

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: January 12, 2012

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Bill Jensen, Commissioner

Julie Jensen, Commissioner

Eric Schmidt, Commissioner

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

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney



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

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

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

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

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

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

JANUARY 12, 2012

**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. Introduction of Eric Schmidt
- B. Pledge of Allegiance to the Flag
- C. Invocation
- D. Roll Call:
 - Chair Chris Elvert
 - Vice Chair William Muller
 - Commissioner Bill Jensen
 - Commissioner Julie Jensen
 - Commissioner Eric Schmidt

JOINT PUBLIC COMMENTS

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

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

CONSENT CALENDAR

- E. Approval of Minutes: December 8, 2011 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

1. Consideration of Conditional Use Permit CUP11-10282 to allow the sale of beer, wine and liquor for on-site consumption as part of a restaurant at 12728 Main Street (Applicant: Leemar Investments, I, Inc. – Liborio Alvarez; APN: 3064-481-13).(Staff Person: Daniel Alcayaga)

1-1

PRINCIPAL PLANNER'S REPORT

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

- F. DRC Comments 2-1
- G. Major Project Update
- H. Discussion item regarding Development Code Section 16.16.060; Uses provided for in any zone or land use district (Additional Uses). 3-1
- I. Discussion item regarding Transfer of Development Rights (TDR) program to preserve open space and park sites. 4-1
- J. Discussion item regarding Rules of Order. 5-1

PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, January 5, 2012 at 5:30 p.m. pursuant to California Government Code §54954.2.


 Kathy Stine
 Planning Commission Secretary

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
DECEMBER 8, 2011
MINUTES**

DRAFT

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

CALL TO ORDER 6:30 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call:

Chair Chris Elvert

Vice Chair William Muller

Commissioner Bill Jensen

Commissioner Julie Jensen

Present: Chris Elvert
William Muller
Bill Jensen
Julie Jensen

JOINT PUBLIC COMMENTS

Al Vogler spoke with comments regarding solar farms.

CONSENT CALENDAR

- E. Approval of Minutes: November 8, 2011 Planning Commission Meeting Draft Minutes.
Motion by Julie Jensen to approve November 8, 2011 Planning Commission Meeting Draft Minutes. Seconded by Bill Jensen and passed with the following roll call vote:

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

PUBLIC HEARING

- 1A. Consideration of an appeal of the approval of Site Plan Review SPR11-10249, to install a solar farm on a five gross acre developed single-family residential lot at 11778 Cambria Road (APE11-10280; Appellant: Eric Elkins; APN: 3064-531-03)

Senior Planner Stan Liudahl gave a PowerPoint Presentation and stated that staff recommended that the DRC decision be upheld.

Julie Jensen asked how many homes could be on the adjacent parcel if developed.

Stan Liudahl responded that approximately two to four homes per acre would be permitted if sewer was extended.

Chris Evert asked if the item needed a drainage plan.

Stan Liudahl responded that the applicant is not proposing to grade, only brush to remove vegetation and the topography is mainly flat so a drainage plan is not needed.

Chair Elvert opened the public hearing at 6:55 p.m.

Applicant Arek Nowak of Sybac Photovoltaics stated that the appellant wanted his company to purchase his property and he felt that was the reason for the appeal.

Appellant Eric Elkins stated that a future tract map is being proposed on the adjacent parcel and he is opposed to the project and doesn't feel that this use is appropriate for the area.

Joy Atiga owner of property to the south was opposed to the project.

Chair Elvert closed the public hearing at 7:04 p.m.

Principal Planner Dave Reno, AICP made the clarification between industrial and residential land use.

Bill Jensen asked if the project could not exist at this location, where should the applicant place the solar farm.

Dave Reno responded by stating staff had looked at several proposals from various solar companies and had directed them to more remote residential land in the City and this site was one of the most appropriate.

Julie Jensen discussed approving the proposal.

Chair Elvert reopened the public hearing at 7:24 p.m.

Applicant Arek Nowak stated that state law was applicable to not block this proposal.

Appellant Eric Elkins stated that he had tried to work with the applicant to hide the solar farm and wanted the Commission to take into consideration that the applicant has a 25 year lease on the land.

Chair Elvert closed the public hearing at 7:27 p.m.

William Muller commented that this project makes no noise nor is unsightly and stated other neighbors have the privilege of doing whatever they want and wind towers are noisy and unsightly.

Meeting was paused at 7:29 p.m.

Meeting resumed at 7:42 p.m.

Assistant City Attorney Jeff Malawy reviewed state law 65850.5 and others and said it was determined that state law was substantially unclear whether localities have the ability to regulate solar energy systems based on aesthetics but there are provisions in CEQA that localities may rule on basis of aesthetics. The City of Hesperia's Ordinance permits the Commission to use its discretion regarding aesthetics.

Bill Jensen proposed trees be planted on the south property line.

Motion by Chris Elvert to approve RESOLUTION NO. PC-2011-39 as presented granting approval of Appeal APE11-10280, denying Site Plan Review SPR11-10249. The motion did not receive a second and was lost.

Motion by Bill Jensen to deny RESOLUTION NO. PC-2011-3 and uphold DRC approval of Site Plan Review SPR11-10249 as amended to conditionally require trees be planted on the southern property line with intent to screen the solar use. Seconded by Julie Jensen and passed with the following roll call vote:

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

- 1B. Consideration of an appeal of the approval of Site Plan Review SPR11-10250, to install a solar farm on a vacant ten gross acre parcel located on the south side of Rock Springs Road, approximately 420 feet east of Glendale Avenue (APE11-10286; Appellant: Al Vogler; APN: 0398-031-53) (Staff Person: Stan Liudahl)

Chair Elvert recused himself on this item given that his residential property is within 500 feet of the site.

Stan Liudahl gave a Powerpoint presentation on the 10 acre solar site at Rock Springs Road.

Vice Chair William Muller opened public hearing at 8:03 p.m.

Applicant Arek Nowak addressed the appellant's concerns.

Appellant Al Vogler spoke in opposition to the project.

Lawrence Johnston spoke in opposition to the project.

Bob Martin spoke about the traffic problems on Rock Springs and feels that this would cause a distraction.

Travis Johnson spoke in opposition.

Chris Elvert spoke in opposition to the project.

Al Vogler spoke again regarding drainage.

Dave Huish spoke in opposition.

Vice Chair William Muller closed public hearing at 8:45 p.m.

Julie Jensen voiced concerns regarding drainage.

Dave Reno explained the drainage study.

Bill Jensen commented about water judication.

William Muller felt that solar panels were benign and would have no objection to them being located by his residence. He felt they are not detrimental to the surrounding area.

Motion by Julie Jensen to deny RESOLUTION NO. PC-2011-40 and uphold DRC approval of Site Plan Review SPR11-10250 as amended to require a bond for removal of solar panels. Seconded by William Muller and passed with the following roll call vote:

AYES: William Muller, and Julie Jensen
NOES: None
ABSTAIN: Bill Jensen

2. Consideration of Conditional Use Permit CUP11-10217, to allow for an expansion of an existing material recovery facility on 14.5 acres zoned General Manufacturing (G-I) at 17105 Mesa Street (Applicant: Advance Disposal; APNs: 0415-201-06, 07, 10 & 24) (Staff Person: Daniel Alcayaga)

Senior Planner Daniel Alcayaga gave a PowerPoint presentation.

Chip Clements with Advanced Disposal continued the slide presentation for the Commission.

Julie Jensen asked about waste water diversion.

Craig Sundgren spoke regarding the water channel and the other areas of water retention.

Chris Elvert asked about water retention and easement upkeep.

Dave Reno responded that the easement still belonged to Advanced Disposal and they were responsible for the maintenance.

Chair Elvert opened public hearing at 9:43 p.m.

No comments to consider.

Chair Elvert closed public hearing at 9:43 p.m.

Motion by Chris Elvert to approve RESOLUTION NO. PC-2011-38, as presented recommending approval of CUP11-10217. Seconded by Bill Jensen and passed with the following roll call vote:

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

3. Consideration of Development Code Amendment DCA11-10245, to amend the Commercial, Industrial and Public Land Use District regulations. (Applicant: City of Hesperia; Affected area: Citywide) (Staff Person: Daniel Alcayaga)

Daniel Alcayaga gave a PowerPoint presentation and stated staff recommended approval.

Chair Elvert opened public hearing at 9:58 p.m.

No comments to consider.

Chair Elvert closed public hearing at 9:58 p.m.

Chris Elvert questioned the paving requirement for salvage and wrecking yards.

Dave Reno stated that the wording could be changed to offer an alternative within a subsequent ordinance as no changes were proposed or advertised at this time.

Commission discussion ensued regarding architecture and revised language was proposed.

Motion by Julie Jensen to approve RESOLUTION NO. PC-2011-34, as amended to keep auto repair adjacent to and within a car length from the service bay and strike out adjacent property aesthetics regarding architecture standards, approving DCA11-10245. Seconded by Bill Jensen and passed with the following roll call vote:

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

4. Consideration of Specific Plan Amendment SPL11-10263, amending the City's Main Street and Freeway Corridor Specific Plan regarding setback and approval procedures (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Dave Reno)

Dave Reno gave a PowerPoint presentation.

Chair Elvert opened public hearing at 10:25 p.m.

No comments to consider.

Chair Elvert closed public hearing at 10:25 p.m.

Motion by William Muller to approve RESOLUTION NO. PC-2011-35, as presented approving SPL11-10263. Seconded by Julie Jensen and passed with the following roll call vote:

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

PRINCIPAL PLANNER'S REPORT

F. DRC Comments

Dave informed the Commission that Eric Schmidt will be seated as the new Planning Commissioner in January.

G. Major Project Update

No update comments

H. Discussion item regarding Development Code Section 16.16.060, Uses provided for in any zone or land use district (Additional Uses).

Dave Reno suggested moving this item to January because of the late hour.

Commission agreed.

Per Commission direction, item "H" was continued to the January 12, 2012 meeting.

PLANNING COMMISSION BUSINESS OR REPORTS

Julie Jensen asked staff to consider two meetings a month when the agenda items warranted.

Commission discussion ensued and Dave Reno informed the Commission that there were only 13 meetings budgeted for this fiscal year.

ADJOURNMENT

Chair Elvert adjourned the meeting at 10:43 p.m. to January 12, 2012 Planning Commission Meeting.

Chris Elvert
Commission Chair

By: Kathy Stine,
Commission Secretary

16.08.740 Setback line, street.

“Street setback line” means a line which defines the depth of the required street setback, front yard, or side yard or side street where said yard or yards abut a street. Said street setback line shall be parallel or concentric with the street right-of-way line. (Ord. 250 (part), 1997; SBCC § 83.011920)

16.08.745 Sewage disposal area.

“Sewage disposal area” means an area utilized for the holding, leaching and percolation of sewage wastes including an area that would provide a one hundred (100) percent expansion of such a leaching and percolation field for future use. (Ord. 250 (part), 1997; SBCC § 83.011923)

16.08.750 Sexual activities, specified.

“Specified sexual activities” means and includes all the following:

- A. The fondling or other erotic touching of the following human anatomical areas: genitals, pubic regions, buttocks, anuses or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections (A) through (C) of this section. (Ord. 250 (part), 1997; SBCC § 83.011924)

16.08.755 Site.

“Site” means a parcel of land or contiguous parcels where land alterations, including grading, clearing or construction are performed or proposed. (Ord. 250 (part), 1997; SBCC § 83.011956)

16.08.760 Site planning.

“Site planning” means a process to develop a plan that shows how a parcel of land may be developed, taking into consideration the natural and man-made characteristics of the parcel. (Ord. 250 (part), 1997; SBCC § 83.011957)

16.08.765 Social care facility.

“Social care facility” means any facility in the general classification of boarding home for aged persons, boarding home for children, day care home for children, day nursery, nursing home or parent-child boarding home. These facilities consist of a building or group of buildings used or designed for the housing of sick, demented, injured, convalescent, infirm, or well, normal healthy persons, requiring licensing or certification by regulating government agencies. This definition shall not include use of a part of any single or multiple-family dwelling, hotel, apartment, or motel not ordinarily intended to be occupied by said persons unless so licensed or certified by the governmental agency concerned with the administration of each specific classification. (Ord. 250 (part), 1997; SBCC § 83.011961)



16.08.770 Solar energy system.

“Solar energy system” means any solar collector solar device, or structural design feature of a building whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling; for domestic, recreational, therapeutic or service water heating; for the generation of electricity; for the production of process heat; and for the production of mechanical work. The term “solar energy system” shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems

and photovoltaic systems. This category does not include parabolic mirror and devices of a similar nature. (Ord. 250 (part), 1997; SBCC § 83.011965)



DATE: January 12, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP11-10282; Applicant: Leemar Investments, I, Inc. – Liborio Alvarez; APN: 3064-481-13

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2012-03, approving Conditional Use Permit CUP11-10282.

