestrian area.

During the Development Review Committee (DRC) meeting of January 5, 2011, staff recommended approval of the event center subject to the conditions of approval.

Street Improvements: A primary and secondary access is required for the event center. Lemon Street, which bounds the northern boundary of the site, is the primary access. Lemon Street is currently a dirt road. Per City policy, at least one access road is required to be paved. The conditions of approval require Lemon Street to be paved a minimum of 26-foot wide from the existing pavement on Choicena Avenue and Lemon Street to the first driveway entrance located 600 feet to the east. Where topographic constraints exist, the minimum width may be twenty (20') feet. The remaining 700 feet to the second driveway can be constructed with alternate material, such as compacted gravel, provided the slope does not exceed 10%.

Lemon Street is planned as a 120-wide major arterial road on the City's Traffic Circulation Plan. The half-width of Lemon Street is required to be dedicated, consistent with the Circulation Element. The proposed site plan shows a dedication of 50 feet. As a condition of approval, Lemon Street is required to be increased to 60 feet. The General Plan Update increased the width of Lemon Street from 50 feet to 60 feet when it was adopted in September 2010. Fences and gates within the future right-of-way of Lemon Street can remain and can be locked. A suspension agreement will be required to ensure all fences and gates are removed prior to the City constructing Lemon Street as an arterial roadway.

The applicant is proposing a secondary access on the site plan from the east side of the property through a 20-foot wide access road. The road must be compacted a minimum of 85% and cannot exceed a slope of 12%. Due to the fact that the access road is on-private property, the road will need to be offered as an easement.

Handicap Accessibility: According to the California Building Code, all public accommodations, or accommodations that are open to the public, are required to be handicap accessible. The event center, which will be rented out to the public for weddings, banquets, and parties, must comply with accessibility requirements. After consulting with accessibility codes, it has been determined that any hardship exemption only applies to alterations of existing buildings and structures constructed prior to January 26, 1993. Since permits and inspections have not been completed for the pavilion and stage and the tent is permitted through a temporary special event permit, the facility must comply with accessibility standards.

The conditions of approval require the path of travel to be extended, and inter-connected with, all facilities that are public accommodations. The path of travel within the event center would need to be interconnected with the accessible parking spaces, pavilion, stage, and tent. Also, a path of travel has to be connected from the equestrian area to handicap accessible parking spaces. The path of travel does not have to extend from the equestrian area to the event center.

The path of travel can be compacted dirt or decomposed granite. The conditions of approval require the path of travel to be three feet wide, compacted a minimum of 85%, and bounded on the sides by a 2" by 4" redwood header. A path of travel from Lemon Street to the facilities and accessible parking spaces is not required. This is because there are no sidewalks required to be constructed on Lemon Street as part of the conditions.

Water and Sewer: The event center includes portable restrooms, which are required to be regularly maintained. The applicant plans on connecting to water wells currently being constructed by the Mojave Water Agency (MWA). The applicant will use MWA water for all on-site hydrants. The San Bernardino County Fire Department has stated that this is acceptable provided the fire flow is uninterrupted at all times. A condition of approval requires a letter from MWA stating that the water source will be uninterrupted. Otherwise, the applicant will be required to connect to City water. There is a 12-inch City water line in Choiceana Street.

Drainage: A drainage study is required as a condition of approval. The drainage study should address if any earth disturbance that has been done in the past or will be done in the future interfere with historical drainage patterns. There is currently a local drainage facility on the southwest portion of the property. The applicant is also working with Lahonton Regional Water Quality Board in obtaining an agricultural exception from storm water run-off requirements.

Traffic/Circulation: The number of vehicle trips generated by the project will change weekly due to a variety of scheduled events. Based on the parking analysis, the site is required a total of 260 parking spaces if the tent, pavilion, and stage area are operating simultaneously. The site plan shows 388 parking spaces. Any event that involves 500 or more attendees are required to have a temporary special event (TSE) permit and must provide adequate traffic control measures.

Environmental: Approval of this site plan review requires adoption of a mitigated negative declaration pursuant to the California Environmental Quality Act (CEQA). The mitigated negative declaration and initial study (Attachment 8) prepared for the project concluded that there are no significant adverse impacts resulting from the project. A pre-construction survey for the burrowing owl is required prior to any ground disturbing activities. There are no protected plants on the property. Because the site is within a high sensitivity area for cultural resources, any excavation which occurs five feet below the ground level requires an archeologist monitor to be available.

Conclusion: The project conforms to the policies of the City's General Plan; and development of the site will comply with municipal codes, standards, and policies.

FISCAL IMPACT

Any buildings associated with the event center will be subject to payment of development impact fees.

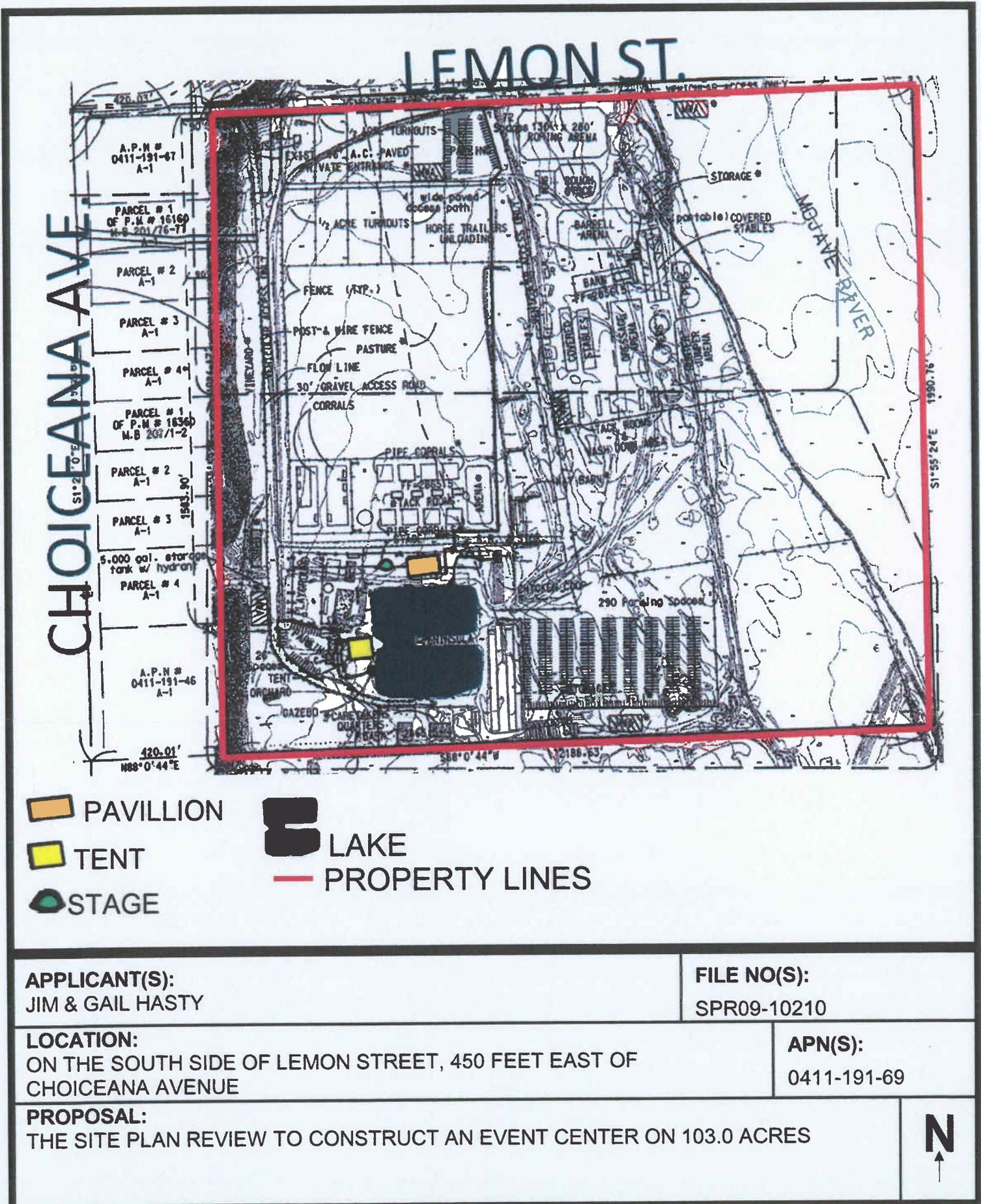
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. General Plan Land Use Map
3. Aerial Photo
4. Birds Eye View of Boulder Creek Ranch
5. Picture of Tent
6. Picture of Stage
7. Picture of Pavillion
8. Negative Declaration ND-2009-07, with Initial Study
9. Resolution No. PC-2011-06, with conditions of approval (Site Plan Review)

