

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: February 9, 2012

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Bill Jensen, Commissioner

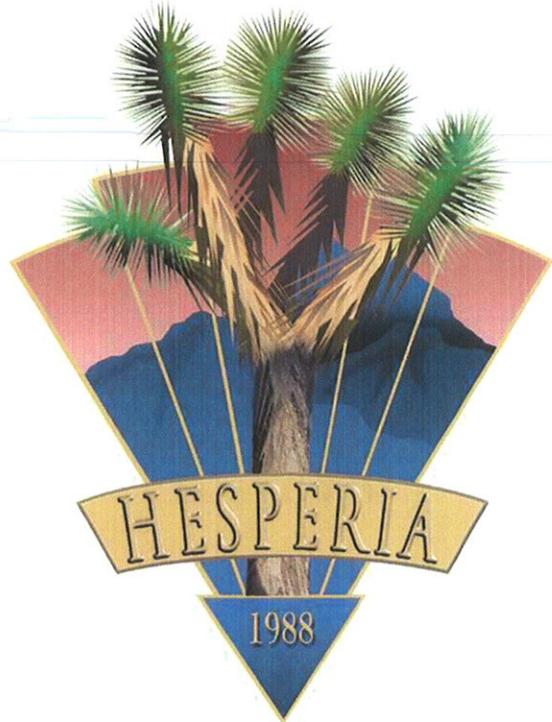
Julie Jensen, Commissioner

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.

FEBRUARY 9, 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. Pledge of Allegiance to the Flag
- B. Invocation
- C. Roll Call:
 - Chair Chris Elvert
 - Vice Chair William Muller
 - Commissioner Bill Jensen
 - Commissioner Julie Jensen
 - Commissioner 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

- D. Approval of Minutes: January 12, 2011 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Conditional Use Permit CUP12-10103 to allow the sale of beer and wine for on-site consumption as part of a restaurant at 14135 Main Street, Unit 401. (Applicant: Leemar Investments, Inc.; APN: 3057-121- 19). (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.

- E. DRC Comments 2-1
- F. Major Project Update
- G. Discussion item regarding Development Code Section 16.16.060, 16.16.063 and 16.16.064; Uses provided for in any zone or land use district (Additional Uses) and Alternative Energy Technology Standards. 3-1

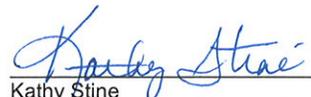
PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, February 2, 2012 at 5:30 p.m. pursuant to California Government Code §54954.2.


Kathy Stine
Planning Commission Secretary

DRAFT

HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
JANUARY 12, 2012
MINUTES

The Regular Meeting of the Planning Commission was called to order at 6:34 p.m. by Chair Elvert in the Council Chambers, 9700 Seventh Avenue, Hesperia, California.

CALL TO ORDER 6:34 p.m.

Introduction of Eric Schmidt

A. Pledge of Allegiance to the Flag

B. Invocation

C. Roll Call:

- Chair Chris Elvert
- Vice Chair William Muller
- Commissioner Bill Jensen
- Commissioner Julie Jensen
- Commissioner Eric Schmidt

Present: Chris Elvert
William Muller
Julie Jensen
Eric Schmidt

Absent: Bill Jensen

Motion by Chris Elvert to excuse the absence of Bill Jensen. Seconded by Eric Schmidt and passed with the following roll call vote:

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

JOINT PUBLIC COMMENTS

Chair Elvert opened Public Comments at 6:40 p.m.

No comments to consider.

Chair Elvert closed Public Comments at 6:40 p.m.

CONSENT CALENDAR

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

Motion by Julie Jensen to approve the December 8, 2011 Planning Commission Meeting Draft Minutes. Seconded by Chris Elvert and passed with the following roll call vote:

AYES: Chris Elvert, William Muller, and Julie Jensen
NOES: None
ABSENT: Bill Jensen
ABSTAIN: Eric Schmidt

Commissioner Schmidt was required to abstain due to not being in attendance at the December 8, 2011 meeting.

PUBLIC HEARING

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)

Senior Planner Daniel Alcayaga gave a PowerPoint presentation.

Daniel Alcayaga stated staff recommended approval.

Assistant City Attorney Jeff Malawy noted for the record the arrival of Bill Jensen at 6:44 p.m.

Chair Elvert opened the public hearing at 6:49 p.m.

No comments to consider.

Chair Elvert closed the public hearing at 6:49 p.m.

Motion by Bill Jensen to adopt RESOLUTION NO. PC-2012-03 as presented approving CUP11-10282. Seconded by Julie Jensen and passed with the following roll call vote:

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

PRINCIPAL PLANNER'S REPORT

E. DRC Comments

Dave Reno gave an update on DRC projects.

F. Major Project Update

Dave Reno stated that the trains are now moving on the shoo-fly portion of tracks on Ranchero Road and as of this week the construction was on the west side of the project.

Eric Schmidt stated that there was considerable road damage at "E" Ave. and Alston from heavily traveled light vehicles.