BACKGROUND

Proposal: A Conditional Use Permit to allow the sale of beer, wine and liquor for on-site consumption within a restaurant.

Location: 12728 Main Street

Current General, Plan, Zoning and Land Uses: The site is within the Regional Commercial (RC) District of the Main Street and Freeway Corridor Specific Plan (Attachment 1). Currently, an existing 6,000 square foot restaurant is developed on the property previously occupied by Bob’s Big Boy. The surrounding land is designated as noted on Attachment 2. The project property is located between two gas stations and situated south of two hotels. The High Desert Gateway Shopping Center (Target Center) is located to the south. (Attachment 3).

ISSUES/ANALYSIS:

Land Use: Beef ‘O’ Brady’s will be re-opening the restaurant and would like to sell alcohol as part of their dining service. The Main Street and Freeway Corridor Specific Plan requires a conditional use permit for the sale of alcohol. The applicant has applied for a Type 47 license with the California Department of Alcoholic Beverage Control (ABC). ABC has determined that Census Tract 100.09 exceeds its limitation of three licenses and requires the City to make a finding of public convenience and necessity (Attachment 4). Census Tract 100.09 extends beyond the boundaries of the City and includes eight active licenses that are in Victorville.

Table 1: Existing On-Sale Licenses in Census Tract 100.09

| Status | Business Name | Business Address | Type of License |
|-------------|--------------------------|-----------------------|-------------------------|
| Active | Chilis Grill And Bar | 11910 Amargosa Rd. | 47-Beer, Wine, & Liquor |
| Active | Original Roadhouse Grill | 11940 Amargosa Rd. | 47-Beer, Wine, & Liquor |
| Active | Mimis Cafe | 12032 Amargosa Rd. | 47-Beer, Wine, & Liquor |
| Surrendered | Bennys Bar & Grill | 9757 Cataba Rd. | 47-Beer, Wine, & Liquor |
| Active | Applebees | 10244 Amargosa Rd. | 47-Beer, Wine, & Liquor |
| Active | Kybubei Sushi | 13790 Bear Valley Rd. | 41-Beer & Wine |
| Active | Holliday Inn Express | 9750 Key Pointe Ave. | 70-Beer, Wine, & Liquor |

| | | | |
|--------|-------------------------|-----------------------|-------------------------|
| | Hotel & Suites | | (Restricted) |
| Active | Carinos Italian | 11920 Amargosa Rd. | 47-Beer, Wine, & Liquor |
| Active | Giuseppes Italian Rest. | 14309 Bear Valley Rd. | 41-Beer & Wine |

The Planning Commission has previously expressed concerns over the proliferation of alcohol establishments along Main Street. The commercial portion of Main Street currently holds 26 on-site licenses that are primarily restaurants and half of which are in downtown. ABC's criteria is based on population within each census tract and does not account for the City's unique land use characteristics. Unlike other cities, the City of Hesperia offers commercial services primarily along three major thoroughfares, while other cities may offer commercial services every mile. This results in the concentration of commercial uses primarily along Bear Valley Road, Main Street, and portions of Hesperia Road.

Staff believes that the findings of necessity and convenience required to obtain additional licenses in an over-concentrated tract can be made. The Main Street and I-15 freeway area is a major commercial node that provides convenient shopping and dining services. It is the City's intent to continue to attract commercial developments, including sit-down restaurants in this area necessitating the need to exceed ABC's standards for on-sale licenses. The closest establishment similar in nature to the proposed site is Love Oasis Sushi located on the opposite side of Main Street to the south. The hotel to the north also serves alcohol.

Schools and Parks: The project site at 12719 Main Street is located approximately one mile of Mission Crest Elementary, and 1.5 miles 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 the 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. Approval of alcoholic beverage licenses is supportive of the land uses intended within the Regional Commercial District.

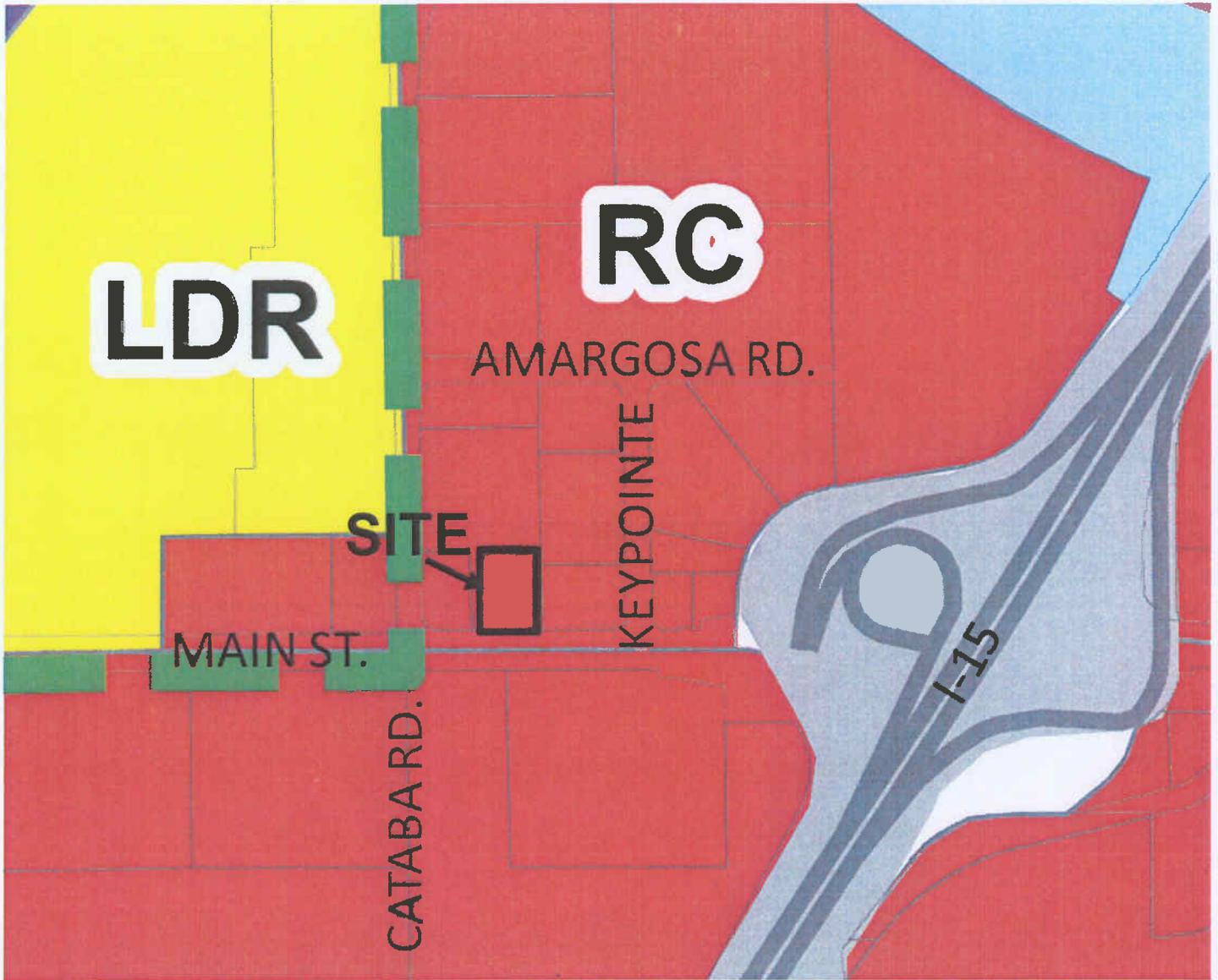
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan/Zoning
2. Aerial photo
3. Census Tract Map
4. Resolution No. PC-2012-03, with list of conditions

ATTACHMENT 1



APPLICANT(S):
LEEMAR INVESTMENTS, I, INC. – LIBORIO ALVAREZ

FILE NO(S):
CUP11-10282

LOCATION:
12728 MAIN STREET

APN:
3064-481-13

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOL AS PART OF A RESTAURANT

N
↑

GENERAL PLAN/ZONING

ATTACHMENT 2



APPLICANT(S):
LEEMAR INVESTMENTS, I, INC. – LIBORIO ALVAREZ

FILE NO(S):
CUP11-10282

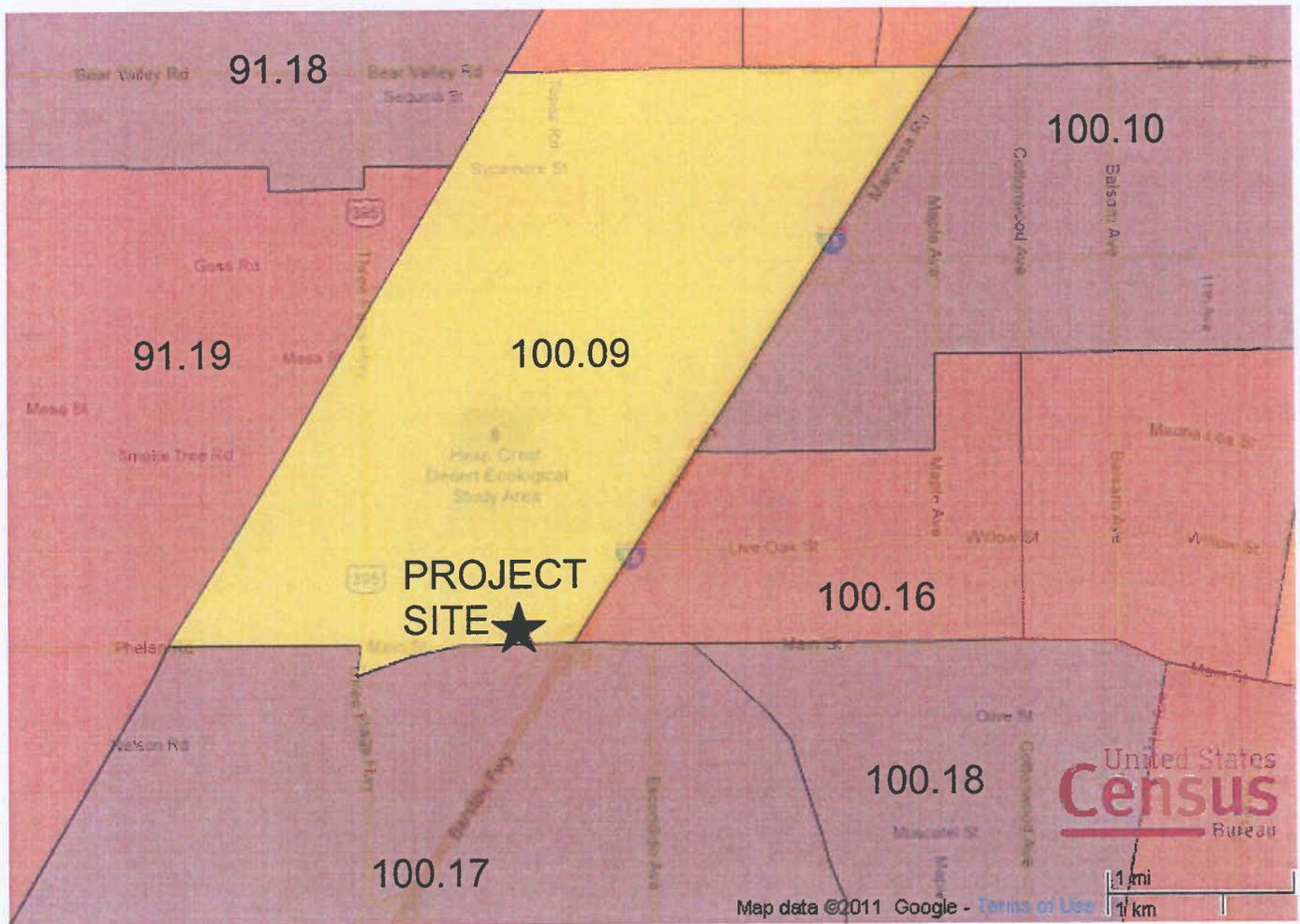
LOCATION:
12728 MAIN STREET

APN:
3064-481-13

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOL AS PART OF A RESTAURANT

AERIAL PHOTO

ATTACHMENT 3



| | | | |
|---|--|-----------------------------------|----------------------------|
| APPLICANT(S):
LEEMAR INVESTMENTS, I, INC. – LIBORIO ALVAREZ | | FILE NO(S):
CUP11-10282 | |
| LOCATION:
12728 MAIN STREET | | | APN:
3064-481-13 |
| PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOL AS PART OF A RESTAURANT | | | N
↑ |

CENSUS TRACT MAP

ATTACHMENT 4

RESOLUTION NO. PC-2012-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER, WINE AND LIQUOR FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT AT 12728 MAIN STREET (CUP11-10282)

WHEREAS, Leemar Investments, I, Inc. has filed an application requesting approval of Conditional Use Permit CUP11-10282 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an existing restaurant at 12728 Main Street and consists of Assessor's Parcel Number 3064-481-13; and

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

WHEREAS, the subject site is presently developed with an existing restaurant that was previously used by Bob's Big Boy. The project property is located between two gas stations and situated south of two hotels. The High Desert Gateway Shopping Center (Target Center) is located to the south; and

WHEREAS, the subject property as well as surrounding properties are within the Regional Commercial (RC) District of 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 15301, Existing Facilities; and

WHEREAS, on January 12, 2012, 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 January 12, 2012 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed use is conditionally allowed within the Regional Commercial District of the Main Street and Freeway Corridor Specific Plan and complies with all applicable provisions of the Development Code. The proposed use would not impair the integrity and character of the surrounding neighborhood. 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, wine and liquor.