ATTACHMENT 1



-  PAVILLION
-  TENT
-  STAGE
-  LAKE
-  PROPERTY LINES

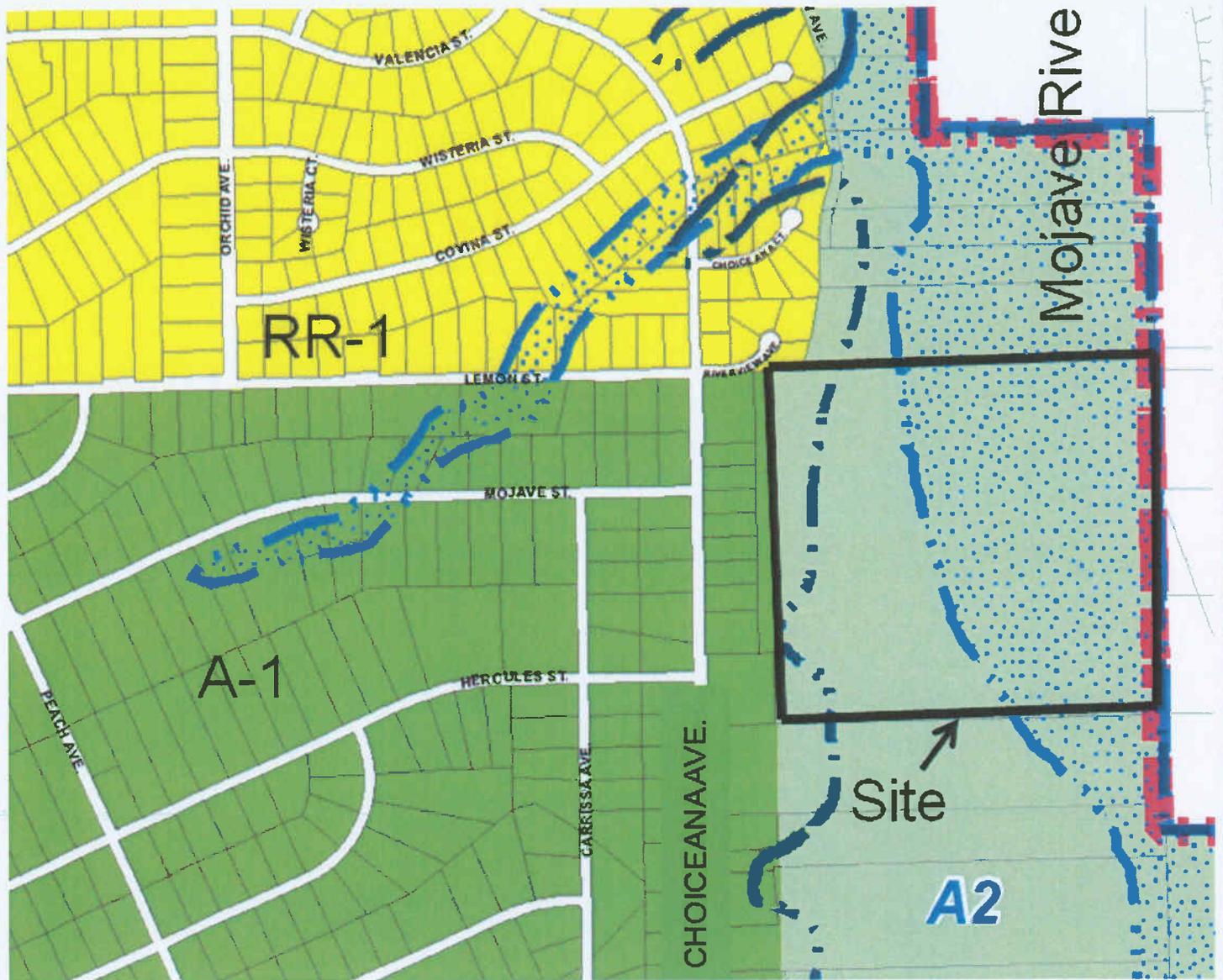
| | |
|--|-----------------------------------|
| APPLICANT(S):
JIM & GAIL HASTY | FILE NO(S):
SPR09-10210 |
| LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF CHOICEANA AVENUE | APN(S):
0411-191-69 |

PROPOSAL:
 THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES



SITE PLAN

ATTACHMENT 2



APPLICANT(S):
JIM & GAIL HASTY

FILE NO(S):
SPR09-10210

LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF
CHOICEANA AVENUE

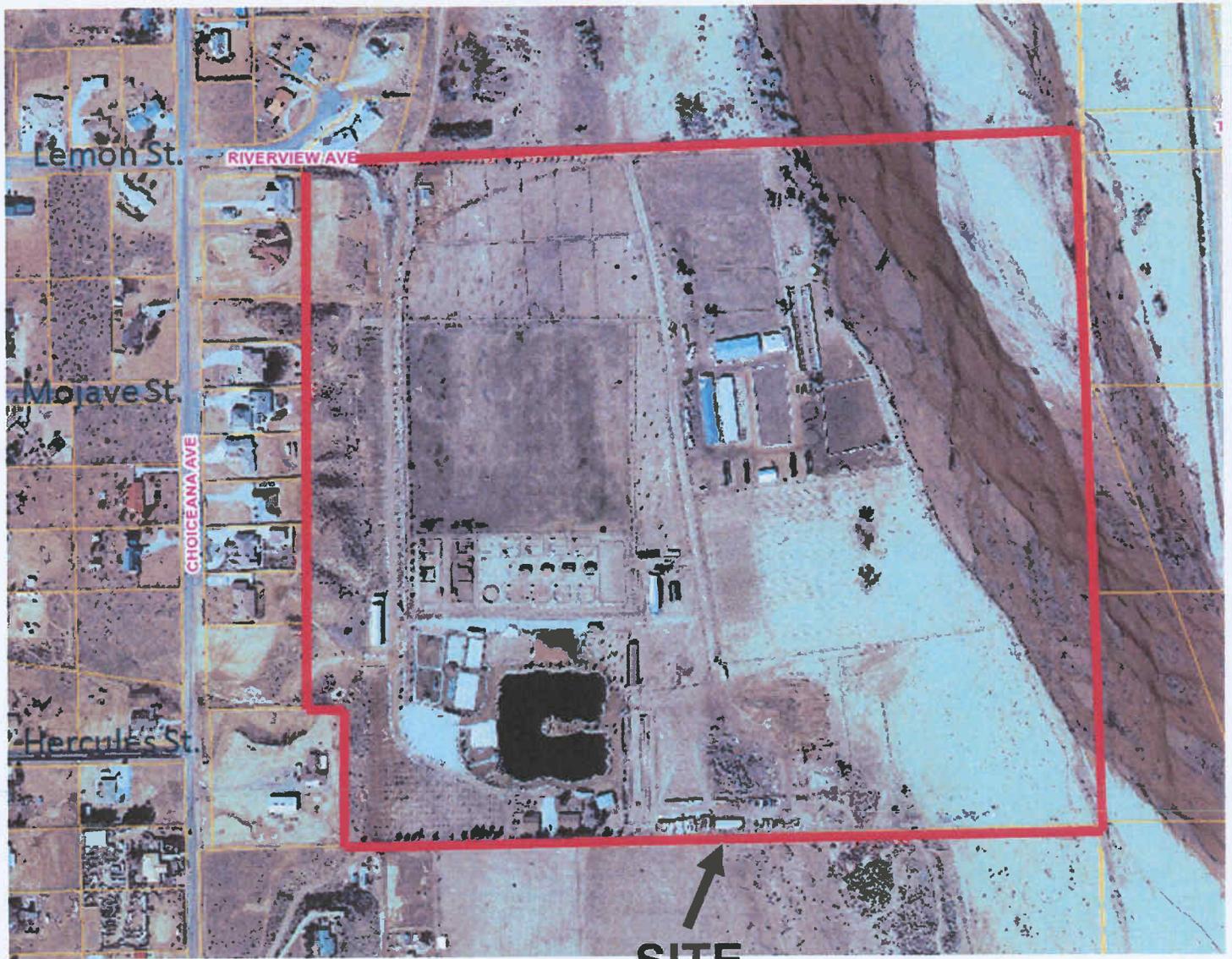
APN(S):
0411-191-69

PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES



GENERAL PLAN

ATTACHMENT 3



SITE

| | |
|--|-----------------------------------|
| APPLICANT(S):
JIM & GAIL HASTY | FILE NO(S):
SPR09-10210 |
| LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF CHOICEANA AVENUE | APN(S):
0411-191-69 |
| PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES | N
↑
4-7 |