Dave Reno gave an update on the Ranchero Road interchange and Redevelopment Agency legal events.

Jeff Malawy explained further the process of the State eliminating RDA's.

Dave Reno stated that the solar panel projects from last month's Planning Commission meeting were appealed to City Council for the January 17, 2012 meeting.

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

Dave Reno gave a presentation regarding uses permitted in any zone, subject to site approval (DRC).

Discussion ensued considering limitations based on zoning, project size and proximity to existing residential uses.

Eric Schmidt suggested we write an updated definition for energy generating farms.

Chris Elvert suggested that the zoning be changed to keep the solar and wind farms out of residential areas.

Bill Jensen stated that if industrial land is used for this purpose and is located by a residential area, it should be mitigated for aesthetics.

Dave Reno stated he had received information from the Commission to create a better definition for the code.

H. Discussion item regarding Transfer of Development Rights (TDR) program to preserve open space and park sites.

Senior Planner Stan Liudahl gave a PowerPoint presentation to explain the TDR program.

Discussion ensued on how the ordinance would operate and how credits would be tracked and used to increase development potential in the receiving areas. The Commission agreed that they wanted to restrict the potential increase in residential density to “protect the culture” of Hesperia.

Chris Elvert stated he wanted to see an increase in the permitted floor area ratios for commercial and industrial projects.

Dave Reno stated that there was no time table on bringing this item forward and he encouraged the Commission to contact Staff with questions.

I. Discussion item regarding Rules of Order.

Dave Reno stated that this discussion item was placed on the agenda to mainly explain substitute motions.

Jeff Malawy explained the process.

PLANNING COMMISSION BUSINESS OR REPORTS

Jeff Malawy gave a follow-up report on Darrell Issa and car emissions that Bill Jensen had requested.

ADJOURNMENT

Chair Elvert adjourned the meeting at 9:01 p.m. to February 9, 2012 Planning Commission Meeting.

Chris Elvert
Planning Commission Chair

By: Kathy Stine,
Commission Secretary



DATE: February 9, 2012
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Daniel S. Alcayaga, AICP, Senior Planner
SUBJECT: Conditional Use Permit CUP12-10103; Applicant: Leemar Investments, Inc. – Liborio Alvarez; APN: 3057-121-19

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2012-04, approving Conditional Use Permit CUP12-10103.

BACKGROUND

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

Location: 14135 Main Street, Unit 401

Current General, Plan, Zoning and Land Uses:

The site is within the Neighborhood Commercial (NC) District of the Main Street and Freeway Corridor Specific Plan (Attachment 1). Wood Grill Buffet is a 10,350 square foot restaurant within the Topaz Marketplace Shopping Center. The surrounding land is designated as noted on Attachment 2. The land north, south and east of the shopping center is vacant; and there is a similar shopping center to the west (Attachment 3).

ISSUES/ANALYSIS:

Land Use: Wood Grill Buffet restaurant has operated in the City at this location since 2008. The restaurant would like extend their dining service to include the sale of alcohol for on-site consumption. 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 41 license with the California Department of Alcoholic Beverage Control (ABC). ABC has determined that Census Tract 100.18 exceeds its limitation of three licenses and requires the City to make a finding of public convenience and necessity (Attachment 4).

Table 1: Existing On-Sale Licenses in Census Tract 100.18

| Status | Business Name | Business Address | Type of License |
|----------|----------------------------|------------------------|-------------------------|
| Active | Miyako Sushi | 14073 Main St, 109 | 41-Beer & Wine |
| Active | Pizza Factory of Hesperia | 14135 Main St, 101/102 | 41-Beer & Wine |
| Active * | Victorian, The | 13567 Main St | 41-Beer & Wine |
| Active * | Kids Planet | 15075 Main St | 47-Beer, Wine, & Liquor |
| Active | Don Garcia's Mexican Rest. | 14343 Main St | 47-Beer, Wine, & Liquor |

Although these businesses are not operating, the license is still active with ABC.

Table 1 shows there are five licensees within Census Tract 100.18. The census tract extends along the south side of Main Street for 2 ½ miles. Currently, there is no business holding on-sale a license on north side of Main Street along the same stretch.

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. One additional on-sale license was approved by the Commission last month. ABC's criteria is based on the 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 a few 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 and "I" Avenue.

Staff believes that the findings of necessity and convenience required to obtain additional licenses in an over-concentrated tract can be made. The Topaz Marketplace, which includes Wood Grill Buffet, provides convenient shopping and dining services to nearby residents. The applicant would like to extend their dining service to include alcohol sales in order to remain competitive and meet customer demand. Although Pizza Factory of Hesperia exists within the same shopping center, Wood Grill Buffet is a buffet style restaurant offering a different type of dining experience. Approval of the CUP would support the restaurant in continuing to serve the public's dining needs.

Schools and Parks: The project site at 14135 Main Street is located approximately 1,400 feet south of Hesperia High School and less than one mile from Hesperia Community Park.

