

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: August 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.

AUGUST 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: July 12, 2012 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Development Agreement DA11-10002 and Site Plan Review SPR11-10213, to construct a three-story, 114-unit apartment complex which includes a 2 percent density bonus and 18 affordable units on 5.6 gross acres within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan located on the south side of Live Oak Street, between Eighth and Ninth Avenue; (Applicant: TMS Consortium; Affected area: APNs: 0407-142-03 & 04) (Staff Person: Stan Liudahl)
- 2. Mobile Food Services (Hot Food Trucks) Workshop discussion regarding potential changes to the current ordinance. (Area affected: Citywide) (Staff Person: Dan Alcayaga)

1-1

2-1

PRINCIPAL PLANNER'S REPORT

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

- E. DRC Comments
- F. Major Project Update

3-1

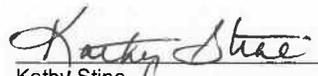
PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

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


Kathy Stine
Planning Commission Secretary

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
July 12, 2012
MINUTES**

DRAFT

The Regular Meeting of the Planning Commission was called to order at 6:30 p.m. by Vice Chair William Muller 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

Commissioner Eric Schmidt

Present: Bill Jensen
Julie Jensen
William Muller
Eric Schmidt
Absent: Chris Elvert

Motion by William Muller to excuse the absence of Chris Elvert. Seconded by Julie Jensen and passed with the following roll call vote:

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

JOINT PUBLIC COMMENTS

Vice Chair William Muller opened Public Comments at 6:35 p.m.

No Comments to Consider

Vice Chair William Muller closed Public Comments at 6:35 p.m.

CONSENT CALENDAR

Approval of Minutes: June 14, 2012 Planning Commission Meeting Draft Minutes.

Motion by Julie Jensen to Approve Draft Minutes of June 14, 2012 Planning Commission Meeting. Seconded by William Muller and passed with the following roll call vote:

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

PUBLIC HEARING

1. **Consideration of Conditional Use Permit CUP12-10150, to construct a 2,385 square foot Chipotle restaurant and establish the sale of beer and wine on 2.1 acres within the Regional Commercial District of the Main Street and Freeway Corridor Specific Plan. (Applicant: Chipotle; APN: 0405-062-88) (Staff Person: Lisette Sanchez-Mendoza)**

Principal Planner Dave Reno, AICP gave a PowerPoint presentation.

Commissioner Julie Jensen asked for clarification regarding parking and driveway access.

Vice Chair William Muller opened the Public Hearing at 6:44 p.m.

John Puente, representative of In-N-Out, owner of the property, spoke and explained the driveway access.

John Puente asked for clarification on the conditions regarding plan check comments. He wanted to make sure that the SWPPP wasn't required. He also wanted to confirm that the City was aware the fire hydrants were already in place.

Commissioner Eric Schmidt inquired as to what type of landscaping would be used.

John Puente responded that it would be consistent with what is there now and they were working with Chipotle.

Paul Groh, representative from Chipotle Mexican Grill, stated that they were very excited to have a restaurant in Hesperia.

Paul Groh confirmed that they had hired a special landscaper on this project for the desert landscape.

Vice Chair William Muller closed the Public Hearing at 6:54 p.m.

Motion by William Muller to adopt RESOLUTION NO. PC-2012-10 as presented approving CUP12-10150. Seconded by Julie Jensen and passed with the following roll call vote:

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

PRINCIPAL PLANNER'S REPORT

- E. [DRC Comments](#)
- F. [Major Project Update](#)

Dave Reno updated the Commission on current DRC projects and the Ranchero Corridor projects.

PLANNING COMMISSION BUSINESS OR REPORTS

No comments.

ADJOURNMENT

Vice Chair William Muller adjourned the meeting at 7:01 p.m. until the August 9, 2012
Planning Commission Meeting.

Chris Elvert,
Chair

By: Kathy Stine,
Commission Secretary

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DATE: August 9, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Stan Liudahl, AICP, Senior Planner
SUBJECT: Development Agreement DA11-10002 and Site Plan Review SPR11-10213;
Applicant: TMS Consortium; APNs: 0407-142-03 & 04

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2012-11 and PC-2012-12, recommending that the City Council approve DA11-10002 and SPR11-10213.

BACKGROUND

Proposal: A Development Agreement and Site Plan Review to construct a three-story, 114-unit apartment complex which includes a 2 percent density bonus and 18 affordable units on 5.6 gross acres (Attachment 1).

Location: On the south side of Live Oak Street, between Eighth and Ninth Avenue.

Current General Plan, Zoning and Land Uses: The site is within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan). The surrounding land is designated as noted on Attachment 2. The property is currently vacant and is bounded by existing single-family residences to the north and east. An affordable senior's apartment complex exists on the property to the south and the property to the west is vacant (Attachment 3).

ISSUES/ANALYSIS

The City of Hesperia and its Housing Authority are obligated under the State's Planning and Zoning Law to address the current and future housing needs of Hesperia residents. These are reflected in the City's General Plan Housing Element. The Regional Housing Needs Allocation (RHNA) provides the number of units required to meet future housing needs. These housing numbers are broken down into different income categories based on household income. According to the Southern California Association of Governments which prepares the RHNA, Hesperia needs to plan for 5,311 units of housing affordable by very low, low and moderate income families, and 3,784 units of housing affordable to families above moderate incomes. The City's RHNA for the 2008-2014 planning period calls for construction of 2,135 units for persons within the very low and 1,469 for persons within the low income level. To date, 189 very low income and 232 low income units have been constructed within the planning period. While the recession has slowed the projected growth rate under which the RHNA was based, the City is still required to make strides in creation of affordable housing, consistent with the goals of the General Plan.

The HDR designation allows residential densities between 15 and 20 dwelling units per gross acre. The proposed 114-unit apartment complex will yield a density of 20.4 dwelling units per gross acre. Consequently, a development agreement has been filed in conjunction with the site plan review application to allow the density bonus, which affords two dwelling units (DUs) beyond the 20 DU per acre limitation. In exchange for the density bonus, 12 units will be reserved for low and 6 for very low income households. These affordable housing units will contribute towards meeting the City's affordable housing goals as contained in the City's General Plan Housing Element.

The apartment complex contains 84 two-bedroom and 30 three-bedroom units. The two-bedroom units will be 825 square feet and the three-bedroom units will be 1,030 square feet in size (Attachments 4 & 5). All units have private covered patios and walk-in closets in the master bedrooms. The project also contains a number of amenities, including a 2,210 square foot recreation building and two 359 square foot laundry buildings. Active outdoor recreational activities include a pool, two spas, a half basketball court, and a tot lot with permanent playground equipment. The passive recreational facilities comprise picnic areas with tables and barbeques. The complex will be enclosed by a decorative wall along the project's southern boundary and by a combination three-foot high decorative wall and three-foot high wrought iron fencing along all three streets.

The project conforms to most development standards of the Specific Plan. A minimum of 257 parking spaces are required and 272 are provided, including 120 spaces beneath carports, 29 guest parking spaces, 8 handicapped accessible spaces, and 2 motorcycle spaces. Likewise, the proposed building elevations comply with the architectural standards. The apartments are designed with contemporary architecture with two color schemes incorporating tile roofs and all windows will contain dividers, decorative trim, and windowsills (Attachments 6 & 7). The development does not comply with the open space and building separation regulations of the Specific Plan. A minimum of 70 square feet of private open space and 150 square feet of common open space area per unit is required. Only 65 square feet of private and 140 square feet of common open space per unit is provided. Additionally, all buildings are required to be a minimum of 15 feet apart. The site plan shows many of the buildings closer together, some as close as about 7 feet. Staff supports the proposed open space area reduction, as the development more than makes up for the reduced area with the active recreational facilities. Likewise, the reduction in the distance between buildings affords the space needed to include the two laundry rooms and other amenities which enhance the project.

The City's Density Bonus Program (Program) provides a tool used to encourage development of affordable housing, consistent with state law and the Housing Element of the General Plan. In exchange for the density bonus, this Program requires that the City offer design concessions. Therefore, staff is recommending that this project not be required to meet the minimum open space area and building separation regulations. In addition, the proposed development agreement requires that the low and very low income units be deed-restricted for a period of 30 years, consistent with the Program.

Drainage: All drainage created on-site will be detained/retained in an underground retention system beneath the parking lot. The City has constructed a portion of underground storm drain identified as H-01, which has eliminated the upstream drainage that impacted this site. As a result, this project will not be affected by off-site storm water flow nor will it impact properties downstream.

Water and Sewer: An eight-inch water main shall be installed in Live Oak Street from the existing eight-inch stub out to the intersection of Live Oak Street and Eighth Avenue. An eight-inch sewer main will be installed in Live Oak Street to connect to the existing eight-inch sewer lines in Ninth and Seventh Avenues.

Traffic/Street Improvements: Eighth and Ninth Avenue are currently paved. Ninth Avenue connects to Main Street to the south and Eighth Avenue extends north to Willow Street. Live Oak Street is currently unimproved. Based on the Institute of Traffic Engineers' Trip Generation Manual, apartments generate approximately 6.7 daily vehicle trips per dwelling unit. Consequently, the proposed 114 units would generate about 764 daily vehicle trips. The General Plan Update Environmental Impact Report (GPUEIR) analyzed the impact of 112 dwelling units on this property, creating approximately 750 daily vehicle trips. Therefore, this project will create 14 additional daily vehicle trips beyond that accounted for by the GPUEIR, equivalent to less than a two percent increase.

Live Oak Street will be paved and complete half-width street improvements consisting of curb, gutter, and sidewalk will be constructed across the project frontage in accordance with the General Plan. Half-width street improvements for Ninth Avenue shall also be completed across the project frontage. The Eighth Avenue paseo project is under construction and is expected to be completed soon. The City has established a Traffic Impact Mitigation Fee Program to fund the construction of traffic improvements to maintain adequate levels of service standards. The developer is required to pay all applicable City development impact fees towards these improvements.

Schools and Parks: The project site is near schools and park facilities. It is less than 1/8-mile from Joshua Circle Elementary School and Siegrist School, Hesperia Junior High is about ¼-mile, and Hesperia High School is about 1½-miles from the project site. The development is also about 1/8-mile from Hesperia Civic Plaza Park.

Environmental: Approval of this development requires adoption of a mitigated negative declaration pursuant to the California Environmental Quality Act (CEQA). The mitigated negative declaration and initial study indicate that the development will not cause a significant adverse environmental impact to any threatened or endangered flora or fauna (Attachment 8). A biological assessment and a protected plant plan show that the site does not contain habitat for the desert tortoise nor any other threatened or endangered species. A pre-construction survey for the burrowing owl will be conducted prior to issuance of a grading permit, as required by the State Department of Fish and Game.

Conclusion: The project conforms to the policies of the City's General Plan, specifically affordable housing goals. The City's Density Bonus Program allows the project to vary from development standards. Therefore, the site plan review and development agreement is consistent with the General Plan and meets all applicable development standards.

FISCAL IMPACT

Development will be subject to payment of all development impact fees adopted by the City.

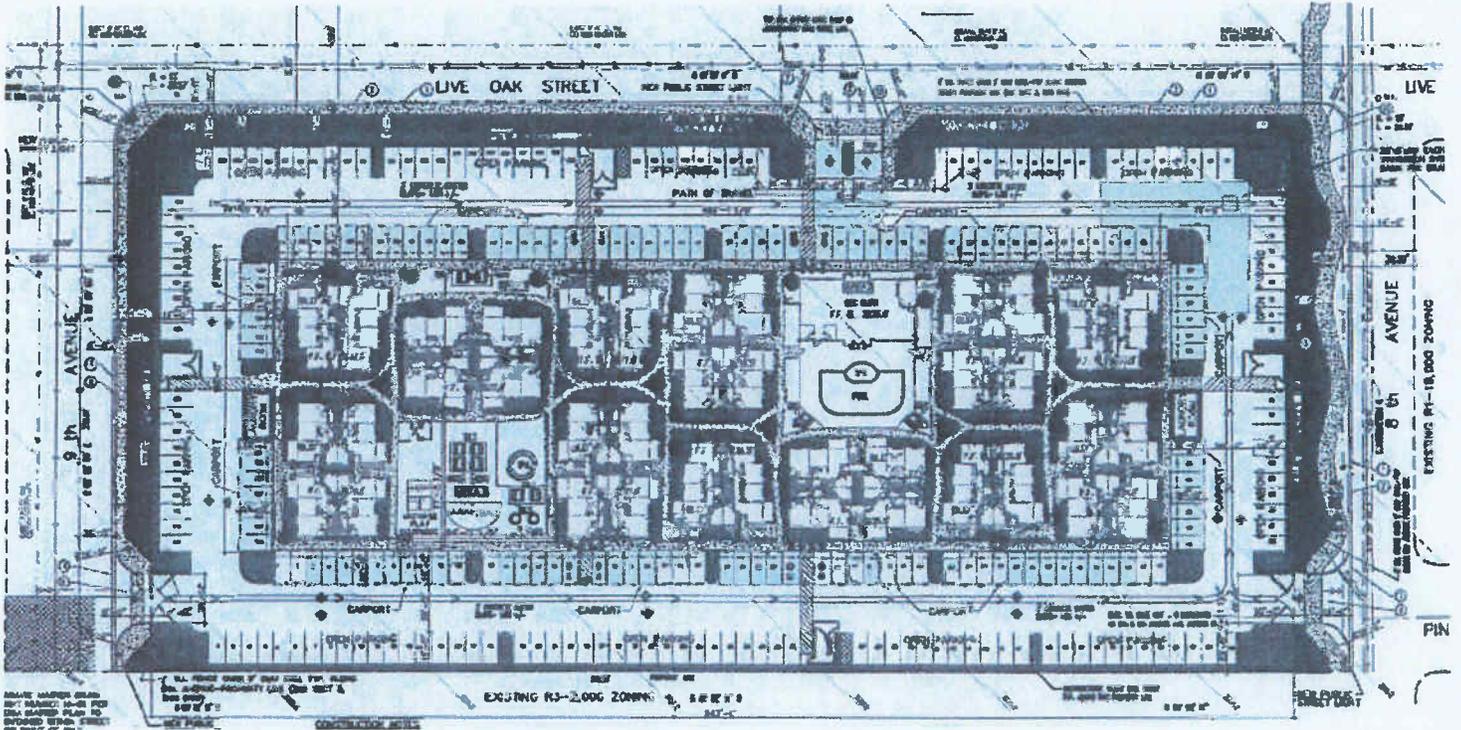
ALTERNATIVES

1. The Planning Commission may recommend that the City Council not grant the density bonus, allowing for the two additional dwelling units. Inasmuch as creation of these 18 affordable housing units will contribute towards meeting the City's affordable housing goals as mandated by the State of California and supported by the City's General Plan Housing Element, this alternative is not recommended.
2. Provide alternative direction to staff.