- (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, wine and liquor 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, land uses and programs of the General Plan, Specific Plan and Development Code. The proposed use will take place within an existing restaurant. The sale of beer, wine and liquor is consistent with the allowable uses within the Regional Commercial District.
- (d) There are adequate provisions for sanitation, public utilities and general services to ensure the public convenience, health, safety and general welfare. The proposed use will occur within a restaurant 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 CUP11-10282, 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 January 2012.

Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP11-10282

Approval Date: January 12, 2012
Effective Date: January 24, 2012
Expiration Date: January 24, 2015

This list of conditions apply to a Conditional Use Permit to allow the sale of beer, wine and liquor for on-site consumption within a restaurant at 12728 Main Street. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Leemar Investments, I, Inc. – Liborio Alvarez; APN: 3064-481-13).

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

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. 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)
2. Permit Revocation. In the event the use hereby permitted under this permit is: (a) found to be in violation of the terms and conditions of this permit; (b) found to have been obtained by fraud or perjured testimony; or (c) found to be detrimental to the public health, safety or general welfare, or a public nuisance; this permit shall become null and void. (P)
3. Alcohol Consumption. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee. This includes all sidewalks and the parking lot. (P)
4. Employee Age. All employees of the applicant serving alcohol must be at least 21 years of age. (P)
5. ABC Requirements. The use must comply with the permit process and requirements set forth by the State of California, Alcoholic Beverage Control. (P)

- _____ 6. **ABC License.** The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premises. (P)
- _____ 7. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the Development Review Committee, the Planning Commission, City Council, or otherwise), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

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, DECEMBER 7, 2011**

A. PROPOSALS:

1. LEEMAR INVESTMENTS II, LLC (CUP11-10282)

Proposal: A conditional use permit to allow for the on-site sale of beer, wine and liquor, including a finding of public convenience or necessity in conjunction with a proposed Beef O' Brady's Restaurant.

Location: 12728 Main Street (APN: 3064-481-13)

Planner: Daniel Alcayaga

Action: Forwarded to January 12, 2011 Planning Commission

2. DESTIN STEEL, INC (SPR11-10287)

Proposal: Extension of time for Site Plan Review SPR-2006-53-E to construct three industrial buildings totaling 56,934 square feet on 2.9 acres zoned Commercial/Industrial Business Park (CIBP).

Location: Southeast corner of Poplar Street and Three Flags Avenue (APN: 3064-591-17)

Planner: Stan Liudahl

Action: Administrative Approval

City of Hesperia



CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE
City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, DECEMBER 21, 2011

A. PROPOSALS:

1. MAJESTIC RECYCLING & ENERGY SOLUTIONS (CUP11-10293)

Proposal: A revised conditional use permit to establish a CRV recycling collection facility.

Location: 12221 Poplar Street, Unit 21 (APN: 3064-641-28)

Planner: Stan Liudahl

Action: Continued to January 4, 2012 Development Review Committee

2. CITY OF HESPERIA (CUP11-10294)

Proposal: A second extension of time for approved Conditional Use Permit CUP-2007-03, to construct the second phase of the Hesperia Civic Plaza Park.

Location: 15833 Smoketree Street (APN: 0407-262-03)

Planner: Stan Liudahl

Action: Administrative approval



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, JANUARY 4, 2012**

A. PROPOSALS:

1. PIERCE JOHNSON (SPR11-10300)

Proposal: A second extension of time request for approved Site Plan Review (SPR-2006-06), to construct 14 condominium units on 1.4 gross acres zoned R3-3000.

Location: Southeast corner of Donert Street and "A" Avenue (APN: 0415-093-09)

Planner: Daniel Alcayaga

Action: Administrative Approval

2. MAJESTIC RECYCLING & ENERGY SOLUTIONS (CUP11-10293)

Proposal: A revised conditional use permit to establish a CRV recycling collection facility. (Continued from December 21, 2011 DRC)

Location: 12221 Poplar Street, Unit 21 (APN: 3064-641-28)

Planner: Stan Liudahl

Action: Administrative Approval

Discussion Item: Changes to Article III. Additional Uses
Section 16.16.060(A)(2)

Site Plan Reviews (SPR) and/or Conditional Use Permits (CUP)

| GENERAL USES: | SPR | CUP | IMPACTS |
|---|------------|------------|--------------------------|
| Cemeteries, including pet cemeteries | X | | |
| Solid waste disposal sites, rubbish incinerators and recycling centers | | X | Traffic, Odors, Noise |
| Sewer treatment plants and sewage disposal sites | X | X | Odor |
| Electrical generating stations (solar, wind farms) | X | X | View, Noise |
| Radio and television stations or towers | | X | View |
| Racetracks or stadiums | | X | Traffic |
| Campgrounds | X | X | Traffic |
| Natural resources (mineral deposits, natural vegetation and energy sources) | | X | Dust |
| INSTITUTIONAL USES: | | | |
| Schools and universities | X | X | Traffic |
| Conference centers | X | X | Traffic |
| Hospitals | | X | Traffic, Public Services |
| Churches | X | | |
| Rehabilitation centers | | X | Safety |
| Organizational camps | X | | |
| PUBLIC UTILITIES AND PUBLIC SERVICE USES: | | | |
| Reservoirs, pumping plants | X | | |
| Electrical substations | X | | |
| Central communication office | X | | |
| Microwave and repeater huts | X | | |
| Towers and satellite receiving stations | | X | View |
| SPORT ORIENTED RECREATIONAL USES: | | | |
| Sky diving jump sites, marinas,
ski resorts and recreational camps | X | | |
| Rifle and archery ranges | | X | Noise |
| Off-road vehicle parks | | X | Traffic, Dust |
| Golf courses, country clubs | | X | Traffic |
| Hunting and fishing clubs | | X | Noise |

ARTICLE III. ADDITIONAL USES

16.16.060 Uses provided for in any zone or land use district.

A. Land uses listed in Section 16.16.060(A)(2) may be permitted in any zone or land use district subject to a site approval in accordance with the provisions of Section 16.12.080 et seq. when one or more of the conditions cited in Section 16.16.060(A)(1) have been met.

1. Condition of Uses.

- a. The location of land use is determined by other land uses which are directly supported by the proposed use; or
- b. The land use is part of the community or regional infrastructure; or
- c. The location of the proposed use is determined by the location of raw materials in their natural state such as mineral deposits, natural vegetation and energy sources; or
- d. The character of the proposed use is such that it requires a remote location away from other land uses; or

e. The land use is deemed essential or desirable to the public convenience or welfare.

2. Land Uses Permitted Subject to Site Approval.

- a. Temporary and permanent governmental facilities and enterprises (federal, state and local) where buildings and/or property are publicly owned or leased;
- b. Temporary support facilities associated with the construction of highways and other public facilities including, but not limited to, batch plants and equipment storage yards;
- c. Transportation facilities principally involved in the movement of people together with the necessary buildings, apparatus or appurtenances incidental thereto, including, but not limited to, airports, train stations, bus stations and carpool facilities;
- d. Institutional uses including, but not limited to, schools and universities, conference centers, hospitals, churches, rehabilitation centers and organizational camps;
- e. Cemeteries, including pet cemeteries;
- f. Solid waste disposal sites, rubbish incinerators and recycling centers;
- g. Sewer plants and sewage disposal sites;
- h. Electrical generating stations;
- i. Public utilities and public service uses of structures including, but not limited to, reservoirs, pumping plants, electrical substations, central communication office, microwave and repeater huts and towers and satellite receiving stations;
- j. Radio and television stations or towers;
- k. Development of natural resources including, but not limited to, mineral deposits, natural vegetation and energy sources, together with the necessary buildings, apparatus or appurtenances incidental thereto;
- l. Racetracks or stadiums;
- m. Campgrounds not exceeding a density of four sites per acre;
- n. Sport oriented recreational uses requiring remote locations including, but not limited to, rifle and archery ranges, sky diving jump sites, off-road vehicle parks, marinas, golf courses, hunting and fishing clubs, ski resorts and recreational camps.



DATE: January 12, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Stan Liudahl, AICP, Senior Planner

SUBJECT: Consideration of Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259, to establish a Transfer of Development Rights (TDR) program preserving open space and park sites; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission receive and file this report and provide guidance (if any) to staff regarding establishing a Transfer of Development Rights (TDR) program.

BACKGROUND

On September 7, 2010, the City Council adopted the General Plan Update. As part of the Open Space Element (Element), three areas were identified for preservation. The areas contain sensitive environments and amenities such as bluffs, Joshua tree forests, and juniper woodlands. These areas, which total approximately 361 acres, are located within the Oro Grande Wash and the unnamed wash paralleling this wash on the east side of Interstate 15 and are predominantly in a natural state. In addition, the Main Street and Freeway Corridor Specific Plan (Specific Plan) identifies additional areas as potential park sites, which total about 89 acres. Overall, 450 acres are to be preserved or dedicated for park sites within the current City boundary.

| TDR Sending Area | TDR Credit Acreage in City | TDR Credit Acreage in City & Sphere |
|-------------------------------|----------------------------|-------------------------------------|
| Preservation & Park Sites | 450 | 471 |
| Easements within washes | 276 | 627 |
| Total TDR Sending Area | 726 | 1,098 |

These open space areas should be contiguous or connected through trails to provide accessibility for pedestrians and equestrians as well as wildlife. The Open Space Element includes a trail network within these washes, including the Antelope Valley Wash and the washes which empty into the Mojave River for the enjoyment of the community. This Ordinance will create 150-foot wide conservation easements which equal 276 acres within the current City boundary and an additional 351 acres within the sphere of influence as shown above.

The TDR program is based upon a model TDR Ordinance as well as comparisons of the ordinances of other jurisdictions that have implemented a TDR program. To date, none of the other four High Desert cities or the County of San Bernardino has established a TDR program. TDR programs are most commonly used to preserve farmland. However, they can also be used to provide value to other types of land needed for public purposes.

The TDR program allows for the acquisition of open space and park sites as well as establishment of conservation easements for trails in exchange for providing TDR credits, reimbursing property owners for the land within the sending areas. Establishment of open space, park sites, and a trail system advances a legitimate governmental interest as outlined within the General Plan and the Specific Plan. Additionally, this program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation.

The Transfer of Development Rights (TDR) program will allow for the transfer of the development potential from the approximately 450 acres identified in the table on the first page for preservation and park sites, which are defined as "sending areas" to other areas without the same open space and park site potential, which are identified as "receiving areas." Additionally, the program will establish another 276 acres of "sending areas" to create 150-foot wide conservation easements within the Oro Grande and the Unnamed Wash east of Interstate 15, the Mojave River, the four washes emptying into the Mojave River, and that portion of the Antelope Valley Wash not within the county flood control district, to enable use of the easement as a 30-mile trail system. The extent of the "sending" and "receiving" areas is shown on Attachments 1 and 2.

ISSUES/ANALYSIS

Laws Requiring Open Space

Government Code Sections 65302, 65560 through 65570 (Attachment 3) require adoption of an Open Space Element and a program for its implementation. Section 65567 states that no building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open space plan. The General Plan Open Space Element adopted in 2010 identifies the three areas within the Oro Grande Wash and the unnamed wash east of Interstate 15 for preservation. Further, the Main Street and Freeway Corridor Specific Plan adopted in 2008 established three potential park sites. Implementation of a TDR program is a tool which can be used to implement the City's Open Space Element. In the absence of a TDR program, the City would need to purchase all 726 acres within the sending areas (1,098 acres including those areas within the sphere of influence) or provide other means of compensation.