AERIAL PHOTO

ATTACHMENT 4



NORTHERN HALF OF THE RANCH

APPLICANT(S):
JIM & GAIL HASTY

FILE NO(S):
SPR09-10210

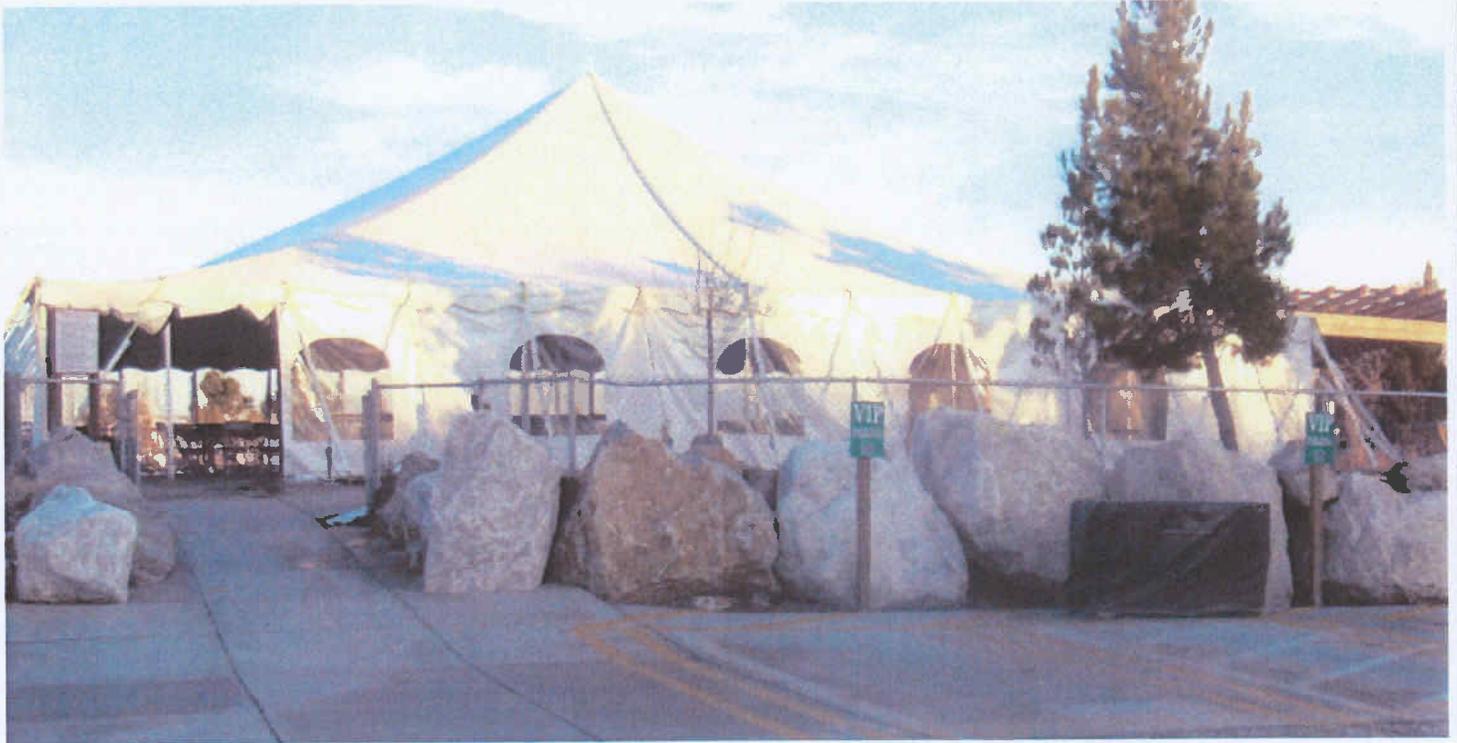
LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF
CHOICEANA AVENUE

APN(S):
0411-191-69

PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES



ATTACHMENT 5



APPLICANT(S):
JIM & GAIL HASTY

FILE NO(S):
SPR09-10210

LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF
CHOICEANA AVENUE

APN(S):
0411-191-69

PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES



PICTURE OF TENT

ATTACHMENT 6



APPLICANT(S):
JIM & GAIL HASTY

FILE NO(S):
SPR09-10210

LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF
CHOICEANA AVENUE

APN(S):
0411-191-69

PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES



4-10

PICTURE OF STAGE AREA

PLANNING COMMISSION

ATTACHMENT 7



APPLICANT(S):
JIM & GAIL HASTY

FILE NO(S):
SPR09-10210

LOCATION:
ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF
CHOICEANA AVENUE

APN(S):
0411-191-69

PROPOSAL:
THE SITE PLAN REVIEW TO CONSTRUCT AN EVENT CENTER ON 103.0 ACRES

N



4-11

PICTURE OF PAVILLION

ATTACHMENT 8

PLANNING DIVISION
9700 Seventh Avenue, Hesperia, California 92345
(760) 947-1224 FAX (760) 947-1304

MITIGATED NEGATIVE DECLARATION ND-2009-07
Preparation Date: January 7, 2011

Name or Title of Project: Site Plan Review (SPR09-10210)

Location: On the south side of Lemon Street, 450 feet east of Choiciana Avenue (APN: 0411-191-69).

Entity or Person Undertaking Project: Jim and Gail Hasty

Description of Project: The project includes a site plan review to establish an entertainment center.

Statement of Findings: The Planning Commission has reviewed the Initial Study for this proposed project and has found that there are no significant adverse environmental impacts to either the man-made or physical environmental setting with inclusion of the following mitigation measure and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

Mitigation Measure:

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
2. In order to prevent traffic congestion for large events, a traffic and circulation plan is required to be prepared by the applicant and approved by the City. The project should coordinate traffic control measures with the City's Public Works Department.
3. The applicant shall water all unpaved areas as necessary to control dust.

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Hesperia Planning Department.

Public Review Period: January 12, 2011 to January 31, 2011

Public Hearing Date: February 10, 2011

Adopted by the City Council: n/a

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

**CITY OF HESPERIA INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM**

1. **Project title:**
Site Plan Review (SPR09-10210)
2. **Lead agency name and address:**
City of Hesperia Planning Division, 9700 Seventh Avenue, Hesperia, CA 92345.
3. **Contact person and phone number:**
Daniel S. Alcayaga, AICP, Senior Planner (760) 947-1330.
4. **Project location:**
On the south side of Lemon Street, 450 feet east of Choiceana Avenue (APN: 0411-191-69).
5. **Project sponsor's name and address:**
Jim and Gail Hasty – 10451 Choiceana Avenue – Hesperia, CA 92345
6. **General plan & Zoning designation:**
The site is within the General Agricultural (A2) General Plan Land Use designation. The General Plan Land Use Plan identifies an overlay for Dam Inundation and FP-100 year – Flood Plain.

No development or activity will occur on portions within the FP-100 year – Flood Plain Overlay.
7. **Description of project:** (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary).

The project includes a site plan review to construct an entertainment center on 103.0 acres. The event center includes a 7,000 community center (covered patio), rebuilding a 4,000 square foot lodge, and outdoor stage for concerts adjacent to an existing 2-acre water pond. The location of the future lodge is being occupied with a 3,600 square foot tent.
8. **Surrounding land uses and setting:** (Briefly describe the project's surroundings.)
The site includes existing boarding stables, training barns, pipe corrals, and playground with tennis, basketball, and volleyball courts. The property also includes 12-acres of pastures, barns and trails. Animals kept on the property include horses, chickens, sheep, goats, pigs, turkeys, pheasant, rabbits and tortoise. The site has existing chicken coops and feeding bins. The existing orchard includes 1,000 fruit trees, 750 vines, and an organic vegetable garden. Vegetables and other foods produced on the property are sold on premises. The property contains two caretaker's quarters, storage bins, and a 2-acre pond.

Eight single-family homes exist to the west of the property along Choiceana Street. One single-family home with accessory structures exists on large lots on both side to the north and south. The Mojave River exists to the east.
9. **Other public agency whose approval is required** (e.g., permits, financing approval, or participation agreement.)
This project is subject to review and approval by the Mojave Desert Air Quality Management District, the Hesperia Water District, Southern California Edison, and Southwest Gas.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

| | | | | | |
|--------------------------|-------------------------------|--------------------------|------------------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | Aesthetics | <input type="checkbox"/> | Agricultural Resources | <input type="checkbox"/> | Air Quality |
| <input type="checkbox"/> | Biological Resources | <input type="checkbox"/> | Cultural Resources | <input type="checkbox"/> | Geology / Soils |
| <input type="checkbox"/> | Hazards & Hazardous Materials | <input type="checkbox"/> | Hydrology / Water Quality | <input type="checkbox"/> | Land Use / Planning |
| <input type="checkbox"/> | Mineral Resources | <input type="checkbox"/> | Noise | <input type="checkbox"/> | Population / Housing |
| <input type="checkbox"/> | Public Services | <input type="checkbox"/> | Recreation | <input type="checkbox"/> | Transportation / Traffic |
| <input type="checkbox"/> | Utilities / Service Systems | <input type="checkbox"/> | Mandatory Findings of Significance | <input type="checkbox"/> | |

DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

| | | |
|-------------------------------------|---|-----------------|
| <input type="checkbox"/> | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. | "De
minimis" |
| <input checked="" type="checkbox"/> | I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared. | |
| <input type="checkbox"/> | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. | |
| <input type="checkbox"/> | I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on the attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed. | |
| <input type="checkbox"/> | I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION , including revisions or mitigation measures that are imposed upon the project, nothing further is required. | |

Signature 

Date 1-7-11

Daniel S. Alcayaga, AICP, Senior Planner, Hesperia Planning Division

EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the whole action involved, including off- as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting information sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question.