ATTACHMENTS

1. Site Plan
2. Main Street and Freeway Corridor Specific Plan Zone Map
3. Aerial Photo
4. Floor Plans
5. Floor Plans
6. Building Elevations in Brown
7. Building Elevations in Blue
8. Negative Declaration ND-2012-01 with Initial Study
9. Resolution No. PC-2012-11
10. Resolution No. PC-2012-12, with list of conditions

ATTACHMENT 1



APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

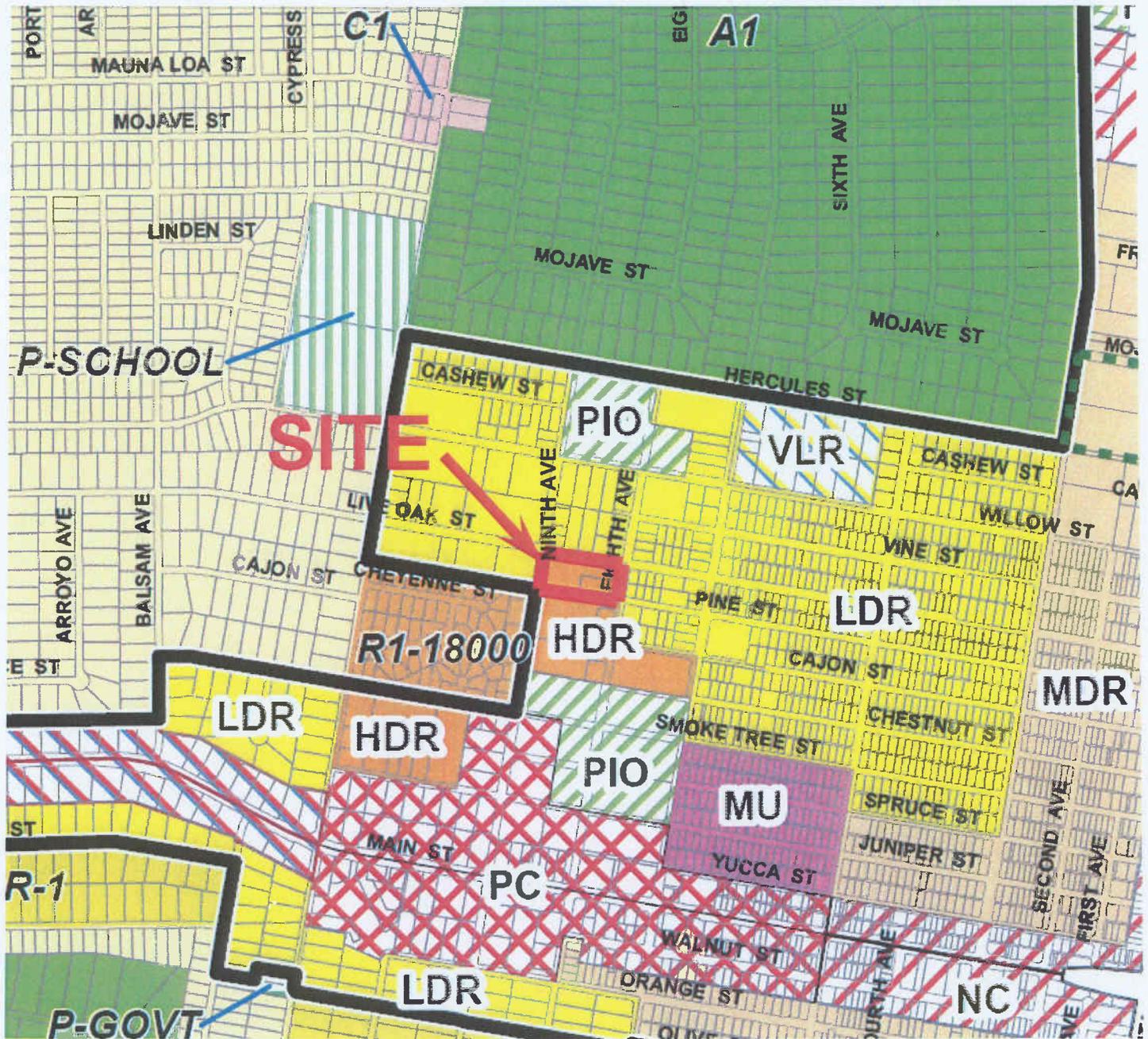
APN(S):
0407-142-03 & 04

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES



SITE PLAN

ATTACHMENT 2



APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

APN(S):
0407-142-03 & 04

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES



MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN MAP

ATTACHMENT 3



APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

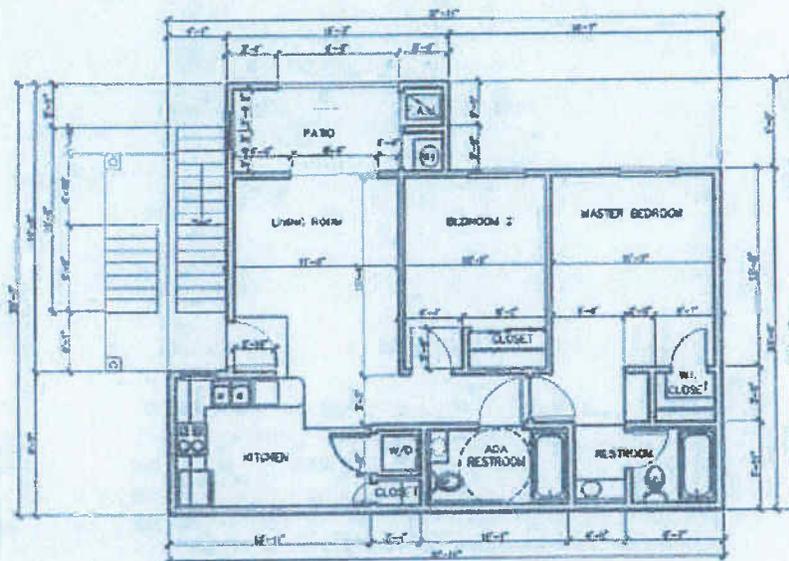
APN(S):
0407-142-03 & 04

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES

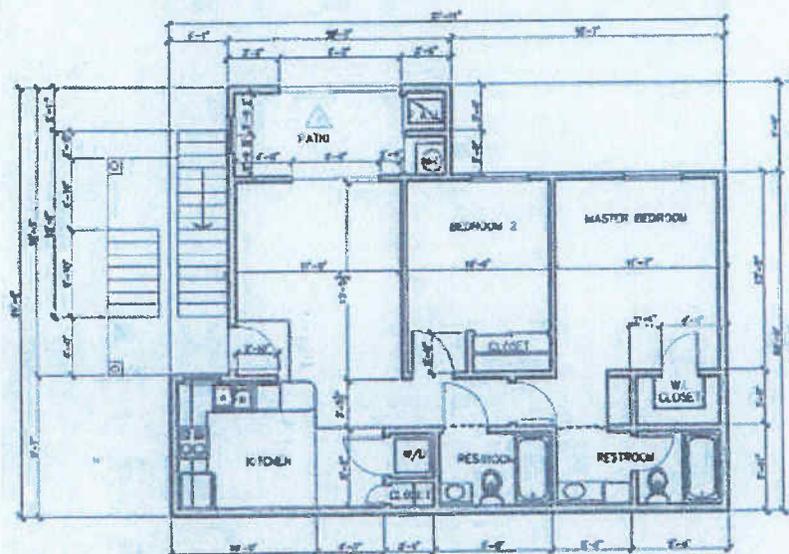


AERIAL PHOTO

ATTACHMENT 4



TYPICAL HANDICAP FLOOR PLAN - UNIT "A" (825 SQ FT)
2 BEDROOM / 2 BATHROOMS



TYPICAL FLOOR PLAN - UNIT "A" (825 SQ FT)
2 BEDROOM / 2 BATHROOMS

APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

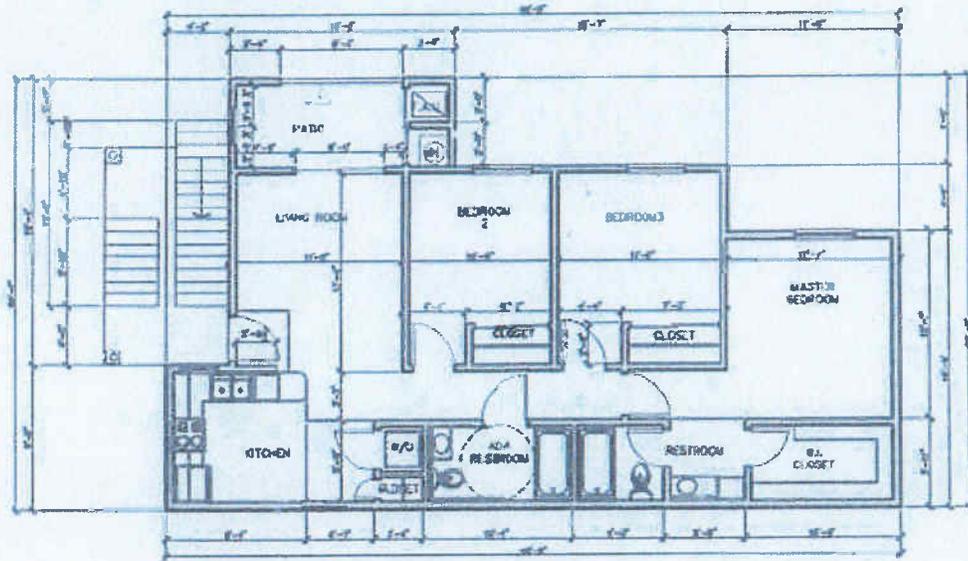
LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

APN(S):
0407-142-03 & 04

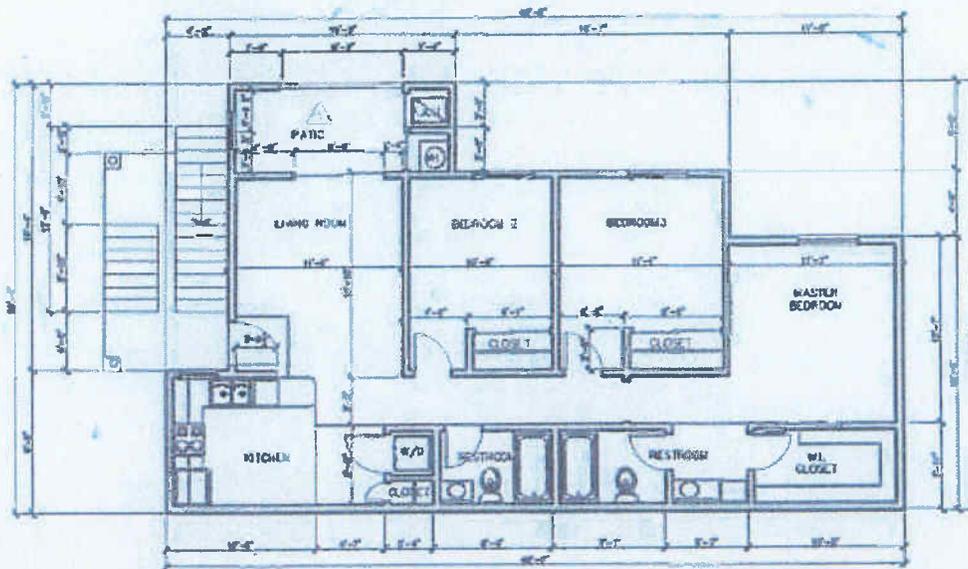
PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES

FLOOR PLANS FOR UNIT A

ATTACHMENT 5



TYPICAL HANDICAP FLOOR PLAN - UNIT "B" (1030 SQ FT)
SCALE 1/8" = 1'-0" 3 BEDROOM / 3 BATHROOMS



TYPICAL FLOOR PLAN - UNIT "B" (1030 SQ FT)
SCALE 1/8" = 1'-0" 3 BEDROOM / 3 BATHROOMS

APPLICANT(S):
 TMS CONSORTIUM

FILE NO(S):
 DA11-10002 & SPR11-10213

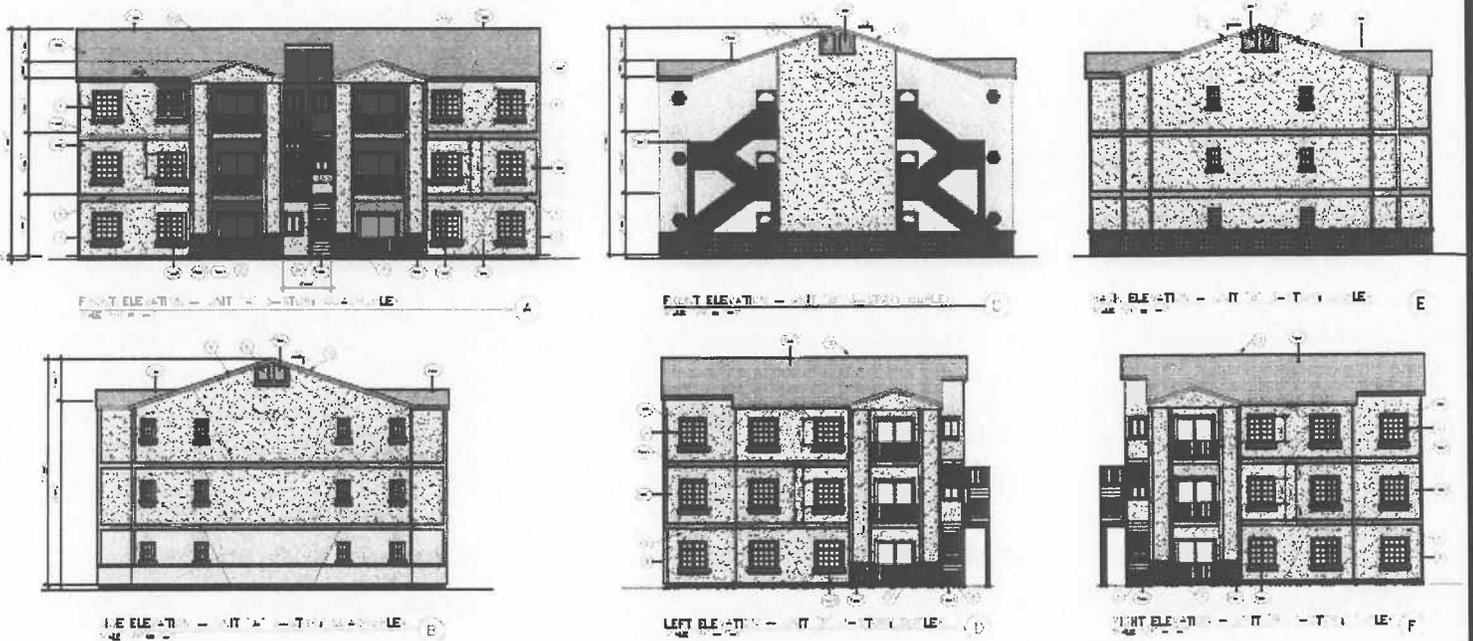
LOCATION:
 ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

APN(S):
 0407-142-03 & 04

PROPOSAL:
 CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES

FLOOR PLANS FOR UNIT B

ATTACHMENT 6



APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

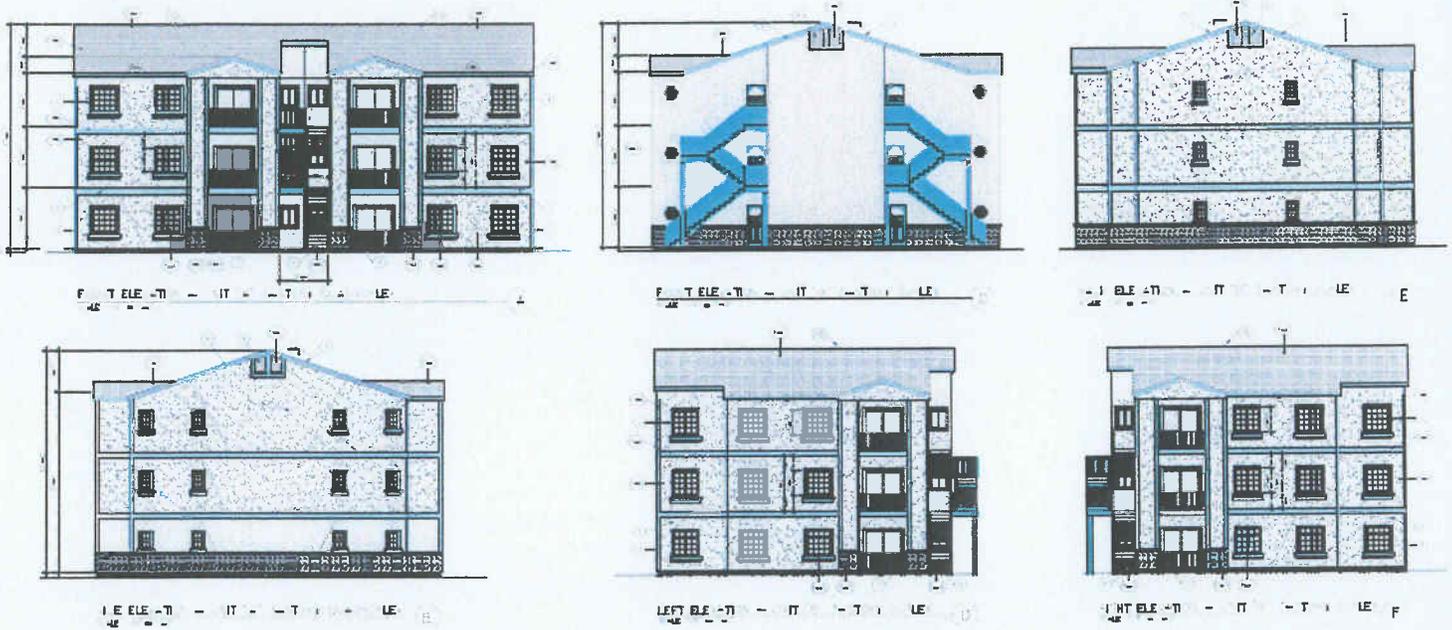
LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

APN(S):
0407-142-03 & 04

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES

BUILDING ELEVATIONS IN BROWN

ATTACHMENT 7



APPLICANT(S):
TMS CONSORTIUM

FILE NO(S):
DA11-10002 & SPR11-10213

LOCATION:
ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE

APN(S):
0407-142-03 & 04

PROPOSAL:
CONSIDERATION OF A DEVELOPMENT AGREEMENT AND A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A TWO PERCENT DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES

BUILDING ELEVATIONS IN BLUE

ATTACHMENT 8

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

NEGATIVE DECLARATION ND-2012-01
Preparation Date: July 10, 2012

Name or Title of Project: Site Plan Review SPR11-10213 and Development Agreement DA11-10002.

Location: On the south side of Live Oak Street between Eighth and Ninth Avenue (APNs: 0407-142-03 & 04).

Entity or Person Undertaking Project: TMS Consortium.

Description of Project: Consideration of a development agreement providing 18 affordable units with a density bonus of two units in conjunction with a site plan review to construct a three-story, 114-unit affordable apartment complex on 5.6 gross acres within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan.

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

Mitigation Measures:

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
2. Three copies of a protected plant plan shall be submitted to the Building and Safety Division showing the present location and proposed treatment of all smoke tree, species in the Agavaceae family, mesquite, large creosote bushes, Joshua trees, and other plants protected by the State Desert Native Plant Act. Prior to issuance of a grading permit, the grading plan shall require transplanting or protection in place of all protected plants as specified in the approved protected plant plan.
3. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading.

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: July 16, 2012 through August 6, 2012.

Adopted the City Council: September 4, 2012.

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

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

PROJECT DESCRIPTION

1. **Project Title:** Site Plan Review SPR11-10213 and Development Agreement DA11-10002.
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:** On the south side of Live Oak Street, between Eighth and Ninth Avenue (APNs: 0407-142-03 & 04).
5. **Project Sponsor:** TMS Consortium c/o Tariq Shamma
Address: PO Box 78071
Corona, CA 92877-0135
6. **General Plan & zoning:** High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan).
7. **Description of project:**

A site plan review and development agreement to construct a three-story, 114-unit affordable apartment complex on 5.6 gross acres. The apartment complex contains 84 two-bedroom and 30 three-bedroom units. The two-bedroom units will be 825 square feet and the three-bedroom units will be 1,030 square feet in size.

The development agreement will provide 18 affordable residential units (12 for low income and 6 for very low income households), which will contribute towards the City reaching its affordable housing goals as required by the City's Regional Housing Needs Assessment (RHNA). The development agreement includes a density bonus of two dwelling units (112 units are allowed by the Specific Plan) and design concessions, consistent with state law. These concessions include allowing buildings and structures less than 15 feet apart as well as permitting smaller private and public open space areas than required by the Specific Plan.

The project incorporates amenities for all ages, including a 2,210 square foot recreation building, one pool, two spas, two 359 square foot laundry buildings, a half basketball court, a tot lot with permanent playground equipment, and picnic areas with tables and barbeques. The complex will be enclosed by a six-foot high decorative wall along the project's southern boundary and by combination three-foot high decorative wall and three-foot high wrought iron fencing along all three streets. Retention facilities in accordance with City standards will be constructed, which will retain the difference in storm water flow between the undeveloped site and the developed site and will filter out all contaminants from the parking areas.

8. **Surrounding land uses and setting:** (Briefly describe the project's surroundings). The site is within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan) and is currently undeveloped as shown on Attachment "A."
9. **Other public agency whose approval is required** (e.g., permits, financing approval, or participation agreement.) Review and approval is required from the City, the Regional Water Quality Control Board, and the Mojave Desert Air Quality Management District.

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


 Signature
 Stan Liudahl, AICP, Senior Planner, Hesperia Planning Division

7/12/2012
 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 & 2)? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings (1 thru 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.

The site has been previously disturbed and contains only a small number of native plants (1). In addition, the site is adjacent to single-family residences to the north and east, and an affordable apartment complex to the south. The property to the west is vacant. Therefore, development of the site is considered infill and will not degrade an existing scenic resource nor would it reduce the site's visual quality or that of the neighborhood.

The City contains many scenic views of the Mojave Desert, the Mojave River, the San Bernardino and San Gabriel Mountains, as well as the Summit Valley area. The GPUEIR addresses the scenic vistas and focuses on preservation of natural open space to protect sensitive environments and specific amenities like washes, bluffs, Joshua tree forests and juniper woodlands (3). The proposed development is not located in a sensitive environment, as it has been disturbed and is within an existing developed area. Given the existing land uses nearby, development of the project will not substantially degrade the existing visual character or quality of the site and its surroundings. Further, a state scenic highway does not traverse the City (2); although state Highways 138 and 173, which are located within the southern portion of the City, are eligible for being designated scenic highways. The project site is not in proximity to these highways. Furthermore, the City does not contain any registered historic buildings.

Construction of the three-story, 114-unit affordable apartment complex (5) would only cause a minor change in the visual character of the area. A density bonus of just two additional dwelling units would be permitted with approval of the development agreement, so the environmental impact would be only slightly greater than that identified under the General Plan Update Environmental Impact Report (GPUEIR). The site is within the High Density Residential (HDR) District of the Specific Plan, which allows apartments with a density of between 15 and 20 dwelling units per gross acre. The proposed project is consistent with the Specific Plan, with approval of the development agreement. Therefore, the impact of this project is not significant.

The development is subject to the maximum building height and lot coverage, as well as the architectural standards of the Specific Plan (6). Besides limiting the building height and density, these regulations specify minimum architectural standards as implemented through the site plan review process. This project is consistent with all standards except the minimum building separation and open space area requirements. The Development Code requires that design concessions be granted for projects which meet the state's requirements for affordable housing. As such, the development is not being required to meet these standards. In addition, approval of the two additional dwelling units is also consistent with the City's Density Bonus Program, which implements Government Code Section 65915 (7).

The Development Code provides limitations on the intensity of exterior lighting for developments, to safeguard the enjoyment of viewing the night sky. This restricts lighting to a maximum illumination of 0.5 foot-candles at the property lines abutting a street or residentially designated property (4) as well as that all lights be hooded and directed downward to reduce glare. Based upon these regulations, the use will not adversely affect day or nighttime views in the area. Therefore, approval of the proposed site plan review and development agreement will not have a significant negative impact upon aesthetics.

| 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: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use (8)? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract (9 & 10)? | | | | X |
| 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)) (11)? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use (11)? | | | | X |
| 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 (9 & 11)? | | | | X |

Comments.

As part of the development approval process, any vacant site other than one which allows a single-family residence permitted as a use by right, shall require approval of a land use entitlement. The entitlement process requires that the potential impact upon prime farmland, unique farmland, or farmland of statewide importance be evaluated. Prior to development, staff reviews the General Plan and the United States Soil Conservation Service (SCS) Soil Survey of San Bernardino County, which identifies soils which are suitable for prime farmland, unique farmland, or farmland of statewide importance. The soil at this location is identified as Bryman loamy fine sand, zero to two percent slopes (12). This soil class is limited by high soil blowing hazard, high water intake rate, and low fertility. Further, the proximity of residential uses does not make this site viable for agriculture. The SCS Soil Survey of San Bernardino County, California states that "Urban and built-up land and water areas cannot be considered prime farmland..." The City contains few sites currently in agricultural use and only two properties within a Williamson Act contract. This action will not change the zoning of any properties designated as prime or unique farmland and will not negate any Williamson Act contract as the site is currently within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (9). The site

was also evaluated for past agricultural uses. There is no record of past agricultural activities on the site. Therefore, this project will not have an impact upon agricultural resources.

The City and its Sphere Of Influence (SOI) is located within the Mojave bioregion, primarily within the urban and desert land use classes (13). 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 (14). The project site is primarily located in the western portion of the City within the Interstate 15 corridor in the urban area and is substantially surrounded by urban development. During the nineteenth century, juniper wood from Hesperia was harvested for use in fueling bakery kilns. Use of juniper wood was discontinued when oil replaced wood in the early twentieth century (11). As a consequence, local timber production has not occurred since that time. Therefore, this project will not have an impact upon forest land or timberland.

| III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan (15, 16 & 17)? | | | X | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation (15, 16 & 17)? | | | 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) (15, 16 & 17)? | | | X | |
| d) Expose sensitive receptors to substandard pollutant concentrations (1, 5, 15 & 16)? | | | X | |
| e) Create objectionable odors affecting a substantial number of people (1, 5, 15 & 16)? | | | | X |

Comments.

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 (15 & 16). 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. The proposed apartments will potentially contain a number of sensitive receptors. The apartments will not cause a significant increase in emissions and are within an existing residential area not near a point source emitting a significant amount of poor air quality.