TDR Program

The TDR program will allow the transfer of Areas "A," "B," and "C" within the Open Space Element as well as the future park sites within the Specific Plan to the City as lettered lots. In addition, the Ordinance will create conservation easements for establishment of a 30-mile trail system within the Oro Grande Wash, the Unnamed Wash east of Interstate 15, the Antelope Valley Wash, the Mojave River, and the four washes emptying into the Mojave River. These areas will comprise the "sending area," for which TDR credits will be given for use in "receiving areas." The property owners of sites within the official map of sending areas will receive TDR credits allowing an additional 0.1 Floor Area Ratio (FAR) per acre for non-residential development or an increase of one dwelling unit per gross acre (du/ac) for residential development. Each individual project shall not exceed the allowable density/intensity by more than 100 percent. Since TDR credits are severable from the sending areas and available for purchase in the free market for use anywhere within the receiving area, the property value of individual properties within the sending area will not be negatively affected.

Based upon the 361 acres within Areas "A," "B," and "C" and the 89 acres of potential parks, 450 acres of TDR credits will be created to allow for the sending areas to be transferred to the City for preservation and park sites. An additional 276 acres of TDR credits will be created in conjunction with the granting of conservation easements within washes, resulting in a total of 726 acres of TDR credits being issued for the sending areas within the City's incorporated limits. An additional 21 acres will be included as sending area for park land and an additional 351 acres of conservation easements will be included when considering the City's sphere of influence, resulting in 1,098 acres of TDR credits created within the sending areas as shown within the table on the first page.

1,098 acres of TDR credits will be created, based upon the sending areas within the City and sphere. This will allow a maximum of 4,782,888 square feet of additional nonresidential building area or 1,098 additional residential dwelling units within the approximately 7,746-acre receiving area as shown in Tables 1 and 2. TDR credits used on a single project will be limited to not more than a 100 percent increase in the allowable Floor Area Ratio (FAR) or the allowable number of dwelling units. TDR credits will almost certainly be used for a combination of residential and nonresidential uses, but will not exceed this restriction. A maximum of 726 acres of TDR credits will be available initially, based upon the sending area currently within the City boundary.

| Table 1. Potential Additional Nonresidential Development | | | |
|---|---------------------------|-----------------------------------|--|
| Specific Plan District | Acreage In Receiving Area | Floor Area Ratio (FAR) Limitation | Maximum Additional Building Area (sq. ft.) |
| Regional Commercial (RC) | 1,696 | 0.23 | 4,782,888 |
| Auto Sales Commercial (ASC) | 262 | 0.15 | 1,141,272 |
| Office Park (OP) | 185 | 0.75 | 805,860 |
| Office Commercial (OC) | 89 | 0.35 | 387,684 |
| Pedestrian Commercial (PC) | 135 | 0.35 | 588,060 |
| Neighborhood Commercial (NC) | 655 | 0.23 | 2,853,180 |
| Comm/Ind Business Park (CIBP) | 1,515 | 0.35 | 4,782,888 |
| Mixed Use (MU) | 36 | 0.23 | 156,816 |
| General Industrial (GI) | 788 | 0.40 | 3,432,528 |
| Additional development potential | 5,361 | | 4,782,888¹ |

| Table 2. Potential Additional Residential Development | | | |
|--|---------------------------|-------------------------|-----------------------------------|
| Specific Plan District | Acreage In Receiving Area | Maximum Density Allowed | Maximum Additional Dwelling Units |
| Rural Estate Residential (RER) | 420 | 0.5 du/ac | 420 |
| Very Low Density Residential (VLR) | 51 | 2 du/ac | 51 |
| Low Density Residential (LDR) | 934 | 8 du/ac | 934 |
| Medium Density Residential (MDR) | 940 | 15 du/ac | 940 |
| High Density Residential (HDR) | 40 | 20 du/ac | 40 |
| Additional development potential | 2,385 | | 1,098² |

¹ This is the maximum additional nonresidential building floor area permitted within the receiving area. This area is equivalent to 0.1 additional Floor Area Ratio (FAR) per gross acre for the entire 1,098-acre sending area, including the sending areas within the sphere of influence.

² This is the maximum number of additional residential dwelling units permitted within the receiving area. This is equivalent to one additional dwelling unit per gross acre for the entire 1,098-acre sending area.

The Model TDR Ordinance

The following are 10 success factors of the 20 most successful TDR programs in the country in order of importance (the number of the TDR programs exhibiting the factor is in parentheses)¹. The first five factors are crucial to a successful TDR program. The last five are less important, but tend to improve its effectiveness. Staff has analyzed this Ordinance using these criteria.

| | |
|---|--|
| 1) Demand for bonus development (20) | 6) Certainty of use (14) |
| 2) Customized receiving areas (20) | 7) Strong public preservation support (13) |
| 3) Strict sending area regulations (18) | 8) Simplicity (13) |
| 4) Few alternatives to TDR (17) | 9) Promotion and facilitation (12) |
| 5) Market incentives (15) | 10) TDR bank (4) |

¹ This data is part of an article entitled "What Makes Transfer of Development Rights Work? Success Factors from Research and Practice," obtained online at www.informaworld.com

- 1) State law requires that jurisdictions provide density bonus and other incentives to residential development which provides affordable housing. While the City has processed a number of affordable housing projects, most did not include additional density. However, as the available acreage of higher density residential property becomes developed, the number of projects needing additional density will increase.
- 2) The TDR program includes an official map of receiving areas which excludes many properties proximate to the more rural residential areas. The intent is to reduce the impact that projects receiving additional density per this program would have upon the character of the area.
- 3) The TDR program identifies the three areas for preservation, the potential park sites and the wash areas to be used as a 30-mile trail system on an official map of sending areas. The Ordinance will provide suitable compensation for transfer of title and creation of conservation easements through TDR credits that can be used only within the identified receiving area and limits the additional development to a maximum of a 100 percent increase in residential and nonresidential development on a single project. Further, the impact of the TDR program over its lifetime will result in a maximum impact of 4,782,888 additional square feet of nonresidential building area or 1,098 residential dwelling units.
- 4) The City allows additional development density for affordable housing, consistent with state law or through adoption of a General Plan Amendment and zone change. Therefore, there are few alternatives to use of TDR credits in obtaining additional development density/intensity.
- 5) Currently, the economy does not provide an incentive to use of density bonus tools. However, tools allowing greater density have been used in the past and are expected to be utilized again in the future.
- 6) This program will require title transfer and/or creation of conservation easements for ministerial projects within the sending area proposed on vacant land and any project necessitating approval of a land use application. TDR credits will be exchanged for the title transfer and/or conservation easement at that time, recompensing property owners for the affected land.
- 7) The General Plan Open Space Element adopted in 2010 identifies the three areas within the Oro Grande Wash and the unnamed wash east of Interstate 15 for preservation. Further, the Main Street and Freeway Corridor Specific Plan adopted in 2008 established three potential park sites. The General Plan and Specific Plan were adopted after many public meetings and are consistent with the goals and objectives of the General Plan formulated during these meetings.

- 8) This program is based upon a simple transfer ratio of 1:1 for residential and 0.1 additional FAR for nonresidential development right transfer from the sending area to the receiving area, with a density limitation for any single project to ensure that no single project would be able to obtain more than a 100 percent increase in the allowable Floor Area Ratio (FAR) or the allowable number of dwelling units.
- 9) The date and time of the public hearing for the TDR program will be published in the newspaper and notices will be mailed to all property owners within the sending area prior to the public hearing.
- 10) This Ordinance does not include use of a TDR bank, primarily because staff is unaware of a TDR bank other than the state of New Jersey and Palm Beach County, Florida. Besides, this program can be administered by issuing notarized certificates and maintaining a database through an established permit tracking system.

Comparison of TDR Ordinances

The table below compares the TDR program standards of a number of jurisdictions.

| Jurisdiction | TDR Standard |
|--|--|
| Montgomery County, MD | A 5:1 TDR credit, to preserve farmland & open space and resulted in the transfer of 9,000 dwelling units from sending areas to receiving areas. This is the most successful TDR program, accounting for approximately 60 percent of the total acres protected nationally (40,583 acres of the 67,707 total acres protected by TDR programs in the U. S.) |
| Palm Beach County, FL | A 1:1 TDR credit, to preserve farmland and conservation of coastal areas and resulted in the transfer of 9,300 TDRs. All transfers are made through the county TDR Bank. |
| Marin County, CA | A 1:1 TDR credit, allowing two dwellings for preservation of one residential parcel, to preserve areas in which development would cause severe environmental or land use impacts. |
| San Luis Obispo County, CA | A 1:1 TDR credit, allowing for the purchase of environmentally sensitive land for open space in the coastal community of Cambria. Property owners in the receiving zone may purchase development credits (in the form of square feet of building area) in order to increase the square footage of their homes above the normally permitted limit. |
| Monterey County, CA | A 1:1 TDR credit per parcel in residential areas, allowing two dwellings for preservation of one residential parcel, to preserve the natural and scenic resources of Big Sur. |
| The information in the table suggests that the higher the ratio of TDR credit provided in exchange for preservation of a sending area results in a more effective TDR program. | |

Specific Plan Amendment

The Main Street and Freeway Corridor Specific Plan contains a recommendation that a TDR program be implemented to provide compensation for properties within the Oro Grande and the Unnamed Wash east of Interstate 15 identified for open space. However, the text of the Specific Plan limits use of TDR for use in identical districts within the Specific Plan as described on the following page.

- Single-family residential density may be transferred to/from any other residential zone.
- Multi-family residential density within the Regional Commercial zone may only be transferred to/from other areas with the same designation within the Main Street/Interstate 15 District.
- Commercial development credits may only be transferred to/from any commercial zone.
- Industrial development credits may only be transferred to/from other areas with the same zoning designation.

Environmental: Approval of this project requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The negative declaration and initial study (Attachment 4) prepared for this project concludes that there are no significant adverse impacts resulting from establishment of the Ordinance.

CONCLUSION

The Development Code Amendment and Specific Plan Amendment are consistent with the General Plan, the Main Street and Freeway Corridor Specific Plan, the Oak Hills Community Plan, and Government Code 65563, which requires jurisdictions to preserve open space consistent with an adopted Open Space Element. Inasmuch as the area within the Community Plan is not within current City Limits, the 372 acres within the Community Plan cannot be included in the TDR program until such time as they are annexed. Subject to input from the Commission, staff will prepare a TDR program for consideration by the Planning Commission and City Council, tentatively before June 2012.

FISCAL IMPACT

The proposed Development Code Amendment and Specific Plan Amendment will enable the City to acquire land within the three preservation areas and the potential park sites as well as to establish 150-foot wide conservation easements within the washes without use of City capital. This action will allow for Transfer of Development Credits within sending areas for use in receiving areas. These TDR credits will be severable from the sending areas, allowing them to be purchased at market rates. This program will require staff time to administer and track credits. Nevertheless, this action will be a financial win/win for both the City and the affected property owners.