- and
- b) The mitigation measure identified, if any, to reduce the impact to less than significance.

ENVIRONMENTAL IMPACTS:

ISSUES

| I. AESTHETICS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista (1)? | | | | X |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway (1 & 2)? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings (1 & 2) | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (1, 2, 3 & 27)? | | | X | |
| <p>Comments.</p> <p>The project includes approval of a site plan review to construct an entertainment center on 103.0 acres. Eight single-family homes exist to the west along Choiceana Avenue. One single-family home with accessory structures exists on large lots on both sides to the north and south. The Mojave River exists to the east. The site and its surroundings are not considered a scenic vista. The site is not in close proximity to historic buildings or a scenic highway. Therefore, the project will not have a significant impact on scenic resources, historic buildings, and scenic highway.</p> <p>The existing equestrian activities occur during the day. If events occur at night hours, they would occur indoors in the community center and/or lodge. The site plan review includes an outdoor stage for concerts. Per City policy, lights generated by outdoor concerts or any part of the facility would have to be shielded and directed downwards (1). Lights are also required to be placed and directed away from residential properties. Therefore, development of the project would have a less than significant impact upon aesthetics.</p> <p>The Environmental Impact Report (EIR) for the 2010 General Plan Update addressed development to the maximum build-out of the General Plan (35). This project is consistent with the General Plan and the project site is not adjacent to sensitive land uses. Further, any light which faces a residentially designated area shall be hooded and directed downward. Based upon these regulations, the use will not adversely affect day or nighttime views in the area. Therefore, approval of the proposed use will not have a negative impact upon aesthetics.</p> | | | | |
| <p>II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and State Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:</p> | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |

| | | | | |
|--|--|--|--|---|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use (4)? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract (5)? | | | | X |
| c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use (5)? | | | | X |

Comments.

The site is not within the area designated by the State of California as Prime Farmland, "Unique farmland," Farmland of Statewide Importance, or land subject to a Williamson Act contract as shown on the maps prepared by the California Resources Agency (4 & 5). The soil at this location is classified by the U.S. Soil Conservation Service as *Lucerne sand loam, two to nine percent slopes*. This soil is limited by moderate soil blowing hazards and water intake rate (4).

A ranch is permitted in the A-2 zone; and the entertainment center portion of the ranch requires approval of a site plan review. The majority of uses proposed already exist including boarding stables, training barns, pipe corrals, 12-acres of pastures, two barns, and trails. Animals kept on the property include horses, chickens, sheep, goats, pigs, turkeys, pheasant, rabbits and tortoise. The site has existing chicken coops and feeding bins. The existing orchard includes 1,000 fruit trees, 750 vines, and an organic vegetable garden. Vegetables and other foods produced on the property will be sold on premises.

In addition, the site is presently zoned General Agricultural General Plan Land Use designation, which allows for residential developments and general agricultural uses. Therefore, the proposed project will not have an impact upon agricultural resources.

| III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan (6)? | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation (6)? | | | | X |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) (6)? | | | X | |
| d) Expose sensitive receptors to substandard pollutant concentrations (2 & 6)? | | | X | |
| e) Create objectionable odors affecting a substantial number of people (2)? | | | | X |

Comments.

The City of Hesperia is within the Mojave Desert Air Basin (MDAB), which is responsible for managing air quality. The MDAB Air quality management plan utilized the City's local planning documents to develop the measures which should be implemented to achieve the air quality attainment goals. Since the project is allowed by local land use plans, it is considered compatible with air quality management plans (6). All uses identified within the Hesperia General Plan are classified as area sources by the Mojave Desert Air Quality Management District (6). Programs have been established in the 1991 Air Quality Attainment Plan which addresses emissions caused by area sources.

Both short-term (construction) emissions and the long-term (operational) emissions associated with the project were considered. Short-term airborne emissions will occur during the construction phase related to demolition, site preparation, land clearance, grading, excavation, and building construction; which will result in fugitive dust emissions. Also, equipment emissions, associated with the use of construction equipment during site preparation and construction activities, will generate emissions. These impacts will be addressed through a condition of approval that requires the developer to implement dust control measures consistent with the Mojave Desert Planning Area Rule Book Section 403.2 (6), which would also address requirements of the Air Quality Management Plan's PM₁₀ Program. In addition, the contractor will be required to obtain all pertinent operating permits from the Mojave Desert Air Quality Management District (MDAQMD) for any equipment requiring such permits.

Long-term emissions refer to those air quality impacts that occur after construction has been completed and these impacts will continue over the operational life of the development. The long-term air quality impacts associated with this project is mainly associated with mobile emissions created by motor vehicles. As a condition of approval, the project is required to pave Lemon Street from approximately 1,300 feet east of the intersection of Choicena Avenue and Lemon Street. In addition, drive aisles and parking areas are required to be graveled and watered on the days of the event to reduce dust. Therefore, the project's impact upon air quality would be less than significant.

Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. Carmel Elementary, the closest school, is located one mile to the north. However, there is sufficient distance between the school and the project so as not to create an air quality impact.

At times the project may have a temporary impact upon air quality during construction as well as when the event center is operational resulting in the potential for blowing dust associated with ground disturbances. The Building and Safety Division dust control measures include limited grading and site watering during construction. As a further safeguard against the potential for blowing dust, site watering shall be continued as needed to prevent nuisance dust in accordance with the mitigation measure on page 20.

Based on the parking analysis, the site is required a total of 260 parking spaces if the tent (lodge), pavilion, and stage area are operating simultaneously. The site plan shows 388 parking spaces. Trails are proposed on the site to encourage walking within the site. Consequently, completion project is not expected to create a significant increase in air quality.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts (39). As part of the General Plan Update Environmental Impact Report (GPUEIR), the impact of the proposed project to the maximum intensity permitted by the Land Use Plan was analyzed. The projected number of vehicles trips associated with this project is analyzed within Section XV. Transportation/Traffic. The number of vehicle trips will not exceed the number of vehicle trips expected for project on this site, based upon the GPUEIR. Further, the impact of the event center does not meet any threshold which requires air quality analysis or mitigation under the Air Quality Attainment Plan (38). Inasmuch as this project is consistent with the General Plan Land Use Plan, no additional impact upon air resources beyond that previously analyzed would occur. Consequently, the proposed project will not have a significant negative impact upon air quality, with imposition of mitigation measures.

| IV. BIOLOGICAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With | Less Than Significant Impact | No Impact |
|--|--------------------------------|----------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (1, 7, 9 & 34)? | | | | X |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (1, 7 & 9)? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (1)? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites (1)? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (8 & 35)? | | X | | |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan (8 & 9)? | | | | X |

Comments.
 The project site is located in an area listed as Category 3 (Low) habitat for the desert tortoise by the United States Bureau of Land Management (9). This classification indicates that the site is within the historical range of the Desert Tortoise and the probability of finding a Desert Tortoise is low. The entire site has been previously graded and already disturbed. The site consists of existing boarding stables, training barns, pipe corrals, 12-acres of pastures, two barns, storage sheds, 2-acre pond, and trails. The site is developed with an existing playground area with tennis, basketball, and volleyball courts. Animals kept on the property include horses, chickens, sheep, goats, pigs, turkeys, pheasant, rabbits and tortoise. The site has existing chicken coops and feeding bins. The existing orchard includes 1,000 fruit trees, 750 vines, and an organic vegetable garden. There is no potential for the project to impact biological resources as the property has already been graded and disturbed. Due to the unpredictability of the burrowing owl, a pre-construction survey shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of any ground disturbance. The mitigation measure is listed on page 20.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities (40). These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest communities, exist within the Rancho Las Flores Specific Plan and vicinity (40). The project site is located approximately five miles to the north within the developed portion of the City. Consequently, approval of the site plan review will not have an impact upon biological resources, subject to the enclosed mitigation measures.

| V. CULTURAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 (10)? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (10)? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature (10)? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries (10)? | | | | X |

Comments.
 The project site does not contain sacred or religious uses (10). The property has been previously graded and disturbed. As a condition of approval, if excavating occurs 5 feet below the ground level then an archeologist is required to be present on-site to monitor for any cultural sensitive resources. Consequently, the impact upon cultural resources associated with the project is considered not significant.