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 most federal and state standards for many years and studies indicate that ozone levels have been decreasing over the past 20 years (16). The ability of MDAQMD to comply with ozone ambient air quality standards will depend upon the ability of the South Coast Air Quality Management District (SCAQMD) to bring the ozone concentrations and precursor emissions into compliance with ambient air quality standards (15 & 16).

All uses identified within the Hesperia General Plan are classified as area sources by the MDAQMD (17). Programs have been established in the Air Quality Attainment Plan which address emissions caused by area sources. Both short-term (construction) emissions and the long-term (operational) emissions associated with the development were considered. Short-term airborne emissions will occur during the construction phase related to site preparation, land clearance, grading, excavation, and building construction; which will result in fugitive dust emissions. Construction equipment used during site preparation and construction activities will also generate emissions. Construction activities generally do not have the potential to generate a substantial amount of odors. The primary source of odors associated with construction activities are generated from the combustion petroleum products. However, such odors are part of the ambient odor environment of urban areas. In addition, the contractor will be required to obtain all pertinent operating permits from the Mojave Desert Air Quality Management District (MDAQMD) for any equipment requiring AQMD permits.

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The General Plan Update Environmental Impact Report (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 (18). As part of the GPUEIR, the impact of residential development to the maximum allowable density permitted by the Land Use Plan was analyzed. The projected number of vehicle trips and turning movements associated with this project is analyzed within Section XV. Transportation/Traffic. Based upon these factors, the impact of a 114-unit apartment complex on 5.6 gross acres does not meet any threshold which requires air quality analysis or mitigation under the Air Quality Attainment Plan (17).

| 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 (19 & 20)? | | | | X |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (1 & 19)? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (1 & 19)? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites (1, 19 & 21)? | | X | | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (19 & 20)? | | 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 (22)? | | | | X |

Comments.

The site is not expected to support the Mohave ground squirrel, given the very low population levels of the species in the region and proximity to existing development. Further, the project site is outside the area considered suitable habitat for the species (23). The desert tortoise is also not expected to inhabit the site, given that the development is considered infill and substantially surrounded by residential development (21). The site is also 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 (22).

Since the site contains native plant species, a biological survey was conducted by VHBC, Inc. to determine the presence of the desert tortoise, Mohave ground squirrel, burrowing owl, loggerhead shrike, La Conte’s thrasher, gray vireo, Cooper’s hawk, and sharp-skinned hawk (19). The biological report states that none of these nor any other threatened or endangered species inhabit the site. Since the burrowing owl is not sensitive to development and may occupy the site at any time, a mitigation measure requiring a biological survey to determine their presence or absence shall be submitted no more than 30 days prior to the start of grading activities. The mitigation measure is listed on page 23.

A protected plant plan was prepared as part of the biological report. The protected plant plan will ensure that the site’s only plant requiring protection under the City’s Native Plant Protection Ordinance, one Joshua tree, will be relocated or protected in place (19 & 20). The grading plan for the project shall stipulate that this plant be relocated or protected in place. The mitigation measure is listed on page 23.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest, occur within the Rancho Las Flores Specific Plan and vicinity (22). The project site is located approximately six miles to the northwest within a developed portion of the City (1 & 5). Consequently, approval of the site plan review and development agreement will not have an impact upon biological resources, subject to the enclosed mitigation measures.

| V. CULTURAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 (24)? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (24)? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature (25)? | | X | | |
| d) Disturb any human remains, including those interred outside of formal cemeteries (26)? | | | X | |

Comments.

Based upon a site visit and review of the aerial photos, there is no evidence that historic resources exist within the project site. In addition, the site is not on the list of previously recorded cultural resources (24). This list, which was compiled as part of the 2010 General Plan Update; was created from the inventory of the National Register of Historic Properties, the California Historic Landmarks list, the California Points of Historic Interest list, and the California State Resources Inventory for San Bernardino County. Paleontological resources are not expected to exist on the project site. The Cultural

Resources Sensitivity Map identifies the western portion of the site with a low sensitivity potential for containing cultural resources (25). However, the eastern portion of the site has a high sensitivity potential. Consequently, if cultural resources are found during grading activities, grading shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. This mitigation measure is listed on page 23.

In the event that human remains are discovered during initial site work, grading shall cease until the County Coroner has made the necessary findings in accordance with the California Environmental Quality Act (CEQA) (26). 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. Therefore, approval of the site plan review and development agreement is not expected to have a significant impact upon cultural resources with inclusion of the mitigation measure.

| 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 (28, 29 & 30). | | | | X |
| ii) Strong seismic ground shaking (31 & 32)? | | | X | |
| iii) Seismic-related ground failure, including liquefaction (12 & 31)? | | | | X |
| iv) Landslides (31)? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil (12)? | | | 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 (12 & 31)? | | | | 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 (12)? | | | | 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 (12)? | | | | X |

Comments.

The project site contains generally flat topography with slopes of between two and five percent. No large hills or mountains are located within the project site. According to Exhibit SF-1 of the General Plan Safety Element, no active faults are known or suspected to occur near or within the project site. Further, the site is not within an Alquist-Priolo Special Studies Zone or Earthquake Fault Zone (28). 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 (28 & 29). 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 (30). The project site is not located in an Alquist-Priolo Earthquake Fault Zone or within 500 feet of a fault (28 & 29). Further, the soil at this site does not have the potential for landslides, lateral spreading, subsidence, liquefaction, or collapse (12).

The soil at this location is identified as Bryman loamy fine sand, zero to two percent slopes (12). This soil is limited by high soil blowing hazard, high water intake rate, and moderate to high available water capacity. The site's shallow slope and moderately rapid permeability negates the potential for soil instability. During construction, soil erosion will be limited through compliance with an approved erosion control plan in accordance with National Pollution Discharge Elimination System (NPDES) and Storm Water Pollution Prevention Plan (SWPPP) regulations. Although disturbance of the soil will result in significant soil loss due to wind erosion during construction; ultimately, the site will be fully developed with a building, paved parking, and landscaping (5). These improvements will ensure that soil disturbance will not result in significant soil erosion.

As a function of obtaining a building final, the proposed development will be built in compliance with the Hesperia Municipal Code and the Building Code (33), which ensures that the buildings will adequately resist the forces of an earthquake. In addition, prior to issuance of a grading permit, a soil study is required, which shall be used to determine the load bearing capacity of the native soil. Should the load bearing capacity be determined to be inadequate, compaction or other means of improving the load bearing capacity shall be performed in accordance with all development codes. Consequently, the impact upon the project regarding geology and soils is considered less than significant.

| VII. GREENHOUSE GAS EMISSIONS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (34)? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (34, 35 & 36)? | | | X | |

Comments.

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

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 (37). This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project’s incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City adopted a Climate Action Plan (CAP)(34). The CAP provides policies along with implementation and monitoring which will enable the City of Hesperia to reduce greenhouse emissions 29 percent below business as usual by 2020, consistent with AB 32 (35).

Development of the proposed apartment complex will not increase the greenhouse gas (GHG) emissions beyond that analyzed within the General Plan Update Environmental Impact Report (GPUEIR). In addition, the site is optimally situated near the Hesperia Civic Center and a bus stop (1). Renters of these apartments will be able to walk to the Hesperia Civic Plaza Park, the county library, shopping centers, and the motion picture theatre currently under construction.

The apartment buildings will be equipped with energy efficient mechanical systems for heating and cooling. That, in combination with use of dual pane glass and insulation meeting current Building Code regulations (33), will result in reduced GHG emissions for this project. Ultimately, older heating and cooling systems will be replaced with these more efficient systems, resulting in substantial community emission reduction credits.

Although the proposed use will result in an additional number of vehicle trips, the impact of development of apartments to the maximum density allowed by the Specific Plan was taken into account by the GPUEIR. The project is located within the HDR District of the Specific Plan, which allows up to 20 dwelling units per gross acre. Consequently, the GPUEIR considered the impact of up to 112 apartment units on this site. 114 apartments would be constructed under this application. The two additional dwelling units will generate only 14 additional daily vehicle trips beyond the number accounted for by the GPUEIR. This minimal increase in traffic impact will be analyzed further within the Transportation/Traffic Section.

This project will provide 18 affordable dwelling units (12 for low income and 6 for very low income households). These residents tend to use buses and other types of public transportation. A bus stop is conveniently situated on Ninth Avenue, just south of this project. Consequently, the 18 affordable units may reduce the number of vehicle trips below that which was considered by the GPUEIR.

Staff has calculated the annual greenhouse gas emissions for this project, accounting for emission reductions for mechanical equipment and other appliances needed to comply with the building code and from transportation, in accordance with the analysis in Attachment “B.” Based upon Urbemis and the methodology provided within Attachment “B,” this project is consistent with the greenhouse emission reduction target for 2020. Further, the impact during construction is a large part of the CO₂ produced, but is only a temporary condition. The site’s proximity to the library, park, and shopping areas will encourage use of alternative modes of transportation. In particular, a bus stop exists less than 300 feet south of the project on Ninth Avenue. Consequently, the impact upon GHG emissions associated with the proposed site plan review and development agreement 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 (40)? | | | 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 (40)? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school (1 & 5)? | | | | 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 (40)? | | | | 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 (9)? | | | | 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 (41)? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (42)? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands (1 & 5)? | | | | X |

Comments.

Many hazardous chemicals are used in construction of buildings and structures. However, proper use of these materials will not result in a hazardous waste release. The apartments will not involve the routine transport or storage of hazardous wastes. These wastes are limited to regular household cleansers and other over-the-counter hazardous chemical products. Therefore, the project site does not have the potential to become a hazardous waste site.

The project site is currently vacant and is not listed within any of the following hazardous site database systems, so it is unlikely that hazardous materials currently exist on-site:

- National Priorities List www.epa.gov/superfund/sites/query/basic.htm. List of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. There are no known National Priorities List sites in the City of Hesperia.
- Site Mitigation and Brownfields Reuse Program Database www.dtsc.ca.gov/database/Calsites/Index.cfm. This database (also known as CalSites) identifies sites that have known contamination or sites that may have reason for further investigation. There are no known Site Mitigation and Brownfields Reuse Program sites in the City of Hesperia.
- Resource Conservation and Recovery Information System www.epa.gov/enviro/html/rcris/rcris_query_java.html. Resource Conservation and Recovery Information System is a national program management and inventory system of hazardous waste handlers. There are 53 Resource Conservation and Recovery Act facilities in the City of Hesperia. However, the project site is not a listed site.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS) (<http://cfpub.epa.gov/superfund/cursites/srchsites.cfm>). This database contains information on hazardous waste sites, potential hazardous waste sites, and remedial activities across the nation. There is one Superfund site in the City of Hesperia. However, the project site is not located within or adjacent to the Superfund site.
- Solid Waste Information System (SWIS) (<http://www.ciwmb.ca.gov/SWIS/Search.asp>). The SWIS database contains information on solid waste facilities, operations, and disposal sites throughout

the State of California. There are three solid waste facilities in the City of Hesperia; however the project site is not listed.

- Leaking Underground Fuel Tanks (LUFT)/ Spills, Leaks, Investigations and Cleanups (SLIC) (<http://geotracker.waterboards.ca.gov/search/>). This site tracks regulatory data about underground fuel tanks, fuel pipelines, and public drinking water supplies. There are fourteen LUFT sites in the City of Hesperia, six of which are closed cases. The project site is not listed as a LUFT site and there are no SLIC sites in the City of Hesperia.
- There are no known Formerly Used Defense Sites within the limits of the City of Hesperia <http://hq.environmental.usace.army.mil/programs/fuds/fudsinv/fudsinv.html>.

The proposed apartment complex does not conflict with air traffic nor emergency evacuation plans. The site is over three miles south of the Hesperia Airport and is therefore not within a restricted use zone associated with air operations (41). Consequently, implementation of the project will not cause safety hazards to air operations.

The project's potential for exposing people and property to fire and other hazards was also examined. The site is located within an urbanized area and is not in an area susceptible to wildland fires. The southernmost and westernmost portions of the City are at risk, due primarily to proximity to the San Bernardino National Forest (43 & 44). All new structures associated with this project will be constructed to the latest building standards including applicable fire codes. Consequently, approval of the site plan review and development agreement will not have any impact upon or be affected by hazards and hazardous materials.

| 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 (45 & 46)? | | | | 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) (47 & 48)? | | | 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 (43)? | | | | 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 (5 & 43)? | | | 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 (49)? | | | X | |
| f) Otherwise substantially degrade water quality (49)? | | | 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 (5, 50 & 51)? | | | | X |

| | | | | |
|---|--|--|--|---|
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows (5, 43 & 51)? | | | | 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 (9 & 43)? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow (28)? | | | | X |

Comments.

Development of the site will disturb more than one-acre of land. Consequently, a Notice of Intent (NOI) and a general construction National Pollution Discharge Elimination System (NPDES) permit shall be obtained prior to land disturbance (52). Issuance of a Storm Water Pollution Prevention Plan (SWPPP) will also be required, which specifies the Best Management Practices (BMPs) that will be implemented to prevent construction pollutants from contacting storm water (52). Obtaining the NPDES and the SWPPP is required by the State Water Resources Control Board (WRCB) and the California Regional Water Quality Control Board (RWQCB). The NPDES and SWPPP have been deemed adequate by these agencies to mitigate potential impacts to water quality during project construction.

This development may change absorption rates and potential drainage patterns, as well as affect the amount of surface water runoff (5). Therefore, the 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 (53). The City has constructed a portion of underground storm drain identified as H-01, which has eliminated the upstream drainage that impacted this site. Consequently, the site is no longer impacted by off-site drainage. The site is also not within a Flood Zone, based upon the latest Flood Insurance Rate Maps (51). The retention facilities required by the City will ensure that no additional storm water runoff impacts the area and that any contaminants will be filtered from storm water runoff prior to release.