ALTERNATIVES

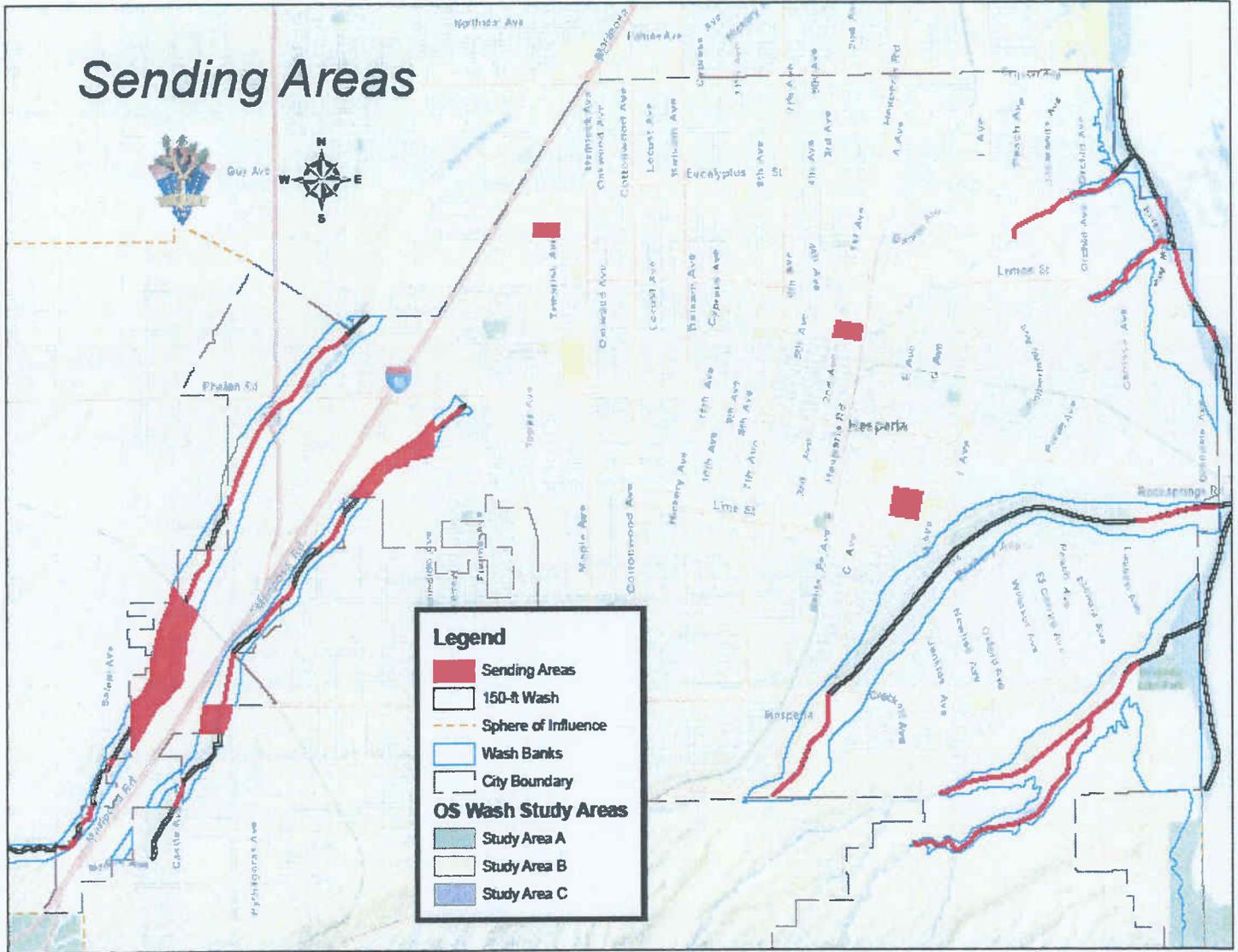
1. The Planning Commission may not support the transfer of land within Areas "A," "B," and "C" and the potential park sites in favor of establishing conservation easements instead. There is no difference in the end product of creation of conservation easements as opposed to title transfer. One or more of the seven areas could be sold without the purchaser's knowledge of limited site development potential. City ownership would resolve this issue. As such, staff does not support this alternative.
2. The Planning Commission may not support use of a TDR program for obtaining the potential park sites. The General Plan and Specific Plan were adopted with goals and policies identifying a need for additional park sites. In the absence of this program, it is unlikely that additional park sites will be established, due to constrained City and Hesperia Recreation and Park District funding. As such, staff does not recommend this alternative.

3. The Planning Commission may decide not to recommend the transfer of development credits as recommended. The model ordinance for TDR recommends a minimum 2:1 ratio to provide value for properties within sending areas and this ratio provides assurance that the program would not be identified as a taking of property without just compensation. The additional 0.1 FAR for nonresidential development and the additional dwelling unit per acre for residential development is less than the 2:1 ratio, but is comparable and simpler to implement. It has been discovered that most TDR programs are ineffective. Although the main cause of this ineffectiveness is not documented, it is believed that the most effective program provides a 5:1 ratio of TDR credits. Creation of a higher TDR credit ratio will allow a significant increase in development density/intensity, which would require greater environmental review. As such, staff does not support this alternative.
4. Provide alternative direction to staff.

ATTACHMENTS

1. Sending area map
2. Receiving area map
3. Government Code Sections 65560 through 65570
4. Negative Declaration ND-2011-03 and initial study for DCA10-10226 and SPL10-10259

ATTACHMENT 1



APPLICANT(S):
CITY OF HESPERIA

FILE NO(S):
DCA10-10226 & SPL10-10259

LOCATION:
CITY-WIDE

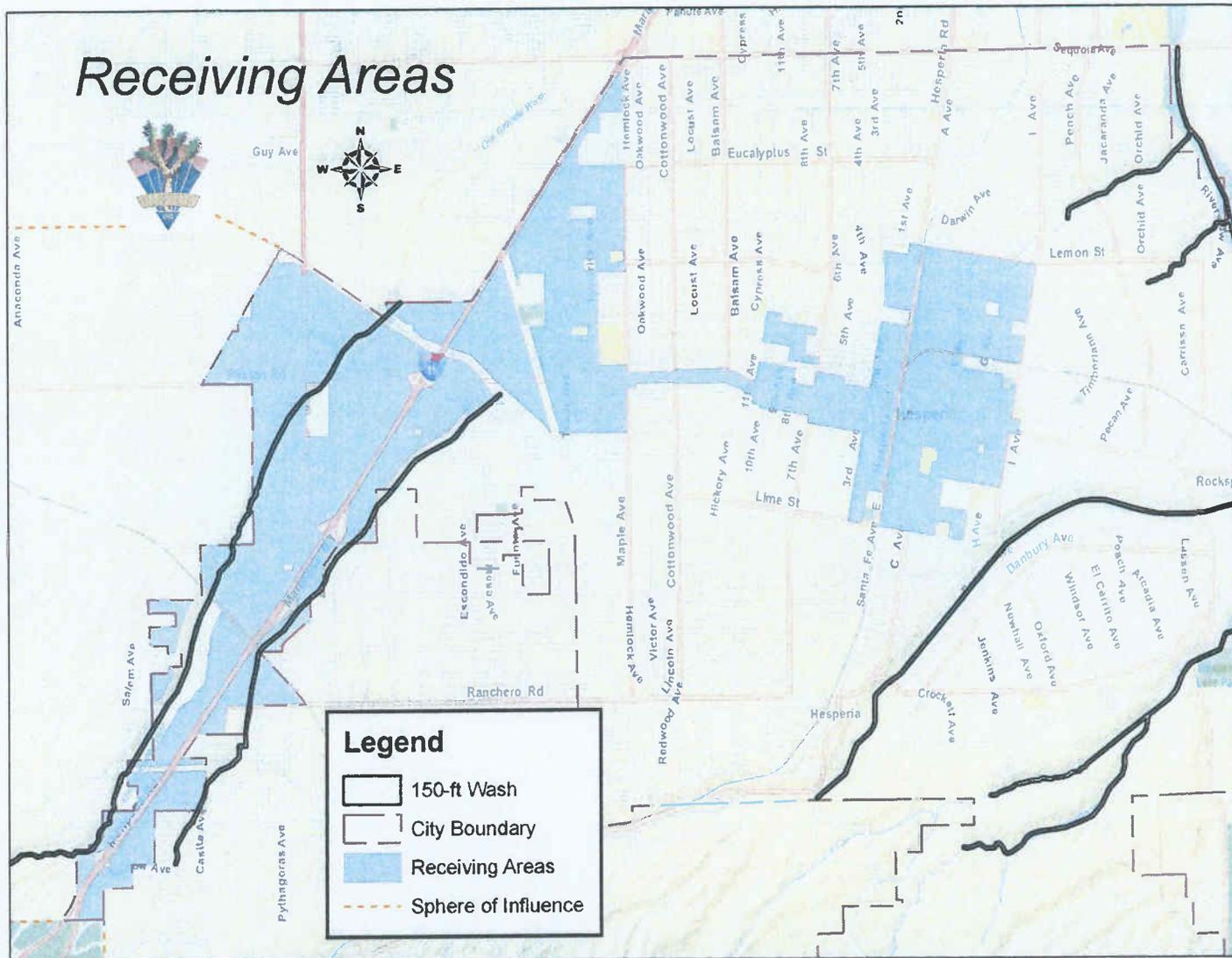
APN(S):
CITY-WIDE

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT AND SPECIFIC PLAN AMENDMENT TO ESTABLISH A TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM PRESERVING OPEN SPACE AND PARK SITES



SENDING AREA MAP

ATTACHMENT 2



APPLICANT(S):
CITY OF HESPERIA

FILE NO(S):
DCA10-10226 & SPL10-10259

LOCATION:
CITY-WIDE

APN(S):
CITY-WIDE

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT CODE AMENDMENT AND SPECIFIC PLAN AMENDMENT TO ESTABLISH A TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM PRESERVING OPEN SPACE AND PARK SITES



RECEIVING AREA MAP

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The location and designation of the extent of the uses of the land for public and private uses shall consider the identification of land and natural resources pursuant to paragraph (3) of subdivision (d). The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify and annually review those areas covered by the plan that are subject to flooding identified by flood plain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5).

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information from the military and other sources.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) (1) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(2) (A) Commencing January 1, 2011, upon any substantive revision of the circulation element, the legislative body shall modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways for safe and convenient travel in a manner that is suitable to the rural, suburban, or urban context of the general plan.

(B) For purposes of this paragraph, "users of streets, roads, and highways" means bicyclists, children, persons with disabilities, motorists, movers of commercial goods, pedestrians, users of public transportation, and seniors.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) (1) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies, including flood management, water conservation, or groundwater agencies that have developed, served, controlled, managed, or conserved water of any type for any purpose in the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county.

(2) The conservation element may also cover all of the following:

(A) The reclamation of land and waters.

(B) Prevention and control of the pollution of streams and other waters.

(C) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(D) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(E) Protection of watersheds.

(F) The location, quantity and quality of the rock, sand and gravel resources.

(3) Upon the next revision of the housing element on or after January 1, 2009, the conservation element shall identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and

stated in terms of community noise equivalent level (CNEL) or day-night average level (Ldn). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction, and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.

(2) The safety element, upon the next revision of the housing element on or after January 1, 2009, shall also do the following:

(A) Identify information regarding flood hazards, including, but not limited to, the following:

(i) Flood hazard zones. As used in this subdivision, "flood hazard zone" means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of a flood hazard zone does not imply that areas outside the flood hazard zones or uses permitted within flood hazard zones will be free from flooding or flood damage.

(ii) National Flood Insurance Program maps published by FEMA.

(iii) Information about flood hazards that is available from the United States Army Corps of Engineers.

(iv) Designated floodway maps that are available from the Central Valley Flood Protection Board.

(v) Dam failure inundation maps prepared pursuant to Section 8589.5 that are available from the California Emergency Management Agency.

(vi) Awareness Floodplain Mapping Program maps and 200-year flood plain maps that are or may be available from, or accepted by, the Department of Water Resources.

(vii) Maps of levee protection zones.

(viii) Areas subject to inundation in the event of the failure of project or nonproject levees or floodwalls.

(ix) Historical data on flooding, including locally prepared maps of areas that are subject to flooding, areas that are vulnerable to flooding after wildfires, and sites that have been repeatedly damaged by flooding.

(x) Existing and planned development in flood hazard zones, including structures, roads, utilities, and essential public facilities.

(xi) Local, state, and federal agencies with responsibility for flood protection, including special districts and local offices of emergency services.

(B) Establish a set of comprehensive goals, policies, and objectives based on the information identified pursuant to subparagraph (A), for the protection of the community from the unreasonable risks of flooding, including, but not limited to:

(i) Avoiding or minimizing the risks of flooding to new development.

(ii) Evaluating whether new development should be located in flood hazard zones, and identifying construction methods or other methods to minimize damage if new development is located in flood hazard zones.

(iii) Maintaining the structural and operational integrity of essential public facilities during flooding.

(iv) Locating, when feasible, new essential public facilities outside of flood hazard zones, including hospitals and health care facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities or identifying construction methods or other methods to minimize damage if these facilities are located in flood hazard zones.

(v) Establishing cooperative working relationships among public agencies with responsibility for flood protection.

(C) Establish a set of feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to subparagraph (B).

(3) After the initial revision of the safety element pursuant to paragraph (2), upon each revision of the housing element, the planning agency shall review and, if necessary, revise the safety element to identify new information that was not available during the previous revision of the safety element.

(4) Cities and counties that have flood plain management ordinances that have been approved by FEMA that substantially comply with this section, or have substantially equivalent provisions to this subdivision in their general plans, may use that information in the safety element to comply with this subdivision, and shall summarize and incorporate by reference into the safety element the other general plan provisions or the flood plain ordinance, specifically showing how each requirement of this subdivision has been met.

(5) Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the California Geological Survey of the Department of Conservation, the Central Valley Flood Protection Board, if the city or county is located within the boundaries of the Sacramento and San Joaquin Drainage District, as set forth in Section 8501 of the Water Code, and the California Emergency Management Agency for the purpose of including information known by and available to the department, the agency, and the board required by this subdivision.

(6) To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

65561. The Legislature finds and declares as follows:

(a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.

(c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

(d) That in order to assure that the interests of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of open-space lands.

(e) That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

65562. It is the intent of the Legislature in enacting this article:

(a) To assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.