| VI. GEOLOGY AND SOILS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |

| | | | | |
|---|--|--|---|---|
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 (11). | | | | X |
| ii) Strong seismic ground shaking (12)? | | | X | |
| iii) Seismic-related ground failure, including liquefaction (4 & 13)? | | | | X |
| iv) Landslides (14)? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil (4 & 14)? | | | | X |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse (4 & 13)? | | | | X |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property (4 & 13)? | | | | X |

Comments.
 No known or suspected fault traces are located within the Hesperia Planning Area. Additionally, the City Planning Area is not subject to the provisions of Alquist-Priolo Special Studies Zones (11). The City is located in an area with a high potential for severe ground shaking (12). As a function of obtaining a building final, the proposed structures will be built in compliance with the Hesperia Municipal Code and the Building Code (15), which ensures that the buildings will adequately resist the forces of an earthquake. In addition, prior to issuance of a building permit, a soil study is required to be provided, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be provided in accordance with all development codes to assure that all structures will not be negatively affected by the soil. Consequently, the impact upon geology and soils associated with the proposed development is considered less than significant.

| VII. GREENHOUSE GAS EMISSIONS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (31)? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (31, 32 & 33)? | | | X | |

Comments.
 Assembly Bill 32 requires the California Air Resources Board (CARB) to develop regulations and market mechanisms that will ultimately reduce California's greenhouse gas emissions to 1990 levels by 2020. In addition, Senate Bill 97 requires that all local agencies analyze the impact of greenhouse gases under CEQA and task the Office of Planning and Research (OPR) to develop CEQA guidelines "for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions..."

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 (73). This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)(31). The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 29 percent below business as usual by 2020, consistent with AB 32 (32).

| VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials (2)? | | | | X |

| | | | | |
|---|--|--|--|---|
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (2)? | | | | X |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school (1 & 2)? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment (1)? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area (16)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area (16)? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (17)? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands (1 & 18)? | | | | X |

Comments.

The proposed project does not involve the transport, use, or disposal of hazardous materials (2) and is consistent with the Hesperia Emergency Evacuation Plan (17). The project site is not located within a safety area for the Hesperia Airport. In addition, noise attenuation would not be required, due to the distance of the proposed residences from the airport.

The following is a list of the facilities identified on the County's list of hazardous sites:

- 14651 Cedar, 92345 - Lake Silverwood SRA
- 18525 Bear Valley Road, 92345 - Mojave Rock and Sand
- 13105 W. Main Street, 92345 - Shell Service Station
- 15787 W. Main Street, 92345 - Goodyear Tire & Rubber
- 15853 Main Street, 92345 - Service Station
- 11612 Mariposa, 92345 - US Rentals
- 9531 E. Santa Fe Street, 92345 - Hesperia Towing

The project site is not listed in any of the following hazardous sites database systems, so it is unlikely that hazardous materials exist on-site:

- National Priorities List www.epa.gov/superfund/sites/query/basic.htm. List of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. There are no known National Priorities List sites in the City of Hesperia.
- Site Mitigation and Brownfields Reuse Program Database www.dtsc.ca.gov/database/Calsites/Index.cfm. This database (also known as CalSites) identifies sites that have known contamination or sites that may have reason for further investigation. There are no known Site Mitigation and Brownfields Reuse Program sites in the City of Hesperia.

- Resource Conservation and Recovery Information System www.epa.gov/enviro/html/rcris/rcris_query_java.html. Resource Conservation and Recovery Information System is a national program management and inventory system of hazardous waste handlers. There are 53 Resource Conservation and Recovery Act facilities in the City of Hesperia, however, the project site is not a listed site.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) (<http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm>). This database contains information on hazardous waste sites, potentially hazardous waste sites, and remedial activities across the nation. There is one Superfund site in the City of Hesperia, however, the project site is not located within or adjacent to the Superfund site.
- Solid Waste Information System (SWIS) (<http://www.ciwmb.ca.gov/SWIS/Search.asp>). The SWIS database contains information on solid waste facilities, operations, and disposal sites throughout the State of California. There are three solid waste facilities in the City of Hesperia, however the project site is not listed.
- Leaking Underground Fuel Tanks (LUFT)/ Spills, Leaks, Investigations and Cleanups (SLIC) (<http://geotracker.waterboards.ca.gov/search/>). This site tracks regulatory data about underground fuel tanks, fuel pipelines, and public drinking water supplies. There are fourteen LUFT sites in the City of Hesperia, six of which are closed cases. The project site is not listed as a LUFT site and there are no SLIC sites in the City of Hesperia.
- There are no known Formerly Used Defense Sites within the limits of the City of Hesperia. Formerly Used Defense Sites <http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

Consequently, the proposed development would not pose a health hazard to future residents.

| VIII. HYDROLOGY AND WATER QUALITY. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements (2 & 19)? | | | | X |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted) (2)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (2)? | | | X | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site (1)? | | | X | |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff (2)? | | | | X |
| f) Otherwise substantially degrade water quality (2)? | | | | X |

| | | | | |
|---|--|--|--|---|
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map (2 & 21)? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows (2 & 22)? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam (2 & 21)? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow (1 & 23)? | | | | X |

Comments.

The property has been previously disturbed and graded. According to a preliminary drainage study, the eastern portion of the site is within the FEMA Zone A. Recently, the FEMA boundary line was relocated easterly away from the project. Therefore, the project is entirely outside the FEMA Zone A.

There is a local facility identified on the Hesperia Master Plan of Drainage that currently runs through the property that is bisected by an existing 2-acre pond. The master plan is based on historical information. However, this pond has existed on the property for some time based on aerial photos taken in 1994. The drainage study recommends that conveyance of off-site flows and drainage from the project should be consistent with the City's Master Plan of Drainage. A condition of approval requires a final drainage report to be submitted to the City's Engineering Division for review and approval. The report should indicate how the off-site drainage flows will be conveyed through the property. Also, drainage created on-site beyond that which has occurred historically, would be detained in a City approved drainage system in accordance with City of Hesperia Resolution 89-16.

As a condition of approval, the developer is required to apply for the NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. As a condition of approval, the developer is required to provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off collection during construction. Therefore, the impact upon hydrology and water quality associated with the proposed development is considered less than significant.

| IX. LAND USE AND PLANNING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Physically divide an established community (1)? | | | | X |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect (3 & 5)? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan (9 & 24)? | | | | X |

Comments.

The General Plan Land Use designation is A-2 (5). A ranch is permitted in the A-2 zone; and the entertainment center is permitted with approval of a site plan review. The eastern portion of the property is within the Floodway zone. No development would occur in the portions of the property within the floodway zone.

The site is currently vacant a ranch (1). Therefore, the use will not physically divide an established community. The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities (44). These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community, exist within the Rancho Las Flores Specific Plan and vicinity (44). The project site is located approximately five miles north of this specific plan within the developed portion of the City. Therefore, development of the project would have a less than significant impact upon land use and planning.

| X. MINERAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state (33)? | | | | X |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan (33)? | | | | X |

Comments.

According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the project site (33). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. Although the project contains a wash, which contains sand and gravel, the mineral resources within the property are not unique locally or regionally and need not be preserved. Consequently, the proposed site plan review would not have an impact upon mineral resources.

| XI. NOISE. Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies (2, 16, & 26)? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (2 & 26)? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project (2 & 26)? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (2)? | | | X | |

| | | | | |
|--|--|--|--|---|
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels (16)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels (16)? | | | | X |

Comments.
 Construction noise levels associated with any future construction activities would be slightly higher than the existing ambient noise levels in the vicinity of the project site. However, the construction noise would subside once construction is completed. Construction activities are restricted to between 7:00 A.M. and 10:00 P.M., Monday through Friday. Therefore, the short-term impact by construction activities to adjacent properties is considered less than significant. (2). The project must adhere to the requirements of the City of Hesperia Noise Ordinance. The site plan review includes an outdoor stage for concerts. Per City policy, noise generated by the stage for concerts or any part of the facility would have to comply with the City's Noise Ordinance (1).