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

Conclusion: The over-concentration of alcohol sales along Main Street is based on ABC's criteria. However, when determining over-concentration within the City, staff's recommendation is based on the City's concentration of commercial land uses, primarily along Main Street, Bear Valley Road, Hesperia Road and "I" Avenue. Approval of alcoholic beverage licenses is supportive of the land uses intended within the Neighborhood Commercial District.

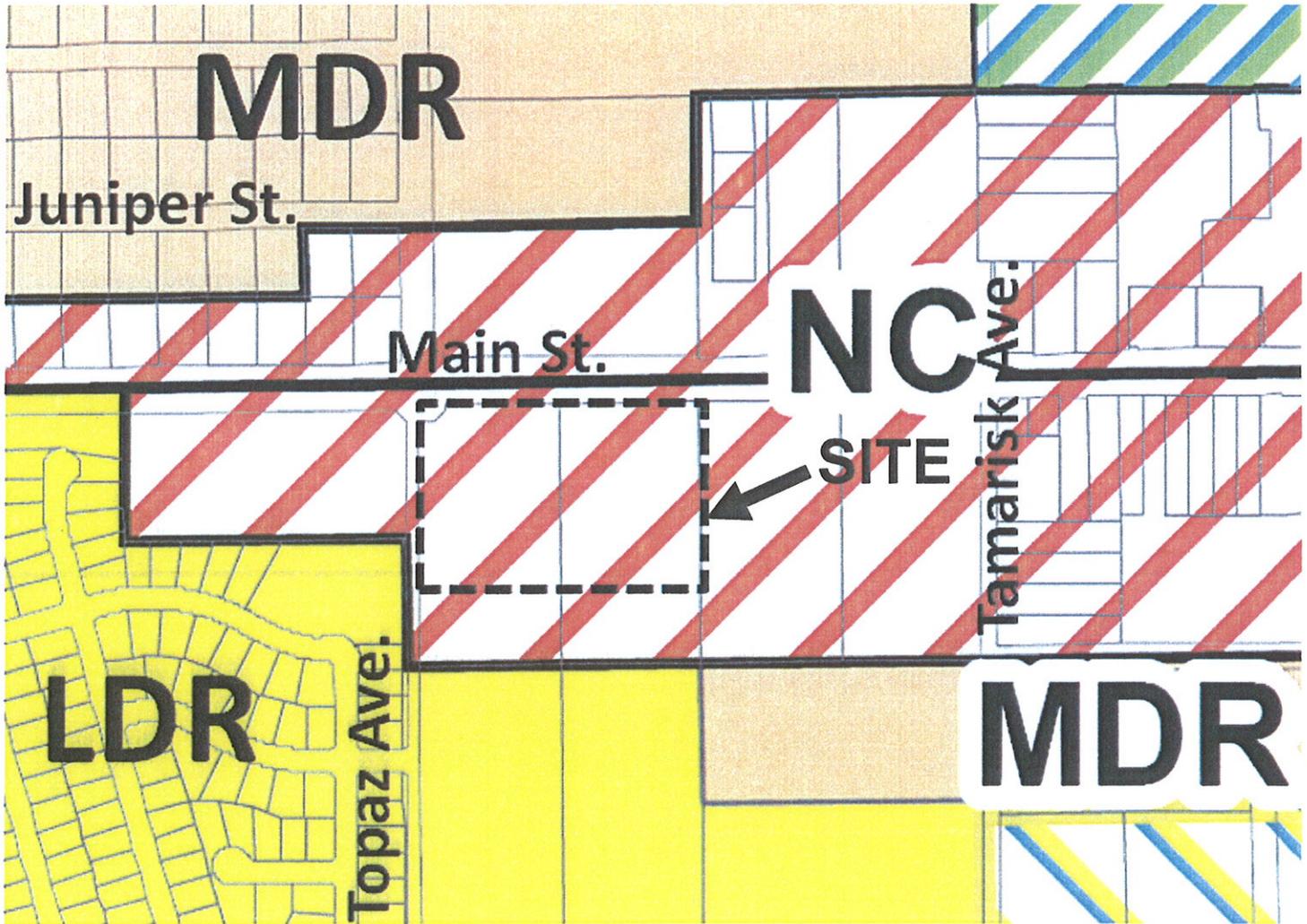
ALTERNATIVE

1. Provide alternative direction to staff.

ATTACHMENTS

1. General Plan/Zoning
2. Aerial photo
3. Census Tract Map
4. Resolution No. PC-2012-04, with list of conditions

ATTACHMENT 1



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

FILE NO(S):
CUP12-10103

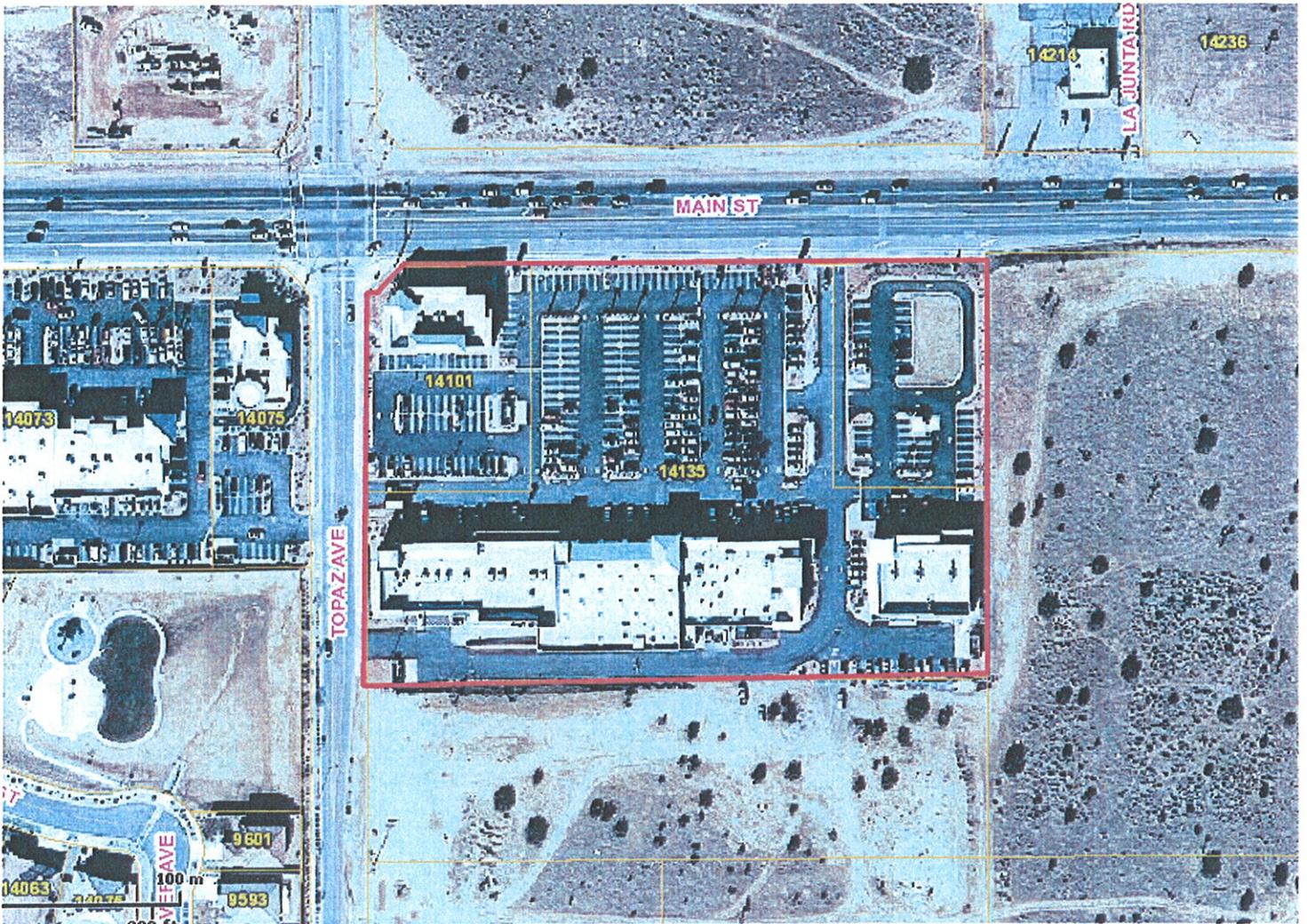
LOCATION:
14135 MAIN STREET, UNIT 401

APN:
3057-121-19

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE AS PART OF A RESTAURANT



ATTACHMENT 2



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

FILE NO(S):
CUP12-10103

LOCATION:
14135 MAIN STREET, UNIT 401

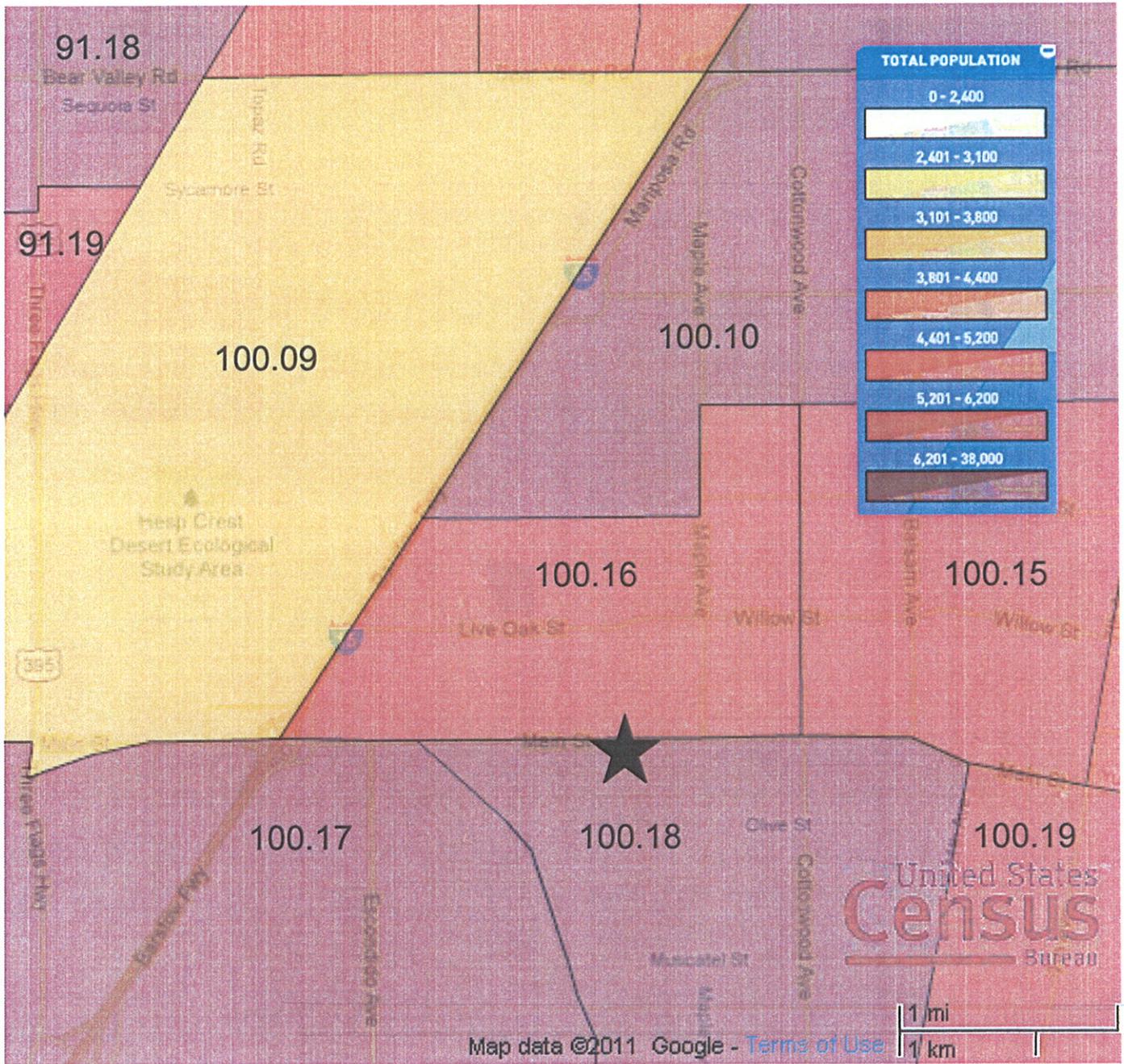
APN:
3057-121-19

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE AS PART OF A RESTAURANT



AERIAL PHOTO

ATTACHMENT 3



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

FILE NO(S):
CUP12-10103

LOCATION:
14135 MAIN STREET, UNIT 401

APN:
3057-121-19

PROPOSAL:
A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE AS PART OF A RESTAURANT



CENSUS TRACT MAP

ATTACHMENT 4

RESOLUTION NO. PC-2012-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER & WINE FOR ON-SITE CONSUMPTION AS PART OF A RESTAURANT AT 14135 MAIN STREET, UNIT 401 (CUP12-10103)

WHEREAS, Leemar Investments, Inc. has filed an application requesting approval of Conditional Use Permit CUP12-10103 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an existing restaurant at 14135 Main Street, Suite 401 and consists of Assessor's Parcel Number 3057-121-19; and

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

WHEREAS, the subject site is presently developed with a shopping center and the applicant is an existing tenant within the center. The land north, south and east of the shopping center is vacant; and there is a similar shopping center to the west; and

WHEREAS, the subject property as well as surrounding properties are within the Neighborhood Commercial (NC) 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 February 9, 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 February 9, 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 Neighborhood 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 and wine.
- (b) The proposed use would not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other allowed uses in the vicinity or be adverse to the public convenience, health,

safety or general welfare. The proposed serving of beer and wine as part of the dining experience will not have a detrimental impact on adjacent properties.

- (c) The proposed use is consistent with the objectives, policies, 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 and wine is consistent with the allowable uses within the Neighborhood 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 CUP12-10103, 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 9th day of February 2012.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Conditional Use Permit CUP12-10103

Approval Date: February 9, 2012
Effective Date: February 22, 2012
Expiration Date: February 22, 2015

This list of conditions apply to a Conditional Use Permit to allow the sale of beer and wine for on-site consumption within a restaurant at 14135 Main Street, Unit 401. Any change of use or expansion of area may require approval of a revised conditional use permit application (Applicant: Leemar Investments, Inc. – Liborio Alvarez; APN: 3057-121-19).

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



DATE: February 9, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel Alcayaga, AICP, Senior Planner
Stan Liudahl, AICP, Senior Planner
SUBJECT: Discussion of Development Code Amendment DCA12-10107 to revise the Additional Uses Ordinance; Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission receive this report, and provide any guidance to staff regarding revisions to the Additional Uses and other related Ordinances.