(b) To assure that every city and county will prepare and carry out open-space plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive open-space program.

65562.5. On and after March 1, 2005, if land designated, or proposed to be designated as open space, contains a place, feature, or object described in Sections 5097.9 and 5097.993 of the Public Resources Code, the city or county in which the place, feature, or object is located shall conduct consultations with the California Native American tribe, if any, that has given notice pursuant to Section 65092 for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan.

65563. On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction. Every city and county shall by August 31, 1972, prepare, adopt and submit to the Secretary of the Resources Agency, an interim open-space plan, which shall be in effect until December 31, 1973, containing, but not limited to, the following:

(a) The officially adopted goals and policies which will guide the

preparation and implementation of the open-space plan; and

(b) A program for orderly completion and adoption of the open-space plan by December 31, 1973, including a description of the methods by which open-space resources will be inventoried and conservation measures determined.

65564. Every local open-space plan shall contain an action program consisting of specific programs which the legislative body intends to pursue in implementing its open-space plan.

65566. Any action by a county or city by which open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

65567. No building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open-space plan.

65568. If any provision of this article or the application thereof to any person is held invalid, the remainder of the article and the application of such provision to other persons shall not be affected thereby.

65570. (a) The Director of Conservation may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out this section, Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out his or her duties under those sections, it is the intention of the Legislature that the director shall consult with the Director of Food and Agriculture and the Director of Planning and Research.

(b) Commencing July 1, 1986, and continuing biennially thereafter, the Department of Conservation shall collect or acquire information on the amount of land converted to or from agricultural use using 1984 baseline information as updated pursuant to this section for every county for which Important Farmland Series maps exist. On or before June 30, 1988, and continuing biennially thereafter, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to, or from, agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

For the purposes of this section, the following definitions apply unless otherwise specified:

(1) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified

by the Department of Conservation.

(2) "Interim Farmland maps" means those maps prepared by the Department of Conservation for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(3) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(4) "Amount of land converted to agricultural use" means those lands which were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation in the most recent biennial report.

(5) "Amount of land converted from agricultural use" means those lands which were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the Department of Conservation and in the most recent biennial report.

(c) Beginning August 1, 1986, and continuing biennially thereafter, the Department of Conservation shall update and send counties copies of current Important Farmland Series maps. Counties may review the maps and notify the department within 90 days of any changes in agricultural land pursuant to subdivision (b) that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to, or from, agricultural use for those counties for which Important Farmland Series maps exist.

(d) The Department of Conservation may also acquire any supplemental information which becomes available from new soil surveys and establish comparable baseline data for counties not included in the 1984 baseline, and shall report on the data pursuant to this section. The Department of Conservation may prepare Interim Farmland maps to supplement the Important Farmland Series maps.

(e) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

ATTACHMENT 4

PLANNING DIVISION
9700 Seventh Avenue, Hesperia, California 92345
(760) 947-1224 FAX (760) 947-1221

NEGATIVE DECLARATION ND-2011-03
Preparation Date: January 3, 2012

Name or Title of Project: Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259.

Location: City-wide.

Entity or Person Undertaking Project: City of Hesperia.

Description of Project: Consideration of a development code amendment and a specific plan amendment to establish a Transfer of Development Rights (TDR) program, preserving open space and park sites.

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 and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

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 9, 2012 through February 7, 2012.

Adopted by the City Council: _____.

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

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

PROJECT DESCRIPTION

1. **Project Title:** Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259.
2. **Lead Agency Name:** City of Hesperia Planning Division
Address: 9700 Seventh Avenue, Hesperia, CA 92345.
3. **Contact Person:** Stan Liudahl, AICP, Senior Planner
Phone number: (760) 947-1231.
4. **Project Location:** City-wide.
5. **Project Sponsor:** City of Hesperia
Address: 9700 Seventh Avenue, Hesperia, CA 92345.
6. **General Plan & zoning:** Varies.
7. **Description of project:**

This initial study evaluates the potential environmental impact of the proposed development code amendment and specific plan amendment to establish a Transfer of Development Rights (TDR) Program, which provides a mechanism to preserve open space and park sites from private development. Specifically, the TDR Program will allow for the transfer of the development potential from approximately 450 acres identified for preservation and park sites, which are defined as "sending areas" to other areas without the same open space and park site potential, which are identified as "receiving areas." The approximately 1,098-acre sending area, which includes properties within the City's sphere of influence, is shown on Attachment 1 and the table below. The receiving area totals approximately 7,746 acres as shown on Attachment 2. Additionally, the program will establish another 276 acres of "sending areas" to create 150-foot wide conservation easements within the Oro Grande and the Unnamed Wash east of Interstate 15, the Mojave River, and the four washes emptying into the Mojave River, and that portion of the Antelope Valley Wash not within the county flood control district, for establishment of a 30-mile trail system.

| TDR Sending Area | TDR Credit Acreage in City | TDR Credit Acreage in City & Sphere |
|-------------------------------|----------------------------|-------------------------------------|
| Preservation & Park Sites | 450 | 471 |
| Easements within washes | 276 | 627 |
| Total TDR Sending Area | 726 | 1,098 |

8. **Surrounding land uses and setting:** (Briefly describe the project's surroundings.) The development code amendment and specific plan amendment affects a large area as shown on Attachments 1 and 2, identifying the extent of the sending and receiving areas.
9. **Other public agency whose approval is required** (e.g., permits, financing approval, or participation agreement.) Only City review and approval is required.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

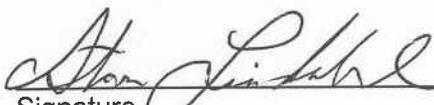
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

| | | | | | |
|--------------------------|--------------------------|--------------------------|----------------------------------|--------------------------|------------------------------------|
| <input type="checkbox"/> | Aesthetics | <input type="checkbox"/> | Agriculture & Forestry Resources | <input type="checkbox"/> | Air Quality |
| <input type="checkbox"/> | Biological Resources | <input type="checkbox"/> | Cultural Resources | <input type="checkbox"/> | Geology / Soils |
| <input type="checkbox"/> | Greenhouse Gas Emissions | <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 |

DETERMINATION: (Completed by the Lead Agency)

On the basis of this initial evaluation:

| | | |
|-------------------------------------|--|--------------|
| <input checked="" 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 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
 Stan Liudahl, AICP, Senior Planner, Hesperia Planning Division

1/3/2012

 Date

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-site 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.

| 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 & 3)? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings (1 & 3)? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (4)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Approval of this amendment would allow for an increase in the allowable development intensity of properties within the official map of receiving areas which are within specific districts of the Main Street and Freeway Corridor Specific Plan (Specific Plan) while allowing for the transfer of property or recordation of conservation easements for creation of open space within the sending areas pursuant to this Development Code Amendment and Specific Plan Amendment (1). The Transfer of Development Rights (TDR) program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 1,098 additional residential dwelling units within the approximately 7,746-acre receiving area with annexation of the sphere of influence. Based upon build-out in accordance with the General Plan Update Land Use Element, 67,400,000 square feet of non-residential development is expected. The TDR program would allow about a 7.1 percent increase from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR). Approximately 79,855 dwelling units are estimated within the City at build-out (3). The additional 1,098 dwelling units equate to about a 1.4 percent increase in dwellings as a result of the TDR program at build-out. The aesthetics of individual developments are evaluated as part of every land use application and must meet the minimum standards within the Development Code or the Main Street and Freeway Corridor Specific Plan. Consequently, only a minor additional environmental impact beyond that identified under the GPUEIR is proposed.

The City contains many scenic views of the Mojave Desert, the Mojave River, the San Bernardino and San Gabriel mountains, as well as of the Summit Valley area (3). However, a state scenic highway does not traverse the City and the City does not contain any registered historic buildings.

The impact upon aesthetics upon development of the City at build-out was determined as less than significant with mitigation as part of the General Plan Update Environmental Impact Report (GPUEIR) (5). Inasmuch as the TDR program will allow at most a 7.1 percent increase in development density/intensity from that which was evaluated as part of the GPUEIR, the impact of this action upon aesthetics is less than significant. Further, establishment of the conservation easements and establishment of the three areas identified within the Open Space Element open will ensure that these areas will remain for the enjoyment of the public. The Open Space Element identifies these areas and requires that they be set aside as required by state law, which the TDR Program is designed to accomplish.

| | | | | |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| <p>II. AGRICULTURE AND FOREST 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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</p> | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
| <p>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)?</p> | | | | X |
| <p>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract (7)?</p> | | | | X |
| <p>c) Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g)) (7 & 8)?</p> | | | | X |
| <p>d) Result in the loss of forest land or conversion of forest land to non-forest use (1, 4 & 8)?</p> | | | | X |
| <p>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use (4 & 8)?</p> | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. None of the receiving areas within the TDR Program include prime farmland, unique farmland, or farmland of statewide importance. Further, this action will not change the zoning of any properties and will not negate any Williamson Act contract.

The impact of the TDR Program upon forest land has also been considered. The City and its Sphere Of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes (8). The southernmost portions of the City and SOI contain a narrow distribution of land within the shrub and conifer woodland bioregions. These bioregions do not contain sufficient forest land for viable timber production and are ranked as low priority landscapes (9). The receiving areas are primarily located in the central portion of the City and along the Interstate 15 corridor in the urban area and are substantially surrounded by urban development (4). Since this area is not forested, this project will not have an impact upon forest land or timberland.

| | | | | |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| <p>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:</p> | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
| <p>a) Conflict with or obstruct implementation of the applicable air quality plan (10, 11 & 12)?</p> | | | | X |
| <p>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation (10, 11 & 12)?</p> | | | 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) (10, 11 & 12)? | | | X | |
| d) Expose sensitive receptors to substandard pollutant concentrations (4, 10 & 11)? | | | | X |
| e) Create objectionable odors affecting a substantial number of people (1, 4, 10 & 11)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding air quality. The TDR program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 1,098 additional residential dwelling units within the approximately 7,746-acre receiving area. Based upon build-out in accordance with the General Plan Update Land Use Element, about 67,364,619 square feet of non-residential development is expected. The TDR program would allow about a 7.1 percent increase from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR). Approximately 79,855 dwelling units are estimated within the City at build-out (3). The additional 1,098 dwelling units equate to about a 1.4 percent increase in dwellings as a result of the TDR program at build-out.

The General Plan Update and its Environmental Impact Report (EIR) addresses the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors (10 & 11). 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. Any development utilizing the TDR program must adhere to the standards within the Development Code for the General Plan Land Use designation of the site and will be subject to review and approval of a site plan review, conditional use permit, or tentative tract application. The specific impact upon air quality will be assessed as part of that evaluation.

The Mojave Desert Air Quality Management District (MDAQMD) has published a number of studies that demonstrate that the Mojave Desert Air Basin (MDAB) can be brought into attainment for particulate matter and ozone, if the South Coast Air Basin (SCAB) achieves attainment under its adopted Air Quality Management Plan. The High Desert and most of the remainder of the desert has been in compliance with the federal particulate standards for the past 15 years (11). The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of SCAQMD to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards (10 & 11). All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD (12). Programs have been established in the Air Quality Attainment Plan which address emissions caused by area sources.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Prior to development, approval of a site plan review, conditional use permit, and/or tentative tract will be necessary. As part of analyzing the application(s), specific impacts can be evaluated. Approval of this amendment would allow for an increase in the allowable development intensity of properties within the official map of receiving areas which are within a land use designation of the General Plan or a specific district of the Main Street and Freeway Corridor Specific Plan (Specific Plan), but won't change the allowable land use. The TDR Program simply facilitates the transfer of property or creation of conservation easements to maintain areas as open space pursuant to the General Plan. The TDR program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 1,098 additional residential dwelling units within the

approximately 7,746-acre receiving area. Based upon build-out in accordance with the General Plan Update Land Use Element, 79,855 dwelling units will be developed (2). 67,364,619 square feet of nonresidential development is also expected. The additional 4,782,888 square feet is equivalent to about a 7.1 percent increase in nonresidential building area or about a 1.4 percent increase in residential units from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR).

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 (13). As part of the General Plan Update Environmental Impact Report (GPUEIR), the impact of residential and nonresidential development to the maximum allowable density permitted by the Land Use Plan was analyzed. The minor increase in allowable development density/intensity will not cause a significant increase in emissions. Consequently, the proposed TDR Program will not have a significant negative impact upon air quality.

| IV. BIOLOGICAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | 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 (4 & 14)? | | | | 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 (4)? | | | | 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 (4)? | | | | 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 (4)? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (4)? | | | | 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 (4 & 16)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The receiving areas are not expected to contain the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the receiving area is outside the area considered suitable habitat for the species (14). Similarly, the potential for the existence of a desert tortoise is extremely low. Most of the City is located in an area listed as Category 3 habitat for the desert tortoise by the United States Bureau of Land Management (15). Class 3 habitat indicates that the probability of tortoise occurring is low, but the area is still within the historic range of the species. Both the sending and receiving areas

are outside the range of the arroyo toad, which has been documented to inhabit a portion of the Rancho Las Flores Specific Plan and adjacent areas (16).