Certain activities are particularly sensitive to noise including sleeping, studying, reading, leisure, and other activities requiring relaxation or concentration. Hospitals and convalescent homes, churches, libraries, schools, and childcare facilities are also considered noise-sensitive uses. Finally, residential and school uses are considered to be noise-sensitive land uses. Carmel Elementary, the closest school, is located one mile to the north. The project will not impact the sensitive receptors by adhering to the noise requirements of the City of Hesperia Noise Ordinance. Therefore, the area impacts by noise generated by the project are less than significant.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the noise impact upon build-out of the General Plan to the maximum allowable intensity permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with noise impacts (39). Inasmuch as this project is consistent with the General Plan Land Use Plan, no additional noise impact beyond that previously analyzed would occur.

| XII. POPULATION AND HOUSING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure) (1 & 5)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (1 & 2)? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (1)? | | | | X |

Comments.
 The project does not intend to build any residential uses that would increase population or create a demand for additional housing. According the City's Economic Development Department, jobs created by the project will most likely be filled by local residents as local jobs are needed in Hesperia. Therefore, the project will not create a demand for housing for workers. No alteration or change in the distribution of human population will occur. In regards to the project's growth inducing impacts, the site is currently served by water and other utility systems. Therefore, the project would not require the extension of major improvements to existing public facilities.

| XIII. PUBLIC SERVICES. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for the new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services (1): | | | X | |
| Fire protection? | | | X | |
| Police protection? | | | X | |
| Schools? | | | | X |
| Parks? | | | | X |
| Other public facilities? | | | X | |

Comments.
 The proposed project will result in an increase in public services (2). However, development impact fees are collected and assessed at the time that building permits are issued for construction for new developments (28). These fees are designed to ensure the appropriate levels of capital resources necessary to serve any future development.

| XIV. RECREATION. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated (2)? | | | | X |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment (1 & 2)? | | | | X |

Comments.
 The ranch includes private recreational facilities and does not create additional needs for recreational facilities (2).

| XV. TRANSPORTATION / TRAFFIC. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections) (2) ? | | | X | |
| b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways (29) ? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks (16) ? | | | | X |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) (2) ? | | | | X |
| e) Result in inadequate emergency access (2) ? | | | | X |
| f) Result in inadequate parking capacity (2) ? | | | | X |

Comments.

The number of vehicle trips generated by the project will change weekly due to a variety of scheduled events. Based on the parking analysis, the site is required a total of 260 parking spaces if the tent (lodge), pavilion, and stage area are operating simultaneously. The site plan shows 388 parking spaces.

In order to prevent traffic congestion for large events, a traffic and circulation plan is required to be approved by the City. The plan should consider street closures to utilize Lemon Street to "I" Avenue and/or Choiceana Avenue to Willow Street and Rock Springs Road. The project is also required to coordinate traffic control measures with the City's Public Works Department. The mitigation measure is listed on page 20.

The City's Circulation Plan is consistent with the Congestion Management Program (CMP) for San Bernardino County **(64)**. The CMP requires a minimum Level Of Service (LOS) standard of "E." When a jurisdiction requires mitigation to a higher LOS, then the jurisdiction's standard takes precedence. The Circulation Element requires a minimum LOS of D for street segments instead of LOS E. The Element also strives to maintain a LOS of C or better on roadways which exhibit an LOS better than D. The LOS of roads utilized by the project will not be affected by the limited number of vehicle trips to be created by this use as analyzed within the Transportation/Traffic Section.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with transportation impacts **(39)**.

| XVI. UTILITIES AND SERVICE SYSTEMS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| | | | | |

| | | | | |
|--|--|--|---|---|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (19)? | | | | X |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (19)? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities, the construction of which could cause significant environmental effects (2 & 19)? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (314 & 31)? | | | | X |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments (19)? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs (32)? | | | | X |
| g) Comply with federal, state, and local statutes and regulations related to solid waste (32)? | | | | X |

Comments.

The site is currently served by water and other utility systems. The project will cause an increase in the use of water. However, the increase will not exceed current levels of water production (20). The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al. , Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies.

The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, in a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin. Thus, the Judgment and physical solution adequately mitigates the additional water needs for the project. In addition, development considered under the City's General Plan Program EIR has been accounted for in the UWMP. In addition, the MWA recommends utilization of interior water conservation measures such as low flow plumbing fixtures. The MWA further states that "(t)his factor (water demand) should be given careful consideration before making significant (underlined for emphasis) commitments to increased water use" (31).

In a cumulative sense, any project will increase groundwater overdraft due to new demand. In response to the use of low flow plumbing fixtures, those are already required region-wide by the State Appliance Efficiency Standards in Title 20, thus ensuring this project, as well as all others within the Mojave River Basin, will reduce the water demand of new facilities. Section 15206 of the CEQA Guidelines identifies projects having regional significance. The project does not constitute a project of regional significance pursuant to CEQA.

The waste disposal hauler for the City has increased the capacity of its Materials Recovery Facility (MRF) to 600 tons per day in order to accommodate future development. Currently, about 400 tons of solid waste is currently generated by the City per day (45 & 46). The City is in good standing with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled (45 & 46).

XVII. MANDATORY FINDINGS OF SIGNIFICANCE.

| | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | X | | |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |

Comments.

Based upon the analysis in this initial study, a Negative Declaration may be adopted. Development of this project will have a minor effect upon the environment. These impacts are only significant to the degree that mitigation measures are necessary.

XVIII. EARLIER ANALYSES.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c)(3)(D). In this case a discussion identifies the following:

The Certified General Plan Environmental Impact Report.

a) **Earlier analyses used.** Earlier analyses are identified and stated where they are available for review.

b) **Impacts adequately addressed.** Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.

c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.

The following mitigation measure is recommended as a function of this project:

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
2. In order to prevent traffic congestion for large events, a traffic and circulation plan is required to be prepared by the applicant and approved by the City. The project should coordinate traffic control measures with the City's Public Works Department.
3. The applicant shall water all unpaved areas as necessary to control dust.

Authority: Public Resources Code Sections 21083 and 21087.

REFERENCES

- (1) Aerial photos of the City of Hesperia flown in 2009 and on-site field investigations conducted in 01/11.
- (2) Site Plan Review (SPR09-10210) application and related materials.
- (3) Chapter 16.16 of the Hesperia Municipal Code, General Agricultural Zone District.
- (4) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area, Page 44 and Map Sheet No. 31.
- (5) Current Official City of Hesperia General Plan Land Use map
- (6) Personal communication with Alan De Salvio, Air Quality Specialist, Mojave Desert Air Quality Management District.
- (7) Section 3.0 of the 2010 City of Hesperia General Plan Open Space Element, pages OS-13 thru OS-27.
- (8) Chapter 16.24 of the Hesperia Municipal Code, Article II. Desert Native Plant Protection.
- (9) 1988 United States Bureau of Land Management California Desert Conservation Area and 1991 City of Hesperia Conservation Element, Figure CN-4.
- (10) Cultural Resource Sensitivity Map Exhibit 5b of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report.
- (11) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
- (12) Letter dated September 25, 2006 from Dave Singleton of the Native American Heritage Commission within Appendix B of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report.
- (13) 2010 City of Hesperia General Plan Safety Element
- (14) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-8.
- (15) 2010 California Building Code.
- (16) 1991 City of Hesperia Airport Comprehensive Land Use Plan, Figure 1-5 and pages 23-36.
- (17) 1989 City of Hesperia Disaster Preparedness Plan.
- (18) Intentionally Left Blank

- (19) Environmental plans and policies of the San Bernardino County Department of Environmental Health Services, the Lahontan Regional Water Quality Control Board, the Mojave Desert Air Quality Management District, the Hesperia Water District, the Hesperia Unified School District, Southern California Edison, Southwest Gas and the Hesperia Fire Department.
- (20) 1993 Final Environmental Impact Report for the Hesperia Redevelopment Project, Pages 4-171 & 4-172.
- (21 - 25) Intentionally Left Blank
- (26) 2010 City of Hesperia General Plan Noise Element Noise Element Technical Appendix.
- (27) Chapter 16.20 of the Hesperia Municipal Code, Article V. General Performance Standards.
- (28) 1991 City of Hesperia Ordinance 180 entitled "An Ordinance of the City Council of the City of Hesperia, California, Establishing a Development Impact Fee for all New Residential, Commercial, and Industrial Structures" and Resolution No. 2007-110 on November 20, 2007.
- (29) 2010 City of Hesperia General Plan Circulation Element.
- (30) 1993 Final Environmental Impact Report for the Hesperia Redevelopment Project, Pages 4-171/172.
- (31) Mojave Water Agency letter dated March 27, 1996.
- (32) California Integrated Waste Management Act (AB 939).
- (33) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
- (34) Preliminary Drainage Study prepared by DGRK, Inc. dated July 2, 2007
- (35) 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR)
- (36) Mojave Water Agency letter dated March 27, 1996.
- (37) California Integrated Waste Management Act (AB 939).
- (38) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
- (39) Statement of overriding considerations for the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR).
- (40) Section 3.2 of the 2010 City of Hesperia General Plan Update Conservation Element background technical report, pages 8 and 9.
- (41) Section 15183.5 – Tiering and Streamlining the Analysis of Greenhouse Gas Emissions, March 010 Amendments to the Guidelines for Implementation of the California Environmental Quality
- (42) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
- (43) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
- (44) Section 3.2 of the 2010 City of Hesperia General Plan Update Conservation Element background technical report, pages 8 and 9.
- (45) 2009 California Department of Resources, Recycling and Recovery Annual AB939 Report.
- (46) Quarterly data of the San Bernardino County Disposal Reporting System for the 2nd quarter 2010.