BACKGROUND

On January 17, 2012, the City Council overturned the approval of two solar farm projects that were recommended for approval by the Development Review Committee (DRC) and the Planning Commission. These projects were processed pursuant to Section 16.16.060 (Attachment 1), which allows many uses including government, institutional, utility, and other uses with quasi-public functions within any land use designation with approval of a site plan review. The Council and Commission were concerned regarding the compatibility of solar farms, generally seen as commercial/industrial uses, within residential areas; and the appropriateness of a site plan review for such uses requiring only DRC approval.

On January 12, 2012, the Commission discussed establishing minimum standards for solar farms and other uses. The Commission suggested a minimum lot size requirement; not allowing solar farms in residential areas; requiring fencing or walls; and providing a better definition for electrical generating stations. Commissioners also mentioned similar concerns associated with wind farms and large institutional uses such as churches.

ISSUES/ANALYSIS

This Development Code Amendment (DCA) is being considered primarily due to the Commission's request, but staff is taking this opportunity to reevaluate the Additional Uses Ordinance in its entirety. This DCA will also revise portions of the recently amended Alternative Energy Technology Ordinance. The proposed amendments include (Attachment 2):

- Amending the Alternative Energy Technology Ordinance to restrict solar farms to non-residential and non-agricultural areas with approval of a Conditional Use Permit (CUP) as well as reconsider the areas that wind farms may be authorized.
- Solar systems which exceed 15 percent of the lot area shall not be considered an accessory use and shall be defined as a solar farm.
- Requiring a 660-foot separation for solar or wind farms from a railway spur, any Interstate, any Arterial roadway; or any agricultural or residentially designated property.

- Providing screening of the solar collectors and related equipment in the form of a decorative fence or wall along the project permitimeter.
- Requiring a service plan justifying the location; and requiring evidence of approval from Southern California Edison prior to issuance of a building permit.
- Requiring the filing of a bond for removal of the solar farm if abandoned, ensuring that the solar panels will be removed if the facility is not in operation for 180 days or more.
- New definitions for “electrical generating stations”, “electrical substations” and “solar or wind farms” are provided.
- Land uses from the Additional Uses provisions have been placed in a table so that the information is located in one place and easy to use.
- A CUP is proposed to be required for solid waste disposal sites, racetracks/stadiums, natural resources, train/bus stations, airports and landing strips, hospitals, rehab centers, organization centers and shooting ranges.
- A CUP is proposed to be required for churches and electrical generating stations/substations on sites exceeding one-acre in size.
- Similar to residential areas, airports and landing strips are proposed not to be permitted in agricultural areas.

The Commission previously discussed establishing a minimum lot size for solar farms. However, during consideration of the appeals the Council stated that solar farms belong in commercial or industrial zones. As proposed, solar farms would only be allowed in commercial, institutional and industrial designations. The 660-foot separation provision from major transportation corridors also ensures that solar farms are not located on prime commercial and industrial land. Similarly, staff recommends that wind farms be restricted in the same manner. The Alternative Energy Technology Ordinance currently allows wind farms in rural residential, agricultural, institutional, and industrial designations with approval of a conditional use permit.

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

CONCLUSION

The Development Code Amendment will be consistent with the intent of the Climate Action Plan, the General Plan and the Main Street and Freeway Corridor Specific Plan to promote alternative energy but preserve prime land for commercial and industrial uses. At this time, the Commission can make additional changes or comments. Upon receiving changes/comments, staff will begin noticing and scheduling the DCA for a public hearing.

FISCAL IMPACT

None.

ALTERNATIVES

1. The Planning Commission may choose to further restrict the draft definition for electrical generating stations. The proposed definition will no longer allow solar farms within all land use designations, but will allow secondary electrical distribution substations and

other types of utilities, which require flexibility in site location. As such, staff does not support this alternative.

2. The Planning Commission may not support inclusion of a 660-foot limitation for solar farms from a railway spur, any Interstate, Highway, or Major Arterial, Arterial, or Secondary Arterial roadway; or any agricultural or residentially designated property. This distance restriction will ensure that solar farms located on the fringe of commercial and industrial areas will not pose a significant negative impact on residential areas. As such, staff does not recommend this alternative.
3. Provide alternative direction to staff.

ATTACHMENTS

1. Section 16.16.060(A)
2. Amendments – Exhibit “A”

ATTACHMENT 1

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 supposed 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.

ATTACHMENT 2

Exhibit "A"

~~Strikethrough~~ indicates text that has been eliminated and red text indicates text has been added.

The following definitions shall be added to Chapter 16.08 Definitions:

16.08.208 Electrical generating stations

"Electrical generating stations" means a facility that is operated by a power producer and whose primary function is the provision of electricity to the electrical distribution system or transmission grid. Electrical generating station does not include solar or wind farms.

16.08.209 Electrical substations

"Electrical substations" means a facility that is operated by a public utility where electric energy is received at a sub-transmission voltage and transformed to a lower voltage for distribution for general consumer use. Electrical substations does not include solar array or wind farms.