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, the project site would not be inundated by floodwater (54). The areas most affected by a dam failure are located in the low lying areas of southern Rancho Las Flores, areas adjacent to 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 (31). 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 (31). The subject property exhibits at most a two percent slope. In addition, the water table is significantly more than 50 feet below the surface. The area north of Summit Valley contains steep slopes which have the potential to become unstable during storm events (55). Therefore, the conditions necessary to create a mudflow; a steep hillside with groundwater near the surface, do not exist at this location.

The Mojave Water Agency (MWA) has adopted a regional water management plan (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 (47).

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 not projected to exceed demand beyond the year 2030 (47). 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 site plan review and development agreement 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 (1)? | | | | X |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect (9)? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan (21, 22 & 23)? | | | | X |

Comments.

The site is currently vacant but is located within an area with existing residential uses (1). The proposed apartment complex is consistent with the General Plan, with approval of a development agreement (5). The development agreement will provide 18 affordable residential units (12 for low income and 6 for very low income households). In exchange for the 18 rent-restricted units, which will help the City reach its affordable housing goals within its Housing Element, the developer will receive a density bonus as well as a number of design concessions in accordance with the City's Density Bonus Ordinance. The development agreement includes a density bonus of two dwelling units (112 are allowed by the Specific Plan) and design concessions, consistent with state law. These concessions include allowing buildings and structures less than 15 feet apart and smaller private and public open space area than minimally required by the Specific Plan.

The project site is not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities. These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest community; exist within the Rancho Las Flores Specific Plan and vicinity (22). The project site is located approximately seven miles northwest of this sensitive area and is within a developed portion of the City. Therefore, the site plan review and development agreement would have a less than significant 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 (56)? | | | | 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 (56)? | | | | X |

Comments.

According to data in the Conservation Element of the City’s General Plan, no naturally occurring important mineral resources occur within the project site (56). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the Victor Valley. Although the project contains a wash that contains sand and gravel, the mineral resources within the property are not unique locally or regionally and need not be preserved. Consequently, the proposed site plan review and development agreement 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, 5 & 57)? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (57 & 58)? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project (5 & 9)? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (57)? | | | 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 (9 & 60)? | | | | 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 (60)? | | | | X |

Comments.

Approval of the proposed apartment complex 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 (57). Freeways, major arterials, railroads, airports, industrial, commercial, and other human activities contribute to noise levels. Apart from the noise during construction, noises associated with this type of project will be mostly from traffic caused by arriving and departing vehicles and the complex’s outdoor recreational activities.

Noise levels associated with construction activities may be significantly higher than the existing ambient noise levels in the vicinity of the 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 diminish as construction is completed.

The proposed project must adhere to the requirements of the City of Hesperia Noise Ordinance (58). The Noise Ordinance 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.

The project site is over three miles north of the Hesperia Airport. At this distance, the project is not impacted by any safety zones associated with this private airport (60). The project site is even farther from the Southern California Logistics Airport (SCLA) and the Apple Valley Airport and will not be affected by any safety zones for these airports.

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 permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with noise impacts (18). Inasmuch as this project is consistent with the Specific Plan, excepting the two additional dwelling units being considered as part of the development agreement; no appreciable difference in noise impact will 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) (5 & 9)? | | | 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)? | | | | X |

Comments.

The subject property is within the HDR District of the Specific Plan (9), which allows up to 112 dwelling units. Since the proposed project is only slightly denser than allowed by the Specific Plan, its potential effect as a growth-inducing factor has mostly been accounted for within the GPUEIR. The properties to the south are also within the HDR District. The properties to the north, east, and west are within the Low Density Residential (LDR) District (9). The development agreement will create just two additional dwelling units above that currently allowed by the HDR District. The two additional dwelling units will create approximately 13 additional daily vehicle trips as identified within the Transportation/Traffic Section (38). Consequently, the proposed development will not cause a significant additional population or housing impact. In addition, this project will not displace any existing housing, necessitating the construction of replacement housing elsewhere, since the site is currently vacant.

The proposed 114-unit apartment complex includes 18 units which will only be able to be rented to persons who qualify for rental housing assistance. The development agreement will restrict 12 units for households meeting the county's definition of low income and 6 units for very low income households.

Creation of affordable housing is a goal of the City's General Plan and conforms to state housing laws. This project will further diversify the City's housing stock, in support of establishment of a full range of housing densities within the City's boundaries.

The site is currently served by water, sewer, and other utility systems (61). Therefore, development of the project would not cause a significant negative impact upon existing public facilities. Completion of the project would also have a less than significant impact upon population and housing, based upon the minimal increase in density of apartments beyond that analyzed by the GPUEIR.

| 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 (62): | | | X | |
| Fire protection? (62 & 63) | | | X | |
| Police protection? (62 & 63) | | | X | |
| Schools? (62 & 63) | | | X | |
| Parks? (62 & 63) | | | X | |
| Other public facilities? (62) | | | X | |

Comments.

Although the proposed project will create an increase in demand for public services (5), that increase is slightly greater than that anticipated as part of the GPUEIR. The site is currently adjacent to both sewer and water lines adequate to serve the development (61). Full street improvements comprised of curb, gutter, and sidewalk will be constructed along the project frontage prior to completion of the project (59). Additionally, development impact fees will be assessed at the time that building permits are issued (63). These fees are designed to ensure that appropriate levels of capital resources will be available to serve any future development. Therefore, the impact of the site plan review and development agreement upon public services is less than significant.

| 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 (5)? | | | 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 (5)? | | | X | |

Comments.

Construction of this project will result in a slight increase in population growth beyond that which is planned for in the City’s Land Use Element and the Specific Plan. The development agreement will allow for two additional dwelling units beyond that analyzed by the GPUEIR. Therefore, its impact upon existing recreational facilities will be minimal. In addition, the project includes a host of recreational amenities; including a pool and two spas, a recreation center, a half basketball court, a tot lot, and picnic areas with barbeques (5). Consequently, the development will provide recreational venues for all ages. Further, the developer will be responsible for paying park fees (63), which ensure that any additional impact to existing recreational facilities will be lessened. Therefore, the proposed site plan review and development agreement will have minimal impact upon existing recreational facilities.

| 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 (64)? | | | 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 (65 & 66)? | | | 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 (41)? | | | | 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 & 59)? | | | | X |
| e) Result in inadequate emergency access (5)? | | | | 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 (67)? | | | | X |

Comments.

The project is located within the HDR District of the Specific Plan, which allows up to 20 dwelling units per gross acre. Consequently, the GPEIR analyzed development of up to 112 apartment units on this site. This project will allow for construction of 114 apartments. Therefore, only two additional units will be created. Based on the Institute of Traffic Engineers’ Trip Generation Manual (38), apartments generate approximately 6.7 daily vehicle trips per dwelling unit. Consequently, the proposed 114 units would generate about 764 daily vehicle trips. The GPUEIR analyzed the impact of 112 dwelling units on this property, which would create 750 daily vehicle trips. Therefore, only about 14 additional daily vehicle trips beyond that accounted for by the GPUEIR would occur.

The proposed development fronts upon Live Oak Street and Eighth and Ninth Avenue (5). All three streets are designated as local roadways, but have a 40-foot half-width instead of the standard 30-foot half-width (67). The design is based on the City’s 60-foot Local Roadway Standard. Currently, Live Oak Street is unpaved along the project frontage. Full street improvements will be constructed along the project frontage. Pavement a minimum of 26 feet wide will be required off-site to existing pavement. The

improvements for Eighth Avenue shall be as shown on the approved “Eighth Avenue Paseo plans” and the street plans for this project must be consistent with these plans. The paseo is under construction and should be completed prior to development of this project (59).

None of the three intersections form a hazardous design feature and the improvements will make each intersection safer. These improvements will not conflict with the Traffic Circulation Plan, nor will they be inconsistent with an ordinance or policy establishing measures of effectiveness for the performance of the circulation system. The City’s General Plan includes a non-motorized transportation network (67). The site fronts upon Eighth Avenue, which is part of the Bikeway System Plan. The project’s proximity to the existing bus stop on Ninth Avenue and the paseo on Eighth Avenue should promote increased use of buses and other alternative modes of transportation. The tenants of this apartment complex will be within walking distance to the public library, Civic Plaza Park, and shopping areas. The project’s proximity to alternative modes of transportation has the potential to be particularly desirable for the tenants who will qualify for the 18 affordable apartment units.

Access to and within the site has been evaluated by both the City and the San Bernardino County Fire Department. The project provides three driveways; one for each street. The entrance to the development is from Live Oak Street. Exits are provided along Live Oak Street and Eighth and Ninth Avenues. The driveways along Eighth and Ninth Avenues will be gated, and include Knox boxes to provide emergency entry and exit for emergency services.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a Statement of Overriding Considerations dealing with transportation impacts (18). The proposed apartment complex will cause only a minimal increase in traffic from that which was analyzed under the GPUEIR. The project will afford its residents alternative modes of transportation, as it is less than 300 feet from the bus stop on Ninth Avenue and is adjacent to Eighth Avenue, which is being constructed as a paseo with a bike trail, forming a connection to the Civic Plaza. The apartments are also near the developing theatre and shopping areas, making it possible to walk, bicycle or ride a bus to obtain products and services for everyday needs. Consequently, the impact of the project upon transportation systems is less than significant.

| 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 (68)? | | | | 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 (69)? | | | 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 (59)? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (47 & 48)? | | | 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 (69)? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs (70 & 71)? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste (72)? | | | X | |

Comments.

Development of the proposed apartment complex will increase the amount of wastewater. The GPUEIR accounts for the amount of wastewater for up to 112 units. Approval of this site plan review and development agreement would allow for construction of 114 units. This minor increase in impact will not exceed the capacity of the existing eight-inch lines within the City's sewer and water system (61). Therefore, water and sewer capacity will be sufficient for the use.

As part of construction of the project, the City requires installation of an on-site retention facility which will retain any additional storm water created by the impervious surfaces developed as part of the project (59). Incorporation of the required on-site retention facility will ensure that the use will not have a negative impact upon adjacent properties. Consequently, based upon a 100-year storm event, development of this project will not increase the amount of drainage impacting downstream properties beyond that which would occur prior to its development. Additionally, the retention facility will 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, 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 (47).

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 (47). 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 (72). Currently, approximately 71 percent of the solid waste within the City is being recycled (70 & 71). About 152 tons of solid waste is disposed at the landfill and 214 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. Therefore, the site plan review and development agreement will not cause a significant negative 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 effects on human beings, either directly or indirectly? | | | X | |

Comments.

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

| XIV. EARLIER ANALYSES. |
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| <p>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:</p> <p>The Certified General Plan Environmental Impact Report.</p> |
| <p>a) Earlier analyses used. Earlier analyses are identified and stated where they are available for review.</p> |
| <p>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.</p> |
| <p>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.</p> |

The following mitigation measure(s) are recommended as a function of this project.

1. A pre-construction survey for the burrowing owl shall be conducted by a City approved, licensed biologist, no more than 30 days prior to commencement of grading.
2. Three copies of a protected plant plan shall be submitted to the Building and Safety Division showing the present location and proposed treatment of all smoke tree, species in the Agavacea family, mesquite, large creosote bushes, Joshua trees, and other plants protected by the State Desert Native Plant Act. Prior to issuance of a grading permit, the grading plan shall require transplanting or protection in place of all protected plants as specified in the approved protected plant plan.
3. If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. Further, prior to completion of the project, the applicant shall submit a report describing all cultural resources encountered during grading.

Authority: Public Resources Code Sections 21103 and 21107.

REFERENCES

- (1) Aerial photos of the City of Hesperia taken February, 2011.
- (2) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-7.
- (3) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Page 3.1-8.
- (4) Section 16.20.085 of the Hesperia Municipal Code.
- (5) Applications filed for Site Plan Review SPR11-10213 and Development Agreement DA11-10002.
- (6) Section F of Chapter 7 of the Main Street and Freeway Corridor Specific Plan, pages 106 thru 113.
- (7) Article VII within Chapter 16.20 of the Hesperia Municipal Code.
- (8) Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Exhibit 3.2-1
- (9) Figure 6.7 of the 2008 Main Street and Freeway Corridor Specific Plan.
- (10) Williamson Act map within Section 3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), Exhibit 3.2-2
- (11) Conservation Element of the 2010 City of Hesperia General Plan Update, Page CN-34.
- (12) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area Map 31 and Pages 21 and 22.
- (13) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.5.
- (14) 2010 Fire and Resource Assessment Program (FRAP), prepared by the California Department of Forestry and Fire Protection, Figure 1.1.4.
- (15) Air Quality Section of the 2010 City of Hesperia General Plan Update, pages CN-47 thru CN-50.