ATTACHMENT 9

RESOLUTION NO. PC-2011-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A SITE PLAN REVIEW TO ESTABLISH AN EVENT CENTER ON A PORTION OF 103 ACRES LOCATED ON THE SOUTH SIDE OF LEMON STREET, 450 FEET EAST OF CHOICEANA AVENUE (SPR09-10210).

WHEREAS, Jim and Gail Hasty, have filed an application requesting consideration of Site Plan Review SPR09-10210, described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a portion of 103 acre lot within the General Agricultural (A-2), located on the south side of Lemon Street, 450 feet east of Choiceana Avenue and consists of Assessor's Parcel Number 0411-191-69; and

WHEREAS, the Application, as contemplated, proposes a site plan review to establish an event center; and

WHEREAS, the property includes existing equestrian and agricultural activities. The equestrian portion of the property includes boarding stables, training barns, and pipe corrals. The agricultural portion of the property includes 12-acres of pastures, barns, chicken coops, feeding bins, an orchard and a vineyard. The site includes a playground with tennis, basketball, and volleyball courts. The property also contains two caretaker's quarters, storage bins, and a 2-acre pond. Single-family homes exist to the north, south, and west of the property. The Mojave River exists to the east; and

WHEREAS, the property is designated General Agricultural (A-2) by the General Plan Land Use Map. The properties to the north and south are also designated A-2. The properties to the west are designated Limited Agricultural (A-1). The properties to the east are outside City limits; and

WHEREAS, an environmental Initial Study for the proposed site plan review was completed on January 7, 2011, and no significant adverse impacts were identified. Mitigated Negative Declaration ND-2009-07 was subsequently prepared; and

WHEREAS, on May 12, 2011, 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. The item was continued from the Planning Commission meetings of February 10, 2011, March 10, 2011 and April 14, 2011; 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 May 12, 2011, 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 City requirements. The site is approximately 103 acres and can accommodate the event center. On-site improvements required by the Hesperia Development Code can be constructed on the property including 260 parking spaces and a minimum 26-foot wide drive aisles. The event center also meets all of the San Bernardino County Fire Department standards for fire lanes, two-points of access, fire truck turn-around, fire department connections/post indicator valves (FDC/PIV) and fire hydrants. The proposed event center will also comply with all state and federal regulations, including handicapped accessibility requirements.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof because the proposed event center is consistent with the City's General Agricultural General Plan Land Use designation with approval of the site plan review and conditions of approval. The event center is required to comply with conditions of approval pertaining to noise, dust, trash and light control to limit the project's impact on adjacent residential properties. The City has established Traffic Impact Mitigation Fee Program to fund the construction of traffic improvements to maintain adequate levels of service standards. The applicant is required to pay all applicable City development impact fees towards these improvements.
- (d) The proposed use is consistent with the goals, policies, standards and maps of the Development Code and all applicable codes and ordinances adopted by the City of Hesperia. The proposed event center is permitted in the A-2 zone with approval of a site plan review. The development complies with standards for driveway aisles, parking, building heights, fire lanes and turn-arounds, and loading areas. The development complies with Americans with Disability Act (ADA) by providing 7 accessible parking spaces with loading areas and a 3-foot-wide path of travel to the streets, parking spaces, and all buildings. The buildings associated with the event center will be constructed pursuant to the California Building and Fire Codes and adopted amendments. The event center must comply with the condition of approval for off-site and on-site improvements required prior to grading and building construction and prior to issuance of a Certificate of Occupancy.
- (e) Approval of the project will not be detrimental to the public health, safety, or welfare as the buildings and structures will be constructed pursuant to the California Building and Fire Codes and adopted amendments. The development complies with Americans with Disability Act (ADA) by providing 7 accessible parking spaces with loading areas and a 3-foot-wide path of travel to parking spaces, and all buildings associated with the event center.
- (f) The site for the proposed use will have adequate access based upon the site's current accessibility to Lemon Street and Choicena Avenue. The City has established a Traffic Impact Mitigation Fee Program as part of the Development Impact Fee (DIF) to fund the construction of traffic improvements to maintain adequate levels of service. The applicant is

required to pay all applicable City development impact fees towards these improvements.

- (g) The proposed development is consistent with and promotes the goals and policies of the General Plan.

Section 3. The Planning Commission hereby finds that there will be no significant environmental impacts resulting from the project.

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves of SPR09-10210, subject to the Conditions of Approval as set forth in ATTACHMENT "A."

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

ADOPTED AND APPROVED this 12th day of May 2011.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Site Plan Review SPR09-10210

Approval Date: May 12, 2011
Effective Date: May 24, 2011
Expiration Date: May 24, 2014

This list of conditions apply to a Site Plan Review to establish an event center on 103 acres zoned A-2 located 300 feet east of Choiceana Avenue on the south side of Lemon Street. Any change of use or expansion of area may require approval of a revised site plan review application (Applicant: Jim and Gail Hasty; APN: 0414-191-69).

The use shall not be established until all conditions of this Site Plan Review application have been met. This approved Site Plan Review 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

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- _____ 1. **Final Map.** These conditions assume PM-19265 will be recorded. Therefore, a Final Map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, based upon a survey, and shall conform to all provisions as outlined in article 66434 of the Subdivision Map Act as well as the San Bernardino County Surveyor's Office Final Map Standards. (E)

- _____ 2. **Drainage Study.** The Applicant shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)

- _____ 3. **Geotechnical Report.** The Applicant shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)

- _____ 4. **Title Report.** The Applicant shall provide a complete title report 90-days or newer from the date of submittal. (E)

- _____ 5. **NPDES.** The Applicant shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)

- _____ 6. **Storm Water Pollution Prevention Plan.** The Applicant shall provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off control during construction. This condition shall not be required if an agricultural exception can be made by the Lahonton Regional Water Quality Board. (E)

- _____ 7. **Utility Non-interference / Quitclaim Document(s).** The Applicant shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **The improvement plans will not be accepted without the required documents and approval from the affected agencies.** (E)

- _____ 8. **Plan Check Fees.** Along with improvement plan submittal, the Applicant shall pay applicable plan-checking fees. **Improvement Plans and requested studies shall be submitted as a package.** (E)

- _____ 9. **Irrevocable Offer Of Dedication.** The Applicant shall submit an "Offer of Dedication" to the City's Engineering Department for review and approval. At time of submittal the Applicant shall complete the City's "application for document review" and pay all applicable fees. (E)

- _____ 10. **Easement, (Water, Sewer or Storm Drain).** The Applicant shall submit a "Grant of Easement" to the City's Engineering Department for review and approval if needed. At time of submittal the Applicant shall complete the City's "application for document review" and pay all applicable fees. (E)

- _____ 11. **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. These construction plans are for all existing buildings and structures without completed permits and inspections. (B)

- _____ 12. **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 GROUND DISTURBING ACTIVITY:

- _____ 13. **Approval of Improvement Plans.** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)
- _____ 14. **Dedication(s).** The Applicant shall grant to the City an Irrevocable Offer of Dedication for Lemon Street. The right-of-way half-width for Lemon Street shall be sixty (60) feet. (DS)
- _____ 15. **Grant of Easement for Double Detector Check Valve.** The Applicant shall grant to the City an easement for *any* part of a required double-detector check valve that encroaches onto private property. (E)
- _____ 16. **NPDES.** The Applicant shall provide a copy of the approved original NPDES (National Pollutant Discharge Elimination System) permit from the Regional Water Quality Control Board and provide a copy of fees paid. The copies shall be provided to the City's Engineering Department. (E)
- _____ 17. **Storm Water Pollution Prevention Plan.** All of the requirements of the Storm Water Pollution Prevention Plan shall be incorporated and be in place prior to issuance of a grading permit. This condition shall not be required if an agricultural exception can be made by the Lahonton Regional Water Quality Board. (E)
- _____ 18. **Grading Plan.** The Applicant shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. (E)
- _____ 19. **Off-Site Grading Letter(s).** It is the Applicant's responsibility to obtain signed Off-Site Grading Letters from *any* adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)

- _____ 20. **Drainage Acceptance Letter(s)**. It is the Applicant's responsibility to obtain signed Drainage Acceptance Letters from *any* adjacent property owner's who are affected by concentrated off-site storm water discharge from any on-site retention basins and storm water runoff. The Acceptance letter, along with the latest grant deed, must be submitted to the City's Engineering Department for plan check approval. (E)
- _____ 21. **On-site Retention**. The Applicant shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter elements. All dry wells / injection wells shall have a minimum depth of 30' with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Applicant shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems.** (E)
- _____ 22. **Street Improvement Plan**. The Applicant shall design street improvements in accordance with City standards and as indicated below. (DS)
- _____ 23. **Lemon Street**. Construct twenty-six foot (26') asphalt pavement on Lemon Street from the end of the existing pavement to the first driveway, which is located approximately 600 feet east of Choiceana Avenue across the project frontage with a maximum grade of 12%. Where topographic constraints exist, the minimum width may be twenty (20') feet. The applicant shall construct an alternative section for the last 700 feet to the second driveway with a maximum grade of 10%. The alternative material is to be approved by the San Bernardino County Fire Department. The design shall be based on an acceptable centerline profile extending a minimum of 300 feet beyond the project boundaries where applicable. These improvements shall consist of:
- A. 26' feet AC pavement (20' min. where constraints exist) and/or alternative section per City standards.
 - B. Roadway drainage device(s).
 - C. Pavement transitions per City Standards.
 - D. Design roadway sections per existing, approved street sections and City Standards.
 - E. Cross sections every 50-feet per City standards.
 - F. Traffic control signs and devices as required by the City Engineer.
 - G. Provide a signage and striping plan per City standards.
 - H. It is the Applicant's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards. It is also the Applicant's responsibility to

obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City.