16.08.771 Solar or Wind Farms

"Solar or Wind Farms" means a facility that is operated by a power producer and whose primary function is the provision of electricity to the electrical distribution system or transmission grid and produces electricity using windmills or solar energy systems. The number or area of the solar panels and windmills are in excess of the accessory use limitations allowed in Section 16.16.063.

Chapter 16.16, Article III shall be amended as follows:

Chapter 16.16, 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 or conditionally permitted in any zone or land use designation district subject to a site the land use entitlement established in Table 1 and 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. Land uses approved with a Site Plan Review (SPR) shall be in accordance with the provisions in Chapter 16.12, Article II; and land uses approved with a Conditional Use Permit (CUP) shall be in accordance with the provisions in Chapter 16.12, Article III.

1. Condition of Uses.

a. The location of land use is determined by other land uses which are directly supposed 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~~-Land Use Approval. The additional uses in this Section are provided in a table format and apply to all land use designations or districts in the City, including Specific Plan areas. Land uses are listed in the first (vertical) column of the table and required land use entitlements in the top (horizontal) row. An "X" in the corresponding column represents the required entitlement process. Footnotes are also provided and considered part of this Development Code.

Table 1

| GENERAL USES: | SPR | CUP |
|---|------------|------------|
| Cemeteries, including pet cemeteries ¹ | X | |
| Solid waste disposal sites, rubbish incinerators and recycling centers | | X |
| Sewer treatment plants and sewage disposal sites | X | |
| Electrical generating stations, as defined in Section 16.08.208 ² | X | |
| Solar or Wind Farms, as defined in Section 16.08.771 ^{3&4} | | X |
| Radio and television stations or towers | | X |
| Racetracks or stadiums | | X |
| Campgrounds, not exceeding a density of four sites per acre | X | |
| Natural resources (i.e. mineral deposits and natural vegetation and energy sources together with the necessary buildings, apparatus or appurtenances incidental thereto) | | X |
| 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 and bus stations and carpool facilities; ⁵ | | X |
| Carpool facilities | X | |

| | SPR | CUP |
|---|-----|-----|
| Testing ranges, airports and landing strips ⁴ | | X |
| INSTITUTIONAL USES: | | |
| Schools and universities ⁶ | X | |
| Conference centers | X | |
| Hospitals | | X |
| Churches ² | X | |
| Rehabilitation centers ⁷ | | X |
| Organizational camps ⁷ | | X |
| PUBLIC UTILITIES AND PUBLIC SERVICE USES: | | |
| Temporary and permanent governmental facilities and enterprises (federal, state and local) where buildings and/or property are publicly owned or leased | | X |
| Reservoirs, pumping plants | X | |
| Temporary support facilities associated with the construction of highways and other public facilities including, but not limited to, batch plants and equipment storage yards | X | |
| Electrical substations as defined in Section 16.08.209 ² | X | |
| Central communication office | X | |
| Microwave and repeater huts | X | |
| Towers and satellite receiving stations | | X |
| SPORT ORIENTED RECREATIONAL USES: | | |
| Sky diving jump sites, and recreational camps | X | |
| Rifle and archery ranges (Indoor/Outdoor) | | X |
| Off-road vehicle parks | | X |
| Golf courses, country clubs | | X |
| Hunting and fishing clubs | | X |

Notes:

1. Cemeteries shall not be allowed in the R3 land use designation.
2. Projects over 1 acre in size shall require a CUP.
3. Solar or Wind farms shall be subject to Section 16.16.036, Alternative Energy Technology Standards.
4. Solar or Wind farms shall not be allowed in residential and agricultural land use designations or districts.
5. Bus stations shall not be allowed in the PC District of the Main Street and Freeway Corridor Specific Plan.
6. A CUP shall be required in areas specified by the Main Street and Freeway Corridor Specific Plan.
7. These uses shall be subject to Section 16.16.072, Residential care facilities, group homes, and sex offender residency.

~~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.~~

B. Unless preempted by state or federal law, the specific land uses listed in Section 16.16.060(B)(2) shall be permitted or conditionally permitted in any zone or land use district designation when, in the opinion of the ~~planning officer~~ reviewing authority, the conditions cited in Section 16.16.060(B)(1) have been met.

1. Condition of Permitted Uses.

- a. The land use has been approved at public hearing by a state or federally appointed body or commission empowered to approve or license the land use;
- b. Notice has been given so as to provide an opportunity for those interested or affected by the proposed use to take part in local public hearings conducted by the state or federal body or commission approving the land use;
- c. The review process used by the approving agency has substantially addressed the same issues and concerns that would be addressed in applicable city review and approval process;
- d. The approving state or federal body or commission has made a reasonable effort to respond to concerns expressed by the city of Hesperia.
- e. The approval of the land use would not have a substantial detrimental effect on the public health, safety and welfare;
- f. Approval of the land use has complied with applicable provisions of the California Environmental Quality Act;
- g. The land use is consistent with the city's general plan.