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- (16) Section 3.3 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.3-1 thru 3.3-30.
-
- (17) Mojave Desert Air Quality Management District, Federal Particulate Matter (PM10) Attainment Plan, July 31, 1995.
-
- (18) Statement of overriding considerations for the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR) adopted by Resolution No. 2008-053.
-
- (19) Biological Assessment for Live Oak Estates prepared by VHBC, Inc. on April 15, 2011.
-
- (20) Chapter 16.24 of the City of Hesperia Municipal Code, Article II. Desert Native Plant Protection.
-
- (21) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-4.
-
- (22) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-3.
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- (23) Section 3 of the 2010 City of Hesperia General Plan Conservation Element, Exhibit CN-5.
-
- (24) Appendix C of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, C-1 thru C-34.
-
- (25) Section 5 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, Exhibit 5e.
-
- (26) Section 7 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, pages 61 and 62.
-
- (27) Section 8 of the 2010 City of Hesperia General Plan Update Cultural Resource Element background technical report, page 64.
-
- (28) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, Exhibit SF-1.
-
- (29) Section 1.2.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, Figure 1-2.
-
- (30) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 1-12.
-
- (31) Section 3.0 of the 2010 City of Hesperia General Plan Safety Element, pages SF-5 thru SF-11.
-
- (32) Chapter 1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, pages 1-23 thru 1-36.
-
- (33) 2010 California Building Code.
-
- (34) Section 1 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 1.
-
- (35) Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, page 18.
-
- (36) Table 5 of Section 3 of the 2010 City of Hesperia General Plan Update Climate Action Plan, pages 20 and 21.
-
- (37) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, pages SF-31 thru SF-33.
-
- (38) Institute of Transportation Engineers Trip Generation Manual, Sixth Edition, Volume 2, Page 306.
-
- (39) 2007 Urbemis Report for summer greenhouse gas emissions, Version 9.2.4.
-
- (40) Hazardous Materials Section of the 2010 Hesperia General Plan Safety Element, pages SF-31 thru SF-33.
-

-
- (41) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
-
- (42) Potential Emergency Shelters and Evacuation Routes shown within the 2010 Hesperia General Plan Safety Element, Exhibit SF-4.
-
- (43) Map showing very high fire hazard areas, flood zones, and significant hazardous materials sites of the 2010 City of Hesperia General Plan Update Safety Element, Exhibit SF-2.
-
- (44) Fire Hazard Section of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.7-9.
-
- (45) Section 3.8.2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-13.
-
- (46) Section 3.8.5 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-20 thru 3.8-22.
-
- (47) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, pages CN-7 thru CN-10.
-
- (48) Mojave Water Agency letter dated March 27, 1996.
-
- (49) Section 4.3.8 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 4-9.
-
- (50) 1992 Hesperia Master Plan of Drainage Volume III, identifying future drainage improvements for the area.
-
- (51) FEMA flood map, City of Hesperia General Plan Update Safety Element background technical report, page 3-9.
-
- (52) Section 3.8.3 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.8-15.
-
- (53) Flooding Hazards Section of the 2010 City of Hesperia General Plan Update Safety Element, pages SF-16 thru SF-18.
-
- (54) Dam Inundation Map for the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
-
- (55) Table 3.6-2 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 3.6-24.
-
- (56) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
-
- (57) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4 thru NS-12.
-
- (58) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467.
-
- (59) Conditions of approval for Site Plan Review SPR11-10213.
-
- (60) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, Exhibit LU-3.
-
- (61) Current Hesperia water and sewer line atlas, page H13.
-
- (62) Section 4 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 4-13 thru 4-18.
-
- (63) 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.
-
- (64) Exhibit CI-22 showing the Urban Design Framework within the 2010 City of Hesperia General Plan Update Circulation Element, page CI-55.
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- (65) Section 2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 2-19.
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- (66) Section 2.2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 4 thru 6.
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- (67) Sections 6.3 and 6.4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 74 thru 76.
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- (68) Section 3.8 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-8 thru 3.8-14.
-
- (69) 2010 California Plumbing Code.
-
- (70) Quarterly data of the San Bernardino County Disposal Reporting System for the 2010 calendar year.
-
- (71) 2010 California Department of Resources, Recycling and Recovery Annual AB939 Report.
-
- (72) California Integrated Waste Management Act (AB 939).
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Attachment "A"

SPR11-10213 & DA11-10002 initial study



Attachment “B”

Summary of Greenhouse Gas Emissions

Tariq Shamma - 114 unit affordable housing project

July 11, 2012

Project Emissions

| UnMitigated | MTCO ₂ e/year |
|----------------------|--------------------------|
| Natural Gas | 10.39 |
| Electricity | 454.45 |
| Transportation (VMT) | 1,161.95 |
| Total | 1,626.79 |

Project Emission Reductions

| Mitigated | MTCO ₂ e/year | Percentage |
|----------------------|--------------------------|------------|
| Electric | 54.53 | 12.56% |
| Transportation (VMT) | 149.82 | |
| Total | 204.35 | |

Natural Gas Combustion

Tariq Shamma - 114 unit affordable housing project
Greenhouse Gas Analysis

Global Warming Potentials

Methane 21
Nitrous Oxide 310
Carbon Dioxide 1

| | units | Natural Gas Usage Factor * | Natural Gas Usage (therms/unit/year) | Natural Gas Usage (MMBTU/year) | Emission Factor (kg/MMBTU) * | Emissions (kg/year) | Emissions (tons per year) | Emissions (MTCO ₂ e per year) | |
|----------------|--------|----------------------------|--------------------------------------|--------------------------------|------------------------------|---------------------|---------------------------|--|--|
| Methane | 114.00 | | 471.00 | 536.94 | 0.005 | 2.68 | 0.00 | 0.06 | |
| Nitrous Oxide | 114.00 | | 471.00 | 536.94 | 0.0001 | 0.05 | 0.00 | 0.02 | |
| Carbon Dioxide | 114.00 | | 471.00 | 536.94 | 17.42 | 9,353.49 | 10.31 | 10.31 | |
| Total: | | | | | | | | 10.39 | |

* Factors used are from the Hesperia Climate Action Plan

Electricity - Domestic Emissions

Tariq Shamma - 114 unit affordable housing project
Greenhouse Gas Analysis

Per Capital City Emissions

| Area | Year | Total Residential Units | Population/Total Units | Estimated Population | MTCO ₂ e/year |
|---------------|------|-------------------------|------------------------|----------------------|--------------------------|
| City + Sphere | 2009 | 34,550 | 2.98 | 102,896 | 135,824 |
| City + Sphere | 2020 | 58,281 | 3.03 | 176,527 | 233,019 |
| City + Sphere | 2030 | 79,855 | 3.05 | 243,465 | 321,378 |

Population Increase by Project

114 units * 3.02 (avg. population) = 344.28

Emission per Person: 321,378 MTCO₂e/243,465 (2030 Population) = 1.32

| Project Population | MTCO ₂ e per person | MTCO ₂ e/year |
|--------------------|--------------------------------|--------------------------|
| 344.28 | 1.32 | 454.45 |

| Measure | Percent Reduction | MTCO ₂ e/year |
|--------------------------------------|-------------------|--------------------------|
| 2.1.2 Programmable Thermostat Timers | 6% | |
| 2.1.4 Energy Star Appliances | 4% | |
| 2.2.2 Lighting | 2% | |
| Total | 12% | |
| Total Unmitigated | | 454.45 |
| Mitigated Emissions | | 399.92 |
| Reductions | | 54.53 |

Vehicle Emissions

Emission Inventory Greenhouse Gas Analysis

| | |
|-------------------------------|-----------|
| Total Units | 114 |
| Total Affordable Units | 18 |
| VMT (Annual) * | 2,539,480 |

| | |
|----------------------------|----------------|
| | CH4 |
| Grams per Mile ** | 0.05 |
| gram per VMT | 126,974 |
| tons per VMT | 0.14 |
| | N2O *** |
| Nox (tons per year) | 1.4 |
| N2O (tons per year) | 0.07 |

| Project | (tons/year) | GWP | MTCO2e |
|-----------------------|-------------|-----|-----------------|
| CO2* | 1256.72 | 1 | 1,256.72 |
| CH4 | 0.14 | 21 | 2.94 |
| N2O *** | 0.07 | 310 | 21.15 |
| Total (MTCO2e) | | | 1,280.81 |
| | | | 1,161.95 |

* Urbemis 2007 Version 9.2.4. - Annual VMtTs calculated by multiplying VMtTs by 365 days

** City of Hesperia Climate Action Plan

*** Emission Factor for N2O based upon a conversion ratio of 0.04873 from NOx to N2O. Based upon California Air Resources Board:

Estimates of Nitrous Oxide Emissions from Motor Vehicles and the Effects of Catalyst Composition and Aging, 2005.

**** Percentage reduction applies to emissions from affordable units only

Mitigation Strategies

| Strategy | Percentage Reduction | Total MTCO2e Reduction |
|------------------------------------|--------------------------------|------------------------|
| 3.2.1 Pedestrian Network | 2% | 23.24 |
| 3.1.6 Integrate Affordable Housing | MTCO2e/114 units | 10.19 |
| | MTCO2e from Affordable Housing | 183.47 |
| 3.1.1 Increase Density | 0.80% | 9.30 |
| 3.1.2 Suburban Center | 10% | 116.19 |
| | | 149.82 |

Reference Only:

| Pollutant | (tons/year) | GWP | MTCO2e |
|--|-------------------|-----|-------------------|
| CO2 | 441,975.00 | 1 | 441,975.00 |
| CH4 | 34.00 | 21 | 714.00 |
| N2O *** | 20.00 | 310 | 6,200.00 |
| Total | 442,029.00 | | 448,889.00 |
| Conversion from tons to metric tons ** | | | 0.91 |
| Total (MTCO2e) | | | 407,232.10 |

Fireplace Emissions

Emission Inventory
Greenhouse Gas Analysis

| | Fireplace emission | 2009 | 2020 | 2030 |
|-------------------------|----------------------|---------|--------------|--------------|
| CAP Total | MTCO2E/year | 9528.00 | 16073.00 | 22023.00 |
| CAP - MFR (only) | CO2 tons/year | 970.00 | 1635.00 | 2241.00 |
| CAP - MFR (only) | MTCO2E/year | 879.98 | 1483.27 | 2033.04 |
| CAP - MFR (only) | units | 3835 | 6469 | 8864 |
| CAP - MFR (only) | MTCO2E per year/unit | 0.23 | 0.23 | 0.23 |
| project | 114 | | 26.14 | 26.15 |
| CAP - MFR (only) | MTCO2E/year | 879.984 | 1483.272 | 2033.035 |

ATTACHMENT 9

RESOLUTION NO. PC-2012-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A DEVELOPMENT AGREEMENT TO CONSTRUCT A THREE-STORY, 114-UNIT APARTMENT COMPLEX WHICH INCLUDES A 2% DENSITY BONUS AND 18 AFFORDABLE UNITS ON 5.6 GROSS ACRES WITHIN THE HIGH DENSITY RESIDENTIAL (HDR) DISTRICT OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE (DA11-10002)

WHEREAS, TMS Consortium has filed an application requesting consideration of Development Agreement DA11-10002, described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 5.6 gross acre site within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan), located on the south side of Live Oak Street, between Eighth and Ninth Avenue and consists of Assessor's Parcel Numbers 0407-142-03 and 04; and

WHEREAS, the Application, as contemplated, proposes to provide 18 affordable multiple-family residential units and a density bonus of two percent; and

WHEREAS, the Applicant has also filed Site Plan Review SPR11-10213, to construct a three-story, 114-unit apartment complex on the 5.6 gross acre site; and

WHEREAS, the property is currently vacant and is bounded by existing single-family residences to the north and east. An affordable senior's apartment complex exists on the property to the south and the property to the west is vacant; and

WHEREAS, the subject property is currently within the HDR District of the Specific Plan. The properties to the north, east, and west are within the Low Density Residential (LDR) District. The properties to the south are also within the HDR District; and

WHEREAS, an environmental Initial Study for the proposed site plan review and development agreement was completed on July 10, 2012, and no significant adverse impacts were identified. Negative Declaration ND-2012-01 was subsequently prepared; and

WHEREAS, on August 9, 2012, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced August 9, 2012 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The proposed development agreement will allow a two percent density bonus and deviation from specified development standards in exchange for creation of 12 units that will be reserved for low and 6 for very low income households. These affordable housing units will contribute towards meeting the City's affordable housing goals as mandated by the State of California and supported by the City's General Plan Housing Element.
- (b) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia. Further, the project is consistent with the regulations authorizing residential densities exceeding that allowed under the General Plan through the density bonus program.
- (d) The granting of the density bonus will not be detrimental to the public health, safety, or welfare.
- (e) The proposed development agreement is consistent with and promotes the goals and policies of the General Plan, specifically Land Use Policy L. P. 1. b (3) and Housing Goal H. G. 18.

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

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends approval of DA11-10002.

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

ADOPTED AND APPROVED this 9th day of August 2012.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 10

RESOLUTION NO. PC-2012-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE A SITE PLAN REVIEW TO CONSTRUCT A THREE-STORY, 114-UNIT AFFORDABLE APARTMENT COMPLEX ON 5.6 GROSS ACRES WITHIN THE HIGH DENSITY RESIDENTIAL (HDR) DISTRICT OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN LOCATED ON THE SOUTH SIDE OF LIVE OAK STREET, BETWEEN EIGHTH AND NINTH AVENUE (SPR11-10213)

WHEREAS, TMS Consortium has filed an application requesting consideration of Site Plan Review SPR11-10213, described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 5.6 gross acre site within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan (Specific Plan), located on the south side of Live Oak Street, between Eighth and Ninth Avenue and consists of Assessor's Parcel Numbers 0407-142-03 and 04; and

WHEREAS, the Application, as contemplated, proposes to construct a three-story, 114-unit affordable apartment complex; and

WHEREAS, the Applicant has also filed Development Agreement DA11-10002, to provide a two percent density bonus and deviation from specified development standards in exchange for creating 18 affordable units; and

WHEREAS, State Housing Law requires the City to consider such design concessions to encourage affordable housing; and

WHEREAS, the property is currently vacant and is bounded by existing single-family residences to the north and east. An affordable senior's apartment complex exists on the property to the south and the property to the west is vacant; and

WHEREAS, the subject property is currently within the HDR District of the Specific Plan. The properties to the north, east, and west are within the Low Density Residential (LDR) District. The properties to the south are also within the HDR District; and

WHEREAS, an environmental Initial Study for the proposed site plan review and development agreement was completed on July 10, 2012, and no significant adverse impacts were identified. Negative Declaration ND-2012-01 was subsequently prepared; and

WHEREAS, on August 9, 2012, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to this Commission during the above-referenced August 9, 2012 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

- (a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, because the site can accommodate all proposed improvements, with the exception of the minimum building separation and open space regulations. The Density Bonus Program allows deviations from standards, consistent with state law.
- (b) The proposed use will not have a substantial adverse effect on abutting property, or the permitted use thereof.
- (c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code and all applicable codes and ordinances adopted by the City of Hesperia. Further, the project is consistent with the regulations authorizing residential densities exceeding that allowed under the General Plan through the density bonus program.
- (d) The site for the proposed use will have adequate access based upon the site's current access to Ninth Avenue, which is already paved. Live Oak Street will provide suitable access as well, once constructed. Eighth Avenue will include a paseo, promoting alternative means of travel.
- (e) The proposed project is consistent with the adopted General Plan of the City of Hesperia, specifically the Housing Element, which promotes construction of affordable housing.
- (f) The proposed project is consistent with and promotes the goals and policies of the General Plan, specifically Land Use Policy L. P. 1. b (3) and Housing Goal H. G. 18.