The receiving areas are 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 (17). These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest communities, exist within the Rancho Las Flores Specific Plan and vicinity (18). The receiving areas are mostly within developed portions of the City and are not within these sensitive vegetation communities. Consequently, approval of the development code amendment and specific plan amendment will not have an impact upon biological resources.

| 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 (19)? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (19)? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature (19)? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries (20)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The City has two buildings which may be considered historic, and the City also has the potential to contain paleontologic resources. Prior to development, approval of a site plan, conditional use permit and/or tentative tract shall be required. The potential impact upon cultural resources will be analyzed at that time.

In the event that human remains are discovered during grading activities, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) (20). Should the Coroner determine that the remains are Native American, the Native American Heritage Commission (NAHC) shall be contacted and the remains shall be handled in accordance with Public Resources Code Section 5097.98. Consequently, approval of the development code amendment and specific plan amendment will not have an impact upon cultural resources.

| 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 (21 & 22). | | | | X |

| | | | | |
|---|--|--|--|---|
| ii) Strong seismic ground shaking (21 & 23)? | | | | X |
| iii) Seismic-related ground failure, including liquefaction (6 & 21)? | | | | X |
| iv) Landslides (21)? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil (6)? | | | | 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 (6 & 23)? | | | | 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 (6 & 22)? | | | | X |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater (8 & 22)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding geology and soils. The City and Sphere of Influence (SOI) is near several major faults, including the San Andreas, North Frontal, Cleghorn, Cucamonga, Helendale, and San Jacinto faults (23). The nearest fault to the site is the North Frontal fault, located approximately five miles to the east of the City. The Alquist-Priolo Earthquake Fault Zoning Act prohibits structures designed for human occupancy within 500 feet of a major active fault and 200 to 300 feet from minor active faults (24). The project site is not located within an Alquist-Priolo Earthquake Fault Zone (21, 22 & 23). Further, few properties are in an area which has the potential for landslides, lateral spreading, subsidence, liquefaction, or collapse (22). Consequently, approval of the development code amendment and specific plan amendment will not have an impact upon geology or soils.

| 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 (25)? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (25 & 26)? | | | 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 tasks 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 (27). 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 also adopted a Climate Action Plan (CAP)(25). The CAP provides policies along with implementation and monitoring measures which will enable the City of Hesperia to reduce greenhouse emissions 29 percent below business as usual by 2020, consistent with AB 32 (26).

The City’s Climate Action Plan (CAP) Table 2 of the CAP on page 18 identifies the greenhouse gas emissions generated within the City in 2009, 2020, and at build-out. According to this information, 1,256,312 metric tons of carbon dioxide will be emitted by sources within the City at build-out (26). A 1.4 percent increase in residential dwellings will potentially add another 12,563 metric tons of carbon dioxide, which is insignificant. Although it cannot be quantified, a 7.1 percent increase in nonresidential development will reduce greenhouse emissions significantly, due to a reduction in the number of residents commuting to work. Further, this Ordinance implements Strategy CAP-4, which promotes compact development by protecting open space and encouraging infill and redevelopment of underutilized parcels in urbanized areas.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding GHG emissions. Job creation in the City will reduce the number of residents commuting to other communities for work, reducing vehicle miles traveled and resulting in additional GHG reductions. Providing more opportunities for consumers to purchase retail items within the City will also result in additional reductions. The TDR Program allows at most a 7.1 percent increase in development density/intensity. Consequently, the impact upon GHG emissions associated with the proposed development code amendment and specific plan amendment is less than significant.

| VIII. 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 (4)? | | | | 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 (4 & 28)? | | | | 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 (4)? | | | | 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 create a significant hazard to the public or the environment (4)? | | | | 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 (29)? | | | | 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 (29)? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (30)? | | | | 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 (4)? | | | | X |
|--|--|--|--|---|

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding hazards and hazardous materials. The Transfer of Development Rights (TDR) Ordinance will give value to property owners for that portion of the property which is identified within the General Plan for conservation. These areas are designated as Open Space and have limited development value from the onset, but offer a unique opportunity for recreation. Further, this Ordinance will not cause any change in the Land Use designation of property. Consequently, approval of the proposed development code amendment and specific plan amendment will not have a significant impact upon the health or safety of the public.

| IX. 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 (31)? | | | | 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) (32 & 33)? | | | 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 (34)? | | | 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 (34)? | | | 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 (34)? | | | X | |
| f) Otherwise substantially degrade water quality (34)? | | | 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 (4)? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows (4 & 35)? | | | | 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 (34 & 36)? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow (37)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding hydrology and water quality. Development of individual properties one-acre or larger will require filing of a Notice of Intent (NOI) and obtaining a general construction National Pollution Discharge Elimination System (NPDES) permit prior to land disturbance (31). Issuance of a Storm Water Pollution Prevention Plan (SWPPP) will also be required, which specifies the Best Management Practices (BMP) that will be implemented to prevent construction pollutants from contacting storm water (31). Obtaining the NPDES and implementing the SWPPP is required by the State Water Resources Control Board (WRCB) and the California Regional Water Quality Control Board (RWQCB). These are mandatory and NPDES and SWPPP have been deemed adequate by these agencies to mitigate potential impacts to water quality during project construction.

Development may change absorption rates and potential drainage patterns, as well as affect the amount of surface water runoff. Therefore, each project shall retain the drainage created on-site beyond that which has occurred historically within an approved drainage system in accordance with City of Hesperia Resolution 89-16 (34). The retention facilities required by the City will ensure that no additional storm water runoff impacts the area and that any contaminants will be adequately filtered from the water prior to any release. In addition, each site will be checked for its Flood Zone, based upon the latest Flood Insurance Rate Map (35).

The City is downstream of three dams. These are the Mojave Forks, Cedar Springs, and Lake Arrowhead Dams. In the event of a catastrophic failure of one or more of the dams, each project site will be checked to ensure that it wouldn't be inundated by floodwater (34 & 36). The areas most affected by a dam failure are located in the low lying areas of southern Rancho Las Flores, parts of the Antelope Valley Wash, and properties near the Mojave River.

The City of Hesperia is located just north of the Cajon Pass at an elevation of over 2,500 feet above sea level, which is over 60 miles from the Pacific Ocean. As such, the City is not under threat of a tsunami, otherwise known as a seismic sea wave (37). Similarly, the potential for a seiche to occur is remote, given the limited number of large water bodies within the City and its sphere. A seiche would potentially occur only in proximity to Silverwood Lake, Hesperia Lake and at recharge basins (37). The slope and soil characteristic of each property is also evaluated for its potential for creation of a mudflow or other ground instabilities (6).

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, 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 (33).

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP indicates that the City is currently using less than half of its available water supply and that supply is projected to exceed demand beyond the year 2030 (32). The HWD has maintained a water

surplus through purchase of water transfers, allocations carried over from previous years, and recharge efforts. Therefore, the impact upon hydrology and water quality associated with the additional development allowed by the TDR Program Ordinance is considered less than significant.

| X. 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 (4)? | | | | 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 (14 & 38)? | | | | X |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan (14)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Each site will be analyzed for consistency with the Land Use map of the General Plan (7). In addition, each project will be evaluated to ensure that the 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 identifies two sensitive vegetation communities (18). These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community, exist within the Rancho Las Flores Specific Plan and vicinity (18). The increased density/intensity allowed by the TDR Program will be subject to approval of a land use application, which will include specific analysis regarding land use. The TDR Ordinance will give value to property owners for that portion of property which is identified within the General Plan Open Space Element, allowing these areas to remain in their natural state, be developed for active parkland, or maintained as part of a trail network. Therefore, approval of the development code amendment and specific plan amendment would have a positive impact upon land use and planning.

| XI. 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 (39)? | | | | 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 (39)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Each site will be analyzed independently regarding mineral resources (7). According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the project site (39). 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. Consequently, the

proposed development code amendment and specific plan amendment would not have an impact upon mineral resources.

| XII. 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 (1, 4 & 40)? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (41 & 42)? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project (43)? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (43)? | | | 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 (44)? | | | | 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 (44)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Each site will be analyzed independently regarding noise. Ultimately, development of individual projects will result in both construction noise and operational noise, mostly associated with trucks and vehicular traffic to and from the site. According to the General Plan, the majority of noise sources within the City are mobile sources, which include motor vehicles and aircraft (40). Freeways, major arterials, railroads, airports, industrial, commercial, and other human activities contribute to noise levels. Noise is mostly associated with traffic caused by arriving and departing vehicles (employees, customers, vehicle service, and deliveries) in non-residential areas.

Construction noise levels associated with any future construction activities will be slightly higher than the existing ambient noise levels in the vicinity of any project site. Noise generated by construction equipment, including trucks, graders, backhoes, well drilling equipment, bull-dozers, concrete mixers and portable generators can reach high levels and is typically one of the sources for the highest potential noise impact of a project. However, the construction noise would subside once construction is completed. All construction sites must adhere to the requirements of the City of Hesperia Noise Ordinance, which contains an exemption from the noise level regulations during grading and construction activities occurring between 7:00 A.M. and 7:00 P.M., Monday through Saturday, except federal holidays (45).

The potential for every project site to create higher levels of noise and vibration, as well as the project's proximity to existing noise sources, such as the Burlington Northern and Santa Fe (BNSF) railroad, Interstate 15 and other major roadways, and the Hesperia Airport will also be considered. Certain activities particularly sensitive to noise include sleeping, studying, reading, leisure, and other activities requiring relaxation or concentration, which will not be impacted. Hospitals and convalescent homes, churches, libraries, and childcare facilities are considered noise-sensitive uses as are residential and school uses.

Since the TDR Ordinance will not change any land use designations, it will not cause any new sources of noise not currently accounted for by the General Plan Update Environmental Impact Report (GPUEIR). The noise associated with vehicular traffic to and from the use by trucks and passenger vehicles operated by employees and customers will be considered as part of the land use application for development. The GPUEIR accounts for the impact upon the City by development up to the maximum allowable density and intensity. Therefore, this Ordinance will only impact noise to the degree that it would allow less than a 10 percent increase in density/intensity of the land use pattern currently allowed by the General Plan.

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 density and 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 (13). Inasmuch as only a minor increase in development density and intensity beyond that allowed by the General Plan Land Use Plan would result, a less than significant increase in noise impact beyond that previously analyzed would occur.

| XIII. 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) (4)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (1)? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (1 & 7)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Each site will be analyzed independently regarding population and housing (4, 7 & 44). Further, the site’s proximity to water and other utility systems will also be considered (30). As a result, the increase in development density and intensity can only be evaluated as part of individual land use applications. This development code amendment and specific plan amendment will not change the allowable land use unless accompanied by a General Plan Amendment or Specific Plan Amendment.

The population in Hesperia has increased mainly because of the availability of affordable housing in the high desert and its proximity to the job-rich areas of the Inland Empire. There is currently more demand for commercial services and jobs than there are services and jobs available in Hesperia. Based upon the minor increase in development density/intensity, approval of the development code amendment and specific plan amendment would have a less than significant impact upon population and housing.

| XIV. 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 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 & 2): | | | X | |
| Fire protection? (1 & 2) | | | X | |
| Police protection? (1 & 2) | | | X | |
| Schools? (1 & 2) | | | X | |
| Parks? (1 & 2) | | | X | |
| Other public facilities? (1 & 2) | | | X | |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. A minor increase in demand for public services beyond that which is allowed by the General Plan will occur, based upon the increased density and intensity with approval of individual land use applications (2). The land use approval will include public street improvements and potentially extension of sewer and water utility systems as required by individual land use applications. Additionally, development impact fees will be assessed at the time that building permits are issued for construction (46). These fees are designed to ensure that appropriate levels of capital resources will be available to serve any future development. Consequently, satisfactory levels of public services will be maintained. Therefore, the proposed development code amendment and specific plan amendment will not have a significant impact upon public services.

| XV. 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 (4 & 13)? | | | | 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 (4)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. A minor increase in demand for public services beyond that which is allowed by the General Plan will occur, based upon the increased density and intensity with approval of individual land use applications (2). The proposed development code amendment and specific plan amendment will provide a method for establishing additional areas for

recreational use consistent with the goals of the Conservation Element of the General Plan (4). Therefore, the proposed ordinance will have a positive impact upon recreation.

| XVI. TRANSPORTATION / TRAFFIC. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit (47)? | | | X | |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways (47)? | | | 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 (48)? | | | | X |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) (1 & 49)? | | | | X |
| e) Result in inadequate emergency access (4)? | | | | X |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities (50 & 51)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. A minor increase in traffic due to increased density and intensity of development will not cause a breakdown of the General Plan Traffic Circulation Plan, which provides the arterial road network necessary to accommodate the growth allowed by the General Plan (47). As part of any development application, the roads fronting the site will be constructed to City standards, including curb, gutter, and sidewalk across the project frontage and pavement tapers beyond the frontage. Projects of regional significance will also incorporate off-site improvements, including improvements for multiple modes of transportation in accordance with the non-motorized transportation network within the City’s General Plan (51). The City will also evaluate each land use application to determine if a bus stop is warranted. The TDR Ordinance will not conflict with the Traffic Circulation Plan, nor will it be inconsistent with an ordinance or policy establishing measures of effectiveness for the performance of the circulation system.