2. Permitted Uses.

- a. Projects approved by the State Energy Commission;
- b. Projects approved by the U.S. Forest Service;
- c. Projects approved by the Bureau of Land Management;
- d. Projects approved by the State Lands Commission;
- e. State or federal water projects.

Chapter 16.16.063(A)(14) shall be amended as follows:

14. Wind farms shall be allowed in ~~rural residential, agricultural, institutional, and industrial zone districts~~ designations or districts with approval of a conditional use permit.

a. Wind farms shall not be permitted within six hundred sixty (660) feet of a railway spur, any Interstate, Highway, or Major Arterial, Arterial, or Secondary Arterial roadway; or any agricultural or residentially designated property.

A. In addition to those items required to be submitted with an application for a conditional use permit as provided in the code, the applicant shall submit the following with its application:

1. A proposed service plan for the city and sphere area to justify the location, design and height of any proposed facility;
2. Prior to issuance of a building permit, the applicant shall obtain all necessary approvals for the facility from Southern California Edison, the California Public Utilities Commission, or other governmental agency having jurisdiction over the facility and that the proposal is consistent with such approvals;
3. A statement of the term during which the facility will be put to use and a bond or irrevocable letter of credit in an amount to cover the reasonable cost of removing the facility in the event of abandonment. Such bond or irrevocable letter of credit shall be made payable to the city upon demand in the event of abandonment and shall not expire before the end of the term during which the facility is to be used.

B. In the event a facility is abandoned, the holder of the conditional use permit for the facility shall remove the facility at its sole cost and expense. A facility shall be considered abandoned if it ceases to be used as allowed in the conditional use permit for more than one hundred eighty (180) consecutive days. In the event the planning commission denies an application for a conditional use permit for a facility, it shall render its decision in writing and shall support its decision by substantial evidence in the written record.

Chapter 16.16.063(B) shall be amended as follows:

A. Solar systems which exceed 15 percent of the lot area shall not be considered an accessory use and shall be defined as a solar farm. Solar farms shall only be allowed on nonresidential and nonagricultural designated properties with approval of a conditional use permit by the planning commission. Solar farms shall not be permitted within six hundred sixty (660) feet of a railway spur, any Interstate, Highway, or Major Arterial, Arterial, or Secondary Arterial roadway; or any agricultural or residentially designated property.

1. In addition to those items required to be submitted with an application for a conditional use permit as provided in the code, the applicant shall submit the following with its application:

- a. A proposed service plan for the city and sphere area to justify the location, design and height of any proposed facility;
- b. Prior to issuance of a building permit, the applicant shall obtain all necessary approvals for the facility from Southern California Edison, the

California Public Utilities Commission, or other governmental agency having jurisdiction over the facility and that the proposal is consistent with such approvals;

- c. A statement of the term during which the facility will be put to use and a bond or irrevocable letter of credit in an amount to cover the reasonable cost of removing the facility in the event of abandonment. Such bond or irrevocable letter of credit shall be made payable to the city upon demand in the event of abandonment and shall not expire before the end of the term during which the facility is to be used.
 - d. A decorative screening fence or wall shall be installed along the perimeter of the solar farm. The type and height of the fencing shall be subject to review and approval.
2. In the event a facility is abandoned, the holder of the conditional use permit for the facility shall remove the facility at its sole cost and expense. A facility shall be considered abandoned if it ceases to be used as allowed in the conditional use permit for more than one hundred eighty (180) consecutive days. In the event the planning commission denies an application for a conditional use permit for a facility, it shall render its decision in writing and shall support its decision by substantial evidence in the written record.

Chapter 16.16.090(P) shall be amended as follows:

| | | | | | | |
|---|----|----|----|---------|---------|----------------|
| Public, Institutional, and Resource Uses | R1 | R3 | RR | A1 | A2 | See Section(s) |
| P. Airport, helicopters, aircraft landing field | NP | NP | NP | NP
S | NP
S | |



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, JANUARY 18, 2012**

A. PROPOSALS:

1. GYMNASTICS EXPRESS, LLC (SPR11-10308)

Proposal: A revised site plan review to establish a gymnastics studio within an existing industrial park.

Location: 17205 Eucalyptus Street, Unit B (APN: 0415-251-23)

Planner: Daniel Alcayaga

Action: Administrative Approval

2. LARRY PETERSEN (ME11-10306)

Proposal: A minor exception to allow a 1,425 square foot detached garage exceeding the 1,000 square foot allowable accessory building area limitation.

Location: 7511 Windsor Avenue (APN: 0398-123-03)

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, FEBRUARY 1, 2012**

A. PROPOSALS:

1. LEEMAR INVESTMENTS, INC (CUP12-10103)

Proposal: Consideration of a conditional use permit to allow for the sale of beer and wine, which requires a finding of public convenience or necessity for the Wood Grill Buffet restaurant.

Location: 14135 Main Street, Unit 401 (APN: 3057-121-19)

Planner: Daniel Alcayaga

Action: Administrative Approval