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

Section 4. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends approval of SPR11-10213.

Section 5. That the Secretary shall certify to the adoption of this Resolution, subject to the conditions of approval as shown in Attachment 'A'.

ADOPTED AND APPROVED this 9th day of August 2012.

ATTEST:

Chris Elvert, Chair, Planning Commission

Kathy Stine, Secretary, Planning Commission

ATTACHMENT 'A'

List of Conditions for Site Plan Review SPR11-10213

Approval Date: September 4, 2012
Effective Date: September 4, 2012
Expiration Date: September 4, 2015

This list of conditions apply to a Site Plan Review to construct a three-story, 114-unit affordable apartment complex on 5.6 gross acres within the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan located on the south side of Live Oak Street between Eighth and Ninth Avenue. Any change of use or expansion of area may require approval of a revised site plan review application (Applicant: TMS Consortium; APNs: 0407-142-03 & 04).

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

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

SUBMITTAL OF PUBLIC IMPROVEMENT PLANS SHALL INCLUDE THE FOLLOWING:

- _____ 1. **Drainage Study.** The Developer shall submit a Final Hydrology / Hydraulic study identifying the method of collection and conveyance of tributary flows from off-site as well as the method of control for increased run-off generated on-site. (E)
- _____ 2. **Geotechnical Report.** The Developer shall provide two copies of the soils report with the grading plan. The soils report shall substantiate with all grading, building, and public improvement plans. In addition, a percolation report shall be performed to substantiate the percolation of the on-site drainage retention areas. Include "R" value testing and pavement recommendations for public streets (E, B)
- _____ 3. **Title Report.** The Developer shall provide a complete title report 90 days or newer from the date of submittal. (E)
- _____ 4. **Erosion Control.** The Developer shall provide an erosion control plan with the improvement plans submittal per City Standards. (E)
- _____ 5. **NPDES.** The Developer shall apply for the required NPDES (National Pollutant Discharge Elimination System) permit with the Regional Water Quality Control Board and pay applicable fees. (E)
- _____ 6. **Storm Water Pollution Prevention Plan.** The Developer shall provide a Storm Water Pollution Prevention Plan (SWPPP), which addresses the method of storm water run-off control during construction. (E)

- _____ 7. **Utility Non-interference / Quitclaim Document(s).** The Developer shall provide non-interference and or quitclaim letter(s) from *any* applicable utility agencies for *any* utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. **The improvement plans will not be accepted without the required documents and approval from the affected agencies.** (E)
- _____ 8. **Irrevocable Offer of Dedication.** The Developer shall submit an "Offer of Dedication" to the City's Engineering Department for review and approval. At time of submittal the developer shall complete the City's "application for document review" and pay all applicable fees. (E)
- _____ 9. **Plan Check Fees.** Along with improvement plan submittal, the Developer shall pay applicable plan-checking fees. **Improvement Plans and requested studies shall be submitted as a package.** (E)
- _____ 10. **Recreational Facility Plans.** The Developer shall submit two sets of plans to develop the recreational facilities to the Building Division with the required application fees. The recreational facilities shall include passive recreational areas of turf, picnic tables, barbeques, and concrete trash receptacles. Active recreational facilities shall include the recreation building, a pool and two spas, a one-half basketball court, and a tot-lot with permanent playground equipment. (P)
- _____ 11. **Specialty Plans.** The following additional plans/reports shall be required for businesses with special environmental concerns: (B)
- A. Submit two (2) sets of engineered plans for the proposed swimming pool and spas to the Building Division for review and construction permits with the required application fees. The plans shall have prior review and approval by the San Bernardino County Department of Environmental Health Services.
- _____ 12. **Building Construction Plans.** Five complete sets of construction plans, prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect, shall be submitted to the Building Division with the required application fees for review. (B)
- _____ 13. **Photometric Study.** A photometric study shall be submitted to ensure that the project complies with the minimum 0.1 foot-candle illumination standard as well as the maximum 0.5 foot-candle standard at the property lines abutting Live Oak Street, Eighth and Ninth Avenues and the adjacent residentially designated properties. (P)
- _____ 14. **Indemnification.** As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or

judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicant's project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY:

- _____ 15. **Approval of Improvement Plans.** All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)
- _____ 16. **NPDES.** The Developer shall provide a copy of the approved original NPDES (National Pollutant Discharge Elimination System) permit from the Regional Water Quality Control Board and provide a copy of fees paid. The copies shall be provided to the City's Engineering Department. (E)
- _____ 17. **Storm Water Pollution Prevention Plan.** All of the requirements of the Storm Water Pollution Prevention Plan shall be incorporated and be in place prior to issuance of a grading permit. (E)
- _____ 18. **Grading Plan.** The Developer shall design a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building "footprints" and proposed development of the retention basins, as a minimum. The site grading and building pad preparation shall include the recommendations provided by the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw), top of footing (tf), and the finish grade (fg) elevations. (E)
- _____ 19. **On-site Retention.** The Developer shall design / construct on-site retention facilities, which have minimum impact to ground water quality. This shall include maximizing the use of horizontal retention systems and minimizing the application of dry wells / injection wells. All dry wells / injection wells shall be 2-phase systems with debris shields and filter elements. All dry wells / injection wells shall have a minimum depth of 30'

with a max depth to be determined by soils engineer at time of boring test. Per Resolution 89-16 the Developer shall provide on-site retention at a rate of 13.5 Cu. Ft per every 100 Sq. Ft. of impervious materials. **Any proposed facilities, other than a City approved facility that is designed for underground storage for on-site retention will need to be reviewed by the City Engineer. The proposed design shall meet City Standards and design criteria established by the City Engineer. A soils percolation test will be required for alternate underground storage retention systems. (E)**

_____ 20. **Street Improvement Plan.** The Developer shall design street improvements in accordance with City standards and as indicated below. (E)

_____ 21. **Ninth Ave.** Saw-cut (2-foot min.) and match-up asphalt pavement on Ninth Ave. across the project frontage, based on the City's 60-foot Local Roadway Standard. The curb face is to be located at 20' from the approved centerline. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and 24" Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards. Locations: (1) at the BCR of the southerly drive approach. (1) at the BCR of the intersection of 9th and Live Oak St.
- E. Intersection improvements including handicapped ramps per City standards.
- F. Commercial driveway approaches per City standards.
- G. Pavement transitions per City Standards.
- H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 8(min) and per the soils report.
- I. Cross sections every 50 feet per City standards.
- J. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- K. Provide a signage and striping plan per City standards.
- L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards. It is also the Developer's responsibility to obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City.
- M. Relocate existing overhead utilities to underground. The Developer shall coordinate with affected utility companies.
- N. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

_____ 22. **Live Oak St.** The design shall be based on City's 60-foot Local Roadway Standard. The curb face is to be located at 20' from the approved centerline. Currently Live Oak is unpaved along the frontage; a 26' wide (minimum) paved road will be required. The new paving must safely tie into the Paseo intersection at Live Oak and Eighth Ave. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable. These improvements shall consist of:

- A. 8" Curb and 24" Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards. Locations: (1) at the BCR of the main entrance located in front of the recreation building.
- E. Intersection improvements including handicapped ramps per City standards.
- F. Commercial driveway approaches per City standards.
- G. Pavement transitions per City Standards.
- H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index of 8(min) and per the soils report.
- I. Cross sections every 50 feet per City standards.
- J. Traffic control signs and devices as required by the traffic study and/or the City Engineer.
- K. Provide a signage and striping plan per City standards.
- L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards. It is also the Developer's responsibility to obtain any additional Right-of-Way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City.
- M. Relocate existing overhead utilities to underground. The Developer shall coordinate with affected utility companies.
- N. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

_____ 23. **Utility Plan.** The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. **Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development shall be removed / replaced or relocated and shall be constructed per City standards at the Developer's expense. (E)**

- A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.
- B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the existing size" PVC water line in Said Street per City Standards.
- C. The Developer is required to install sewer lines. It is the Developer's responsibility to connect to sewer and pay the appropriate fees.

D. Complete V.V.W.R.A.'s "Wastewater Questionnaire for Commercial / Industrial Establishments" and submit to the Engineering Department. Complete the "Certification Statement for Photographic and X-ray Processing Facilities" as required. **The Wastewater Questionnaire is only required if the project is required to connect to sewer.**

- _____ 24. **Sewer Improvement Plan.** The Developer shall design sewer improvements in accordance with City standards, and as indicated below. (E)
- _____ 25. **Sewer Improvement Plan.** The Developer shall design and construct an 8" minimum PVC SDR 35 sewer main in Live Oak St. The proposed sewer line will begin at the intersection of Ninth Ave. and connect the existing sewer main in Seventh Ave. Design shall consist of plan and profile per City standards. (E)
- _____ 26. **Storm Drain Facilities.** The Developer shall design storm drain improvements in accordance with City standards. The storm water generated on Live Oak St. and possibly Ninth Ave. must get to Eighth Ave. and follow the natural flow pattern based on topography. A cross gutter may be needed at the intersection of Ninth Ave and Live Oak. (E)
- _____ 27. **Fish & Game Fee.** The applicant shall submit a check to the City in the amount of \$2,151.50 payable to the Clerk of the Board of Supervisors of San Bernardino County to enable the filing of a Notice of Determination. (P)
- _____ 28. **Cultural Resources.** If cultural resources are found during grading, then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)
- _____ 29. **Pre-construction Survey.** A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)
- _____ 30. **Protected Plants.** Three copies of a protected plant plan shall be submitted to the Planning Division showing the present location and proposed treatment of species in the Dalea and Spinosa (smoketree); Agavaceae (century plants, nolinias, and yuccas, including Joshua Trees); Prosopis (mesquites); Larrea (Creosote rings ten feet or greater in diameter); and all plants protected by the State Desert Native Plants Act, which shall be handled in accordance with the provisions of the Development Code and State law. The grading plan shall be consistent with the approved protected plant plan. Ground disturbing activities shall not commence until the protected plant plan is approved and the site is inspected and approved for clearing. VHBC, Inc. has not been added to the City's list of approved special inspectors. Therefore, VHBC, Inc. shall

file an application with the necessary fee and obtain approval from the Building Division for inclusion on the list. (P)

- _____ 31. **Pre-construction Meetings.** Pre-construction meetings shall be held between the City, the Developer, grading contractors, and special inspectors to discuss permit requirements, monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B, P)
- _____ 32. **Design for Required Improvements.** Improvement plans for off-site and on-site improvements shall be consistent with the plans approved as part of this site plan review application with the following revisions made to the improvement plans: (B, E, P)
- A. All drive aisles shall be a minimum of thirty (30) feet wide, consistent with Fire Department regulations. The additional two (2) feet shall be provided by allowing the parking spaces to overhang the landscaping areas by two (2) feet.
 - B. All trash enclosures shall be located as far from the adjacent drive aisle as possible to provide for safe vehicular maneuvering. The location of the trash enclosure requires approval by Planning staff;
 - C. A four-foot wide handicapped accessible route of travel shall be provided from one public street and from the parking areas to all onsite recreational facilities, trash enclosures, laundry rooms, and apartment units, consistent with state accessibility requirements;
 - D. A minimum four-foot wide landscaped area and a one-foot sidewalk in addition to the six-inch concrete curb shall be installed at the end of all parking space rows as approved by Planning staff;
 - E. Bicycle racks to accommodate a minimum of 27 bicycles shall be provided as approved by Planning staff.
- _____ 33. **Lot Merger.** A lot merger shall be submitted, approved, and recorded. The lot merger and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)
- _____ 34. **Survey.** The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)
- _____ 35. **Jurisdiction.** Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department. [F-1]
- _____ 36. **Water System.** Prior to any land disturbance, the water systems shall be designed to meet the required fire flow for this development and shall be approved by the Fire Department. The required fire flow shall be determined by using California Fire Code.