- I. Relocate existing utilities as required. The Applicant shall coordinate with affected utility companies.
- J. The remaining improvements of Lemon Street (additional pavement, curb, gutter, sidewalk and bike trail) may be deferred via a deferment agreement acceptable to the City.

_____ 24. **Utility Plan.** The Applicant shall design a Utility Plan for service connections and / or private hydrant and sewer connections. **Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development shall be removed / replaced or relocated and shall be constructed per City standards at the Applicant's expense.** (E)

- A. The Applicant shall design a Utility Plan for service connections and / or private water Fire connections shall be made per the requirements of the County of San Bernardino Fire Department.
- B. The Applicant is not required to install sewer lines unless the proposed septic system cannot meet the Lahonton Regional Water Quality Board's requirements or the City of Hesperia's EDU requirements.

_____ 25. **Fish & Game Fee.** The applicant shall submit a check to the City in the amount of \$2,094.00 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)

_____ 26. **Cultural Resources.** If excavating occurs 5 feet below the ground level then an archeologist is required to be present on-site to monitor for any cultural sensitive resources. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)

_____ 27. **Pre-construction Survey.** A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)

_____ 28. **Pre-construction Meetings.** Pre-construction meetings shall be held between the City, the Applicant, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, P)

- _____ 29. **Design for Required Improvements.** Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this site plan review application with the following revisions made to the improvement plans:
- A. A three-foot wide handicapped accessible route of travel shall be extended to, and interconnected with, all facilities that are public accommodations. The compaction of the path of travel shall be a minimum of 85% and surface materials may be compacted dirt or decomposed granite (DG). The path of travel shall be bounded by a 2" by 4" redwood border. (B)
- _____ 30. **Survey.** The applicant shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)
- _____ 31. **Secondary Access Road Easement.** An access easement shall be recorded which allows for the perpetual use of the secondary access road from Choiceana Avenue through private property for the benefit of Boulder Creek Ranch. This easement is for the access road shown on the site plan. 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. (P)
- _____ 32. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. [F-1]
- _____ 33. **Hydrant.** The location of the fire hydrants and fire flow shall be provided consistent with San Bernardino County Fire Department requirements. Fire flow for the hydrants shall be uninterrupted and meet the requirements San Bernardino County Fire Department. A letter from Mojave Water Agency (MWA) shall be provided stating that water flow will be uninterrupted; otherwise, the hydrants shall be connected to City water. [F-5a]
- _____ 34. **Access Maintenance Agreement.** The applicant shall submit a written agreement signed by the applicant to either provide, or to contract to provide on-going road maintenance, vegetation maintenance, for primary access routes, secondary access routes, and all internal drives, that are not otherwise maintained by a public agency. [F-8]
- _____ 35. **Emergency Access Requirements.** The applicant shall construct and maintain a primary and secondary access road. The applicant shall submit emergency/evacuation road access plans to the Fire Department for review and approval. These plans shall include: [F-9]

- A. **Primary Access Route.** The plan shall show all planned road widening with minimum widths of twenty-six feet (26') unobstructed (20' where constraints exist), NO shoulder parking allowed, with an unobstructed vertical clearance of no less than 14 feet 6 inches (14' 6"), and with grades not exceeding twelve percent (12 %) and a compaction minimum of 85%.
- B. **Secondary Access Route.** The plan shall show all planned road widening with minimum widths of twenty feet (20') unobstructed, with NO shoulder parking allowed, with an unobstructed vertical clearance of no less than 14 feet 6 inches (14' 6"), and with grades not exceeding twelve percent (12 %). Compaction shall be a minimum of 85%.
- C. Planned width and location of all internal access drives and parking areas.
- D. Written verification of legal access to the project site (and each phase) from the County maintained road for both the primary and secondary access routes.

_____ 36. **Turnaround.** An approved turnaround shall be provided at the end of each roadway one hundred and fifty (150) feet or more in length. Cul-de-sac length shall not exceed six hundred (600) feet; all roadways shall not exceed a 12 % grade and have a minimum of forty five (45) for non-residential turns. [F-43]

_____ 37. **Suspension Agreement.** The Applicant shall submit a suspension agreement ensuring all fences and gates within the future right-of-way of Lemon Street are removed prior to the City constructing Lemon Street.

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

_____ 38. **Construction Waste.** The Applicant or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

_____ 39. **AQMD Approval.** The Applicant shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

_____ 40. **Light and Landscape District Annexation.** Applicant shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)

- _____ 41. **Development Fees.** The Applicant shall pay required development fees impact fee for applicable event center facilities. (B)
- _____ 42. **Utility Clearance(s)/Certificate of Occupancy.** The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)
- _____ 43. **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. Any exceptions shall be approved by the Director of Development Services. (P)
- _____ 44. **Street Sign.** This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed. [F72]
- _____ 45. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. [F80]

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 46. **As-Built Plans.** The Applicant shall provide as-built plans in AutoCAD 2007 format. (E)
- _____ 47. **Public Improvements.** All public improvements shall be completed by the Applicant and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 48. **Override Switch.** Where an automatic electric security gate is used, an approved Fire Department override switch (Knox ®) is required. [F86]

THE FOLLOWING CONDITIONS ARE OPERATIONAL CONDITIONS:

- _____ 49. **Alcoholic Beverages.** Permits shall be obtained from ABC to sell alcohol on premises (P)
- _____ 50. **Dust Control.** Driveways and parking areas shall be watered on the day of the event and as necessary to prevent dust from leaving the site. (P)

- _____ 51. **Restroom facilities.** Chemical toilets that are handicapped accessible shall be provided consistent with Chapter 4 of the California Plumbing Code and San Bernardino County Environmental Health Guidelines. The restroom facilities shall be maintained on a regular basis. (P)
- _____ 52. **Noise.** Any outdoor amplifiers used for events shall have the volume adjusted so as not to exceed 60dB (A) at the property lines in accordance with the Development Code. (P)
- _____ 53. **Trash facilities.** A minimum of four 50-gallon solid waste receptacles for each 100 attendees shall be provided to retain all trash and solid waste. An agreement shall be entered with Advance Disposal to dispose of trash and waste. (P)
- _____ 54. **Major Events.** A temporary special event permit is required for major events with over 500 persons in attendance. In order to prevent traffic congestion for major events, a traffic and circulation plan is required to be prepared by the applicant and approved by the City.

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 |



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, APRIL 27, 2011**

A. PROPOSALS:

1. T-MOBILE (CUP11-10117)

Proposal: A conditional use permit to replace an existing 71-foot high light standard with a 71-foot high wireless communications facility at Live Oak Park.

Location: 17427 Live Oak Street (APN: 0410-122-15)

Planner: Lisette Sanchez-Mendoza



CITY OF HESPERIA DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, MAY 11, 2011

A. PROPOSALS:

1. MARIA MUTIS AND MODESTO GUDINO (TNT11-10157)

Proposal: An extension of time for TT-16769 to create 19 single-family residential lots on 5 gross acres.

Location: Northwest corner of Palm Street and Maple Avenue (APN: 0405-351-51)

Planner: Daniel Alcayaga

2. RAMON ESCOBAR (ME11-10158)

Proposal: A minor exception to allow a 1,500 square foot metal building to exceed the 5% allowable lot area for accessory buildings on one acre zoned A-1.

Location: 8710 Eleventh Avenue (APN: 0409-094-11)

Planner: Holly Effiom

3. ORCHARD CHRISTIAN CHURCH (SPR11-10161)

Proposal: A revised site plan review to allow for the expansion of an existing church to include Units A-3 and A-4.

Location: 17508 Hercules Street (APN: 0410-062-19)

Planner: Stan Liudahl