The City’s Circulation Plan is consistent with the Congestion Management Program (CMP) for San Bernardino County (50). 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.

Each land use application will be evaluated with respect to its proximity to the Hesperia Airport and in particular for its position relative to an airport safety zone (44). Each land use application will also be reviewed to determine whether it will impact air traffic patterns. The project’s impact upon the air traffic patterns of the Southern California Logistics Airport and the Apple Valley Airport will also be considered.

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 and 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 transportation impacts (13).

The impact upon the transportation network of every land use application will be determined based upon the Institute of Transportation Engineer’s Trip Generation Manual, which attributes an average daily vehicle trip demand based upon the land use category (52). Since only a slight increase in density/intensity will result from this Ordinance, the impact upon transportation facilities by this ordinance is considered to be less than significant. Moreover, establishment of a 30-mile trail system will provide additional opportunities for non-motorized transportation, which will reduce traffic on City streets and will also have a positive impact upon the health of City residents who use the non-motorized transportation network.

| XVII. 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 (53)? | | | | 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 (54 & 55)? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (4)? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (32 & 33)? | | | 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 (54 & 55)? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs (56 & 57)? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste (58)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The TDR Ordinance will not cause a significant increase the amount of wastewater, due to the limited additional density/intensity afforded under the Ordinance. Further, some of the additional development may not be required to connect to the City sewer system. Any development which is not within 200 feet of a sewer line shall meet the regulations allowing use of a private septic system. Determination regarding the potential use of a septic system is based upon the limited number of fixtures necessary to serve the development and the land area needed to accommodate the septic system. The Lahontan Regional Water Quality Control Board allows construction of private wastewater treatment systems provided the use does not create more than 500 gallons of wastewater per acre per day (59). Up to 500 gallons of wastewater per acre of land area can

be treated using a septic system. As part of review of each land use application, the availability of sewer is considered.

As part of development of any vacant property, the City requires installation of an on-site retention facility which will retain any additional storm water created by the impervious surfaces created as part of a project (59). Development of every project shall not increase the amount of drainage impacting downstream properties beyond that which would occur prior to its development, based upon a 100-year storm event. Additionally, the retention facility shall contain a filtration system preventing contamination of the environment.

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 (32).

The Hesperia Water District (HWD) is the water purveyor for the City and much of its Sphere Of Influence (SOI). The UWMP evidences that the City is currently using less than half of its available water supply and that supply is projected to exceed demand beyond the year 2030 (33). The HWD has maintained a surplus water supply through purchase of water transfers, allocations carried over from previous years, and recharge efforts.

The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled. Currently, approximately 69 percent of the solid waste within the City is being recycled (56 & 58). About 168 tons of solid waste is disposed at the landfill and 243 tons are recycled of the total solid waste produced by the City per day. 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.

Based upon less than a 10 percent increase in development density or intensity, only a minor increase in utility capacity is needed. Therefore, the proposed development code amendment and specific plan amendment will not create a significant increased impact upon utilities and service systems.

| XVIII. 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 an individual project are significant 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 affects on human beings, either directly or indirectly? | | | | X |

Comments.

Based upon the analysis in this initial study, a Negative Declaration may be adopted. Approval of this the development code amendment and specific plan amendment will have a minor effect upon the environment.

XIV. 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.
- a) **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.

Mitigation measures are not necessary as a function of this project.

Authority: Public Resources Code Sections 21103 and 21107.

REFERENCES

- (1) Aerial photos of the City of Hesperia taken February, 2010.
- (2) Section 4.3.12 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 4-12.
- (3) Section 4.3.9 of the 2010 City of Hesperia GPUEIR, page 4-10 and Tables 2-1 and 2.2 of Section 2.2.1 of the GPEIR, page 2-2.
- (4) Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259 applications and related materials.
- (5) Table ES-3 of the City of Hesperia GPUEIR, page ES-6.
- (6) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area.
- (7) Official Map showing the General Plan Land Use of the City of Hesperia and its sphere of influence.

- (8) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
- (9) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
- (10) Air Quality Section of the 2010 City of Hesperia General Plan Conservation Element, pages CN-47 thru CN-50.
- (11) Section 3.3 of the 2010 City of Hesperia GPUEIR, pages 3.3-1 thru 3.3-30.
- (12) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
- (13) Table ES-3 of the 2010 City of Hesperia GPUEIR, pages ES-6 thru ES-10.
- (14) Exhibit CN-5 of the 2010 City of Hesperia General Plan Conservation Element, page CN-27.
- (15) 1988 United States Bureau of Land Management California Desert Conservation Area map.
- (16) Exhibit CN-7 of the 2010 City of Hesperia General Plan Conservation Element, page CN-31.
- (17) Section 3.4 of the 2010 City of Hesperia GPUEIR, page 3.4-6.
- (18) Exhibit CN-3 of the 2010 City of Hesperia General Plan Conservation Element, page CN-17.
- (19) Section 3.0 of the 2010 City of Hesperia General Plan Conservation Element, page CN-33 thru CN-38.
- (20) 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
- (21) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-8.
- (22) Exhibit SF-1 of Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, page SF-9.
- (23) Figure 1-2 of Section 1.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-5.
- (24) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
- (25) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
- (26) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan.
- (27) Section 15183.5 – Tiering and Streamlining the Analysis of Greenhouse Gas Emissions, March 18, 2010 Amendments to the Guidelines for Implementation of the California Environmental Quality Act.
- (28) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, page SF-32.
- (29) 1991 City of Hesperia Airport Comprehensive Land Use Plan, Figure 1-5 and pages 23-36.
- (30) 2010 Hesperia General Plan Safety Element's Disaster Preparedness, Response, and Recovery Section pages SF-36 thru SF-48.
- (31) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-13.
- (32) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
- (33) Mojave Water Agency letter dated March 27, 1996.

- (34) Flooding Hazards Section of the 2010 City of Hesperia General Plan Update Safety Element, pages SF-16 thru SF-18.
- (35) FEMA Flood Map within Section 3.1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-9.
- (36) Dam Inundation Map within Section 3.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
- (37) Section 3.0 of the 2010 City of Hesperia General Plan Update Safety Element, page SF-8.
- (38) Table 1 of Section 16.16.465 of the Hesperia Municipal Code.
- (39) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
- (40) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4.
- (41) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467 and Table NS-5 of Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, pages NS-11 and NS-12.
- (42) Table 7 of Section 2.2.1 of the 2010 City of Hesperia General Plan Update Noise Element background technical report, page 22.
- (43) Table 3.11-10 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR).
- (44) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element.
- (45) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467 and Table NS-5 of Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, pages NS-11 and NS-12.
- (46) 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.
- (47) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element, page CI-17.
- (48) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
- (49) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element.
- (50) Section 2.2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, page 4.
- (51) Sections 6.3 and 6.4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 74 and 75.
- (52) 2004 Trip Generation Manual, Volume III, 7th Edition, Institute of Transportation Engineers.
- (53) Section 3.8 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-8 thru 3.8-14.
- (54) Environmental policies of the Lahontan Regional Water Quality Control Board regarding use of private wastewater treatment systems.
- (55) 2007 California Plumbing Code, Table 7-3.
- (56) 2009 California Department of Resources, Recycling and Recovery Annual AB939 Report.
- (57) California Integrated Waste Management Act (AB 939).
- (58) Quarterly data of the San Bernardino County Disposal Reporting System for the 2nd quarter 2010.
- (59) Environmental policies of the Lahontan Regional Water Quality Control Board regarding use of private wastewater treatment systems.

Rosenberg's Parliamentary Procedure Quiz

Circle the correct response for each item. Answers appear on page 45.

1. You are a city council member. At a council meeting, you can't hear the discussion due to noise made by the heating system. You should raise your hand and, when recognized, say, "Point of order — I can't hear what's being discussed."

True

False

2. A vote on hotly contested Agenda Item 5 has passed by a vote of 3 to 2. You were one of the two council members who voted against the item. Later in the meeting you ask for reconsideration of Agenda Item 5, because you have thought of something you believe will convince one of the majority votes to change his or her mind. The mayor rules you "Out of order" and refuses to allow a vote on reconsideration. The mayor's ruling is:

Correct

Incorrect

3. It's 11:00 p.m. by the time the city council reaches Agenda Item 25. The mayor asks for a show of hands to indicate how many members of the public wish to speak on the item, and 32 people raise their hands. The mayor announces that she will limit each speaker to two minutes each. Can the mayor properly do so?

Yes

No

4. Joe makes a motion to hold a council retreat in May, and Mary seconds the motion. Sally then moves an amendment to have the retreat in June, and Fred seconds the motion. Esteban then moves a substitute motion to have no retreat this year, and Fred seconds the motion. The mayor announces that discussion will begin on the motion to amend. Is this the correct ruling?

Yes

No

5. On a highly controversial agenda item in a meeting attended by many members of the public, the audience becomes engaged in the discussion and members of the audience applaud in support or hiss in opposition following the remarks of the first speaker who addresses the city council. The mayor states that no vocal expressions of support or opposition will be tolerated at the meeting and asks the public not to applaud or hiss after speakers conclude their remarks. May the mayor do so?

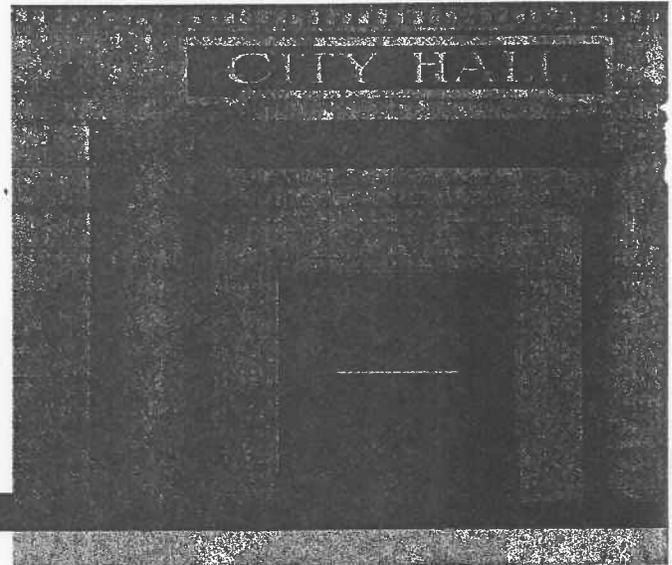
Yes

No

6. A member of the city council continually interrupts other council members while they are speaking on agenda items. The mayor refuses to stop the offending council member from interrupting. As a member of the city council, you have the right to make a motion to challenge the mayor's ruling and have your motion voted on by the council.

True

False



7. After a very long discussion and debate on a motion you made to approve a street repair schedule, which was duly seconded, you want to move ahead with voting on the item, so you say, "I call for the question." The mayor responds, "OK, let's proceed with the vote on the pending motion to approve the proposed street repair schedule." Did the mayor handle your call for the question properly?

Yes

No

8. If the maker of a pending motion accepts a proposed change and incorporates the change into her motion, and the person who seconded the motion also accepts the change, this is called a "friendly amendment."

True

False

9. Sam moves and receives a second on a motion to create a seven-member Police Oversight Commission. Mariko moves and receives a second on a motion to make the commission 15 members. Helen moves and receives a second on a motion to create an ombudsman position in lieu of the commission. The mayor schedules discussion and a vote on the third motion (Helen's), which passes. The mayor should then schedule discussion and a vote on the second motion (Mariko's motion).

True

False

10. In the middle of a meeting the mayor recognizes Maria, a council member, who moves to adjourn the meeting. Frank seconds her motion. The mayor calls for discussion prior to the vote. Maria raises a point of order and says that the motion should be voted on immediately. Who is correct? ■

The mayor

Maria