The Fire Flow for this project shall be: 200 GPM for a 2 hour duration. [F-5]

- _____ 37. **Access.** The development shall have a minimum of 2 points of vehicular access. These are for fire/emergency equipment access and for evacuation routes.
- A. **Multi-Story Road Access Width.** Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height. **The Thirty foot minimum access is for larger ladder trucks operations needed for fire fighting for multi story buildings.**
- B. **Single One Way Access Width.** Single one way access shall be twenty (20) feet in width when approved by the Fire Department
- C. **Single Gate Access Width.** Single gate access shall be a minimum 16' width when approved by the Fire Department. [F-41]
- _____ 38. **Combustible Protection.** Prior to combustibles being placed on the project site an approved all-weather fire apparatus access surface and operable fire hydrants with acceptable fire flow shall be installed. The topcoat of asphalt does not have to be installed until final inspection and occupancy. [F-44]
- _____ 39. **Water System Commercial.** A water system approved and inspected by the Fire Department is required. The system shall be operational, prior to any combustibles being stored on the site. Fire hydrants shall be spaced no more than three hundred (300) feet apart (as measured along vehicular travel-ways) and no more than three hundred (300) feet from any portion of a structure. [F-54]

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE:

- _____ 40. **Construction Waste.** The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)
- _____ 41. **Landscape Plans.** The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and completed landscape packet to the Building Division. Plans shall utilize xeriscape landscaping techniques in

conformance with the Landscaping Ordinance. The number, size, type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)

- _____ 42. **Development Agreement.** This agreement affords two additional dwelling units beyond that which is permitted by the High Density Residential (HDR) District of the Main Street and Freeway Corridor Specific Plan. This density bonus, combined with design concessions, is being granted by the City in exchange for maintaining 18 units for low and very low income households (12 units will be restricted to low income and 6 units for very low income). The buildings within this development are exempt from the minimum 15-foot building separation requirement and the minimum area requirement for open space, including the minimum private open space area. The applicant shall execute Development Agreement DA11-10002, as approved by the City, placing restrictions on the tenants/owners of the development with all incentives approved by the City in accordance with state law. The agreement shall be subject to review and approval by the City prior to recordation. Recordation of the agreement shall occur prior to issuance of a building permit for any of the structures within this development. (P)
- _____ 43. **Solid Masonry Wall/Fencing.** The Developer shall submit four sets of masonry wall/wrought iron fencing plans to the Building Division with the required application fees for all proposed walls. A combination solid three-foot high split-face masonry wall or other approved decorative wall with a three-foot high wrought iron fence shall be provided along Live Oak Street, Eighth Avenue and Ninth Avenue, and a split-face, six-foot high wall with decorative cap shall be installed along the south property line in accordance with the Development Code. (P)
- _____ 44. **Development Fees.** The Developer shall pay required development fees as follows:
- A. School Fees (B)
- _____ 45. **AQMD Approval.** The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
- _____ 46. **Light and Landscape District Annexation.** Developer shall annex property into the lighting and landscape district administered by the Hesperia Recreation and Parks District. The required forms are available from the Building Division and once completed, shall be submitted to the Building Division. (RPD)
- _____ 47. **Fire Sprinkler-NFPA #13.** An automatic fire sprinkler system complying with NFPA Pamphlet #13 and the Fire Department standards is required. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit three (3) sets of detailed plans to the Building and Safety Department for review and approval. The plans (minimum 1/8" scale) shall include hydraulic calculations and manufacturer's specification sheets. The contractor shall

submit plans showing type of storage and use with the applicable protection system. The required fees shall be paid at the time of plan submittal. [F-59]

- _____ 48. **Fire Alarm.** An automatic fire sprinkler **monitoring** fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required for 20 heads or more. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit three (3) sets of detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal. [F-62]

CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY:

- _____ 49. **As-Built Plans.** The Developer shall provide as-built plans. (E)
- _____ 50. **Public Improvements.** All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)
- _____ 51. **Development Fees.** The Developer shall pay required development fees as follows:
- A. Park Fees (B)
 - B. Development Impact Fees (B)
 - C. Utility Fees (P)
- _____ 52. **Utility Clearance(s)/Certificate of Occupancy.** The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)
- _____ 53. **On-Site Improvements.** All on-site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The buildings shall be designed consistent with the design shown upon the approved materials board and color exterior building elevations identified as Exhibits "A" and "B," which provide two building exterior color schemes for use in this development. Any exceptions shall be approved by the Director of Development Services. (P)
- _____ 54. **Directory Addressing.** Apartments, condominiums and commercial or industrial complexes with more than three separate buildings onsite shall have a building directory. Directories are to be posted at the main entrance(s) to the complex on the entry driveway side. Directories shall not be located in the public right-of-way or clear sight triangle areas. Directories shall be of sufficient size to be clearly visible from the public

roadway serving the entrance driveway, but in no case less than two feet in either dimension or six square feet. The directory shall be lighted from a power source dedicated to the general premises. (B)

- _____ 55. **Hydrant Marking.** Blue reflective pavement markers indicating fire hydrant locations shall be installed as specified by the Fire Department. In areas where snow removal occurs or non-paved roads exist, the blue reflective hydrant marker shall be posted on an approved post along the side of the road, no more than three (3) feet from the hydrant and at least six (6) feet high above the adjacent road. [F80]
- _____ 56. **KNOX Box[®].** An approved Fire Department key box is required. The KNOX Box[®] shall be provided with a tamper switch and shall be monitored by a Fire Department approved central monitoring service. [F85]
- _____ 57. **Override Switch.** Where an automatic electric security gate is used, an approved Fire Department override switch (Knox[®]) is required. [F86]
- _____ 58. **Fire Extinguishers.** Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department. [F88]

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: August 9, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel Alcayaga, AICP, Senior Planner
SUBJECT: Workshop regarding Mobile Food Services (Hot Food Trucks) Ordinance;
Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission receive this report, and provide any further guidance to staff regarding the proposed Mobile Food Services (Hot Food Trucks) Ordinance.

BACKGROUND

On June 14, 2012, the Commission held its first workshop pertaining to mobile food services. The Commission discussed two types of food truck operations – mobile and stationary operations. The first type may be characterized as roaming, whereby vendors operate at different locations throughout the day. It was believed that the business model for mobile food vendors is to go where the customers will be and regulations should be flexible to support this model. The second type was characterized as stationary operations, such as community events and large festivals. Commissioners believed these types of operations function differently and should be regulated separately.

Generally, Commissioners favored roaming, although some expressed concerns. These included:

- Whether allowing food trucks in the City would take business away from existing restaurants;
- Whether the City would have adequate regulations in place to protect the public;
- Expressed a preference to collect one permit/license fee per user, rather than collect one fee for each site;
- Whether vendors would obtain property owner permission;
- Provided examples of other communities that encountered problems with too many food trucks at one time and place; and
- Questioned the availability of Code Enforcement to enforce the rules.

Staff advised the Commission of a recent code amendment that prohibits commercial vehicles from parking in the right-of-way in residential areas. This does not prohibit “stopping” – meaning the vehicle remains occupied, but Section 10.08.100 prohibits vending in the street. The only exception (Section 5.24.060) applies to ice cream trucks, which operate in residential areas. Staff does not recommend changing City policy because the long-term goal of the City has been to make roadways more efficient. The General Plan Circulation Element sets the street sections for all arterial and collector roads (Main St., Bear Valley Rd., I Ave., Hesperia Rd. Mariposa Rd., etc.). Arterial and collector roads are not planned to support street parking, which are the roads that front most businesses. Businesses are required to have loading zones adjacent to their buildings.

ISSUES/ANALYSIS

Staff has prepared an Ordinance for the two different types of food truck operations – mobile and stationary operations. Mobile operations are titled “Roaming Mobile Food Vehicles” and stationary operations are titled “Temporary Use/Special Event Permits.” The draft Ordinance will provide separate regulations that apply to each type of food truck operation, as well as general regulations that apply to both operations.

Roaming Mobile Food Vehicles: The Commissioners expressed concerns about whether allowing food trucks in the City would take business away from existing restaurants and whether the City would have adequate regulations in place to protect the public. The draft Ordinance states that food trucks shall not be located within 500 feet of any operating commercial restaurant building within the City of Hesperia, unless the food truck is operated by said restaurant.

The proposed Ordinance would allow mobile food vehicles to roam throughout the City provided that the vendor obtains a Mobile Food Services Permit. Food trucks would not be allowed to be parked in the right-of-way, except for ice cream trucks. Trucks would not be allowed to vend during nighttime hours within residential areas. Vendors would be required to provide basic information about the person(s) responsible for the food truck and information for the food truck. This information would be used by the City in order to contact the vendor in case there is a violation.

Pursuant to State law, a toilet and a hand washing facility would be required within 200 feet when such vehicle would be stationary for a period of more than sixty minutes. Consequently, food trucks would be allowed to be stationary no more than sixty minutes unless a bathroom was available at the site. After the allotted time, vehicles would not be allowed to vend at the same location, or in proximity to that area, for a period of 2 hours.

The Commission expressed a preference to collect one permit/license fee per user, rather than collect one fee for each site. The draft Ordinance requires food truck vendors to obtain a Mobile Food Services Permit when vending at multiple sites. Consequently, a food truck vendor would be subject to a fee to be established by the Council.

The Commission questioned whether vendors would obtain property owner permission. Food truck vendors would identify the sites that they intend to occupy and provide evidence of the owner's authorization. This information would be provided to the City when the vendor applies for a business license and Mobile Food Services Permit. Evidence of the owner's authorization would be required to be carried, by the vendor, at all times. Upon business license renewal, vendors would be required to provide an updated list of sites that were added throughout the year, as well as owner authorizations that correspond to those properties. In addition, vendors would be required to notify the City if there are changes to the contact information for the person(s) responsible.

During the workshop, the Commission provided examples of other communities that encountered problems with too many food trucks at one time and place. Accordingly, the draft Ordinance requires any commercial property or shopping center that has three or more food trucks, at the same time, to obtain a temporary use permit. This provision will provide the City with an opportunity to determine if the site will support the number of food trucks and if adequate site access/parking will be provided.

The Commission questioned the use of Code Enforcement to enforce the rules. Staff explained that the Code Enforcement Department deals with many issues throughout the City, and sets priorities based on the type of complaints and the number of issues received at a particular time. At times, the use of code enforcement resources would be limited and would likely occur on a reactive, complaint basis. Violations would be subject to Chapter 1.12, which outlines the enforcement policies established by the City Council.

Temporary Use/Special Event Permits: In addition, the draft Ordinance will allow mobile food facilities to be approved with a Temporary Use/Special Event Permit. These permits have already been established in the Code. The Code Amendments would make those permits apply to mobile food services. The purpose of Temporary Use/Special Event Permits would be described as follows:

- **Temporary Use Permit.** The purpose of Temporary Use Permit would be to allow the food truck for an indefinite period on a property. A Temporary Use Permit would be regulated by Section 16.12.382. The Temporary Use Permit has been intended for uses such as a small recycling facility and a Christmas Tree lot.
- **Temporary Special Event Permit.** The purpose of a Temporary Special Event Permit would be to allow food truck(s) as part of a community event or a large festival. Temporary Special Event Permits have been used for grand openings or other promotional events by businesses. The special event permit process has been regulated by Section 16.12.380. Temporary Special Event Permits may be issued for 21 consecutive days or 4 consecutive weekends in any 90 day period. The draft Ordinance increases the frequency to 6 events per calendar year. The draft Ordinance states that an event which takes place Thursday, Friday, Saturday and Sunday on one weekend will be considered a single event for the purposes of calculating the number of events per parcel.

Temporary Use/Special Event Permits process provides the City with the opportunity to review an application and determine if there is enough room on the property to support the temporary use or special event and if adequate considerations, such as site access and parking are available. An application, for both a Temporary Use/Special Event Permits, would require submittal of a site plan which shows the layout of the site. The key land use considerations, which would be reviewed as part of the permit application, include:

- Location(s) of vending/staging area(s);
- Existing site features (e.g. property lines, buildings/structures, parking areas, drive aisles, drive approach, etc.)
- Trash receptacles;
- Restrooms;

Other issues which the City considers in the application process, depending on the size of the use/event, include the provision of emergency medical facilities, monitoring of noise/music levels, compliance with alcoholic beverage license requirements (if applicable), provision of law enforcement or security services and emergency evacuation procedures. A conditional use permit may be required if the magnitude or longevity of the use warrants a conditional use permit.

Other Considerations: The draft Ordinance would exempt community events sponsored by a governmental agency or events that occur on school, park, or civic facilities from the regulations in this Ordinance. Authorization from the City, School or Park District would be required. Examples of community events would be the Hesperia Day's Parade and the Civic Plaza Park Farmer's Market.

The draft Ordinance provides new definitions for a "food truck event", a "mobile food vehicle" and a "roaming mobile food vehicle". The definition for a "food truck event" clarifies that any Ordinance adopted by City will fall under the County's definition of a food truck event. In Hesperia, a food truck event will be a program by which the City issues a business license or land use permit to a food truck(s) that comply with City regulations.

The definition for a "mobile food vehicle" clarifies that a vending facility must be consistent with County and State Codes, which are intend to permit catering trucks, hot/cold food trucks or lunch wagons. The definition for a "roaming mobile food vehicle" clarifies that food trucks can roam throughout the City, but may only station on private property and not within in the right-of-way.

Proof of insurance would be required from all trucks roaming throughout the City and for large special events. The insurance policy may be waived for minor events and temporary uses. In addition, a Mobile Food Services Permit or Temporary Use/Special Event Permit may be revoked by the Planning Commission if a food truck operator falsifies information to the City or if a food truck negligently violates the law.

CONCLUSION

Staff has provided the Commission with a draft Ordinance to address a variety of issues pertaining to regulating mobile food services. A discussion about these issues will be used to complete the Ordinance that fits Hesperia. The amendments would be included within Chapter 5.24 pertaining to Mobile Food Vending operations and within Chapter 16.16, Article II, of the Development Code pertaining to Additional Uses. The Ordinance shall comply with State law and the Hesperia General Plan, as well as be consistent with the County's health regulations. At this time, the Commission is asked to provide guidance to draft an Ordinance for their recommendation or raise other issues pertaining to mobile food services.

FISCAL IMPACT

None.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Draft Ordinance: Exhibit "A" - Mobile Food Services
2. Staff report for the June 14, 2012 Planning Commission workshop pertaining to Mobile food services
3. Temporary Special Events and Temporary Uses, Sections 16.12.370 – 16.12.390
4. Chapter 5.24 of the Hesperia Municipal Code pertaining to Peddling, Soliciting and Hawking
5. Excepts of the Health and Safety Code (Cal Code)

ATTACHMENT 1

EXHIBIT "A"

THE FOLLOWING DEFINITIONS SHALL BE ADDED TO CHAPTER 16.08:

16.08.532 "Mobile food vehicle"

"Mobile food vehicle" means any vehicle or facility that falls within the definition of a mobile food facility under the California Retail Code, upon which food is sold or distributed at retail.

16.08.237 "Food truck event"

"Food truck event" means any event approved by the City of Hesperia where mobile food vehicles operate at designated locations to sell or give away food to individuals. A food truck event is a program whereby the City issues a Mobile Food Service Permit, a Temporary Use Permit or a Temporary Special Event Permit to mobile food vehicles that demonstrate compliance with City regulations and agree to follow all laws while conducting business in the City.

16.08.712 "Roaming mobile food vehicle"

"Roaming mobile food vehicle" means a mobile food vehicle that travels throughout the City and the vehicle parks, stops or stands on private property for food vending purposes. Mobile food vehicles shall not be allowed to park or vend in a street or a public way.

SECTION 16.16.062 SHALL BE ADDED TO THE CHAPTER 16.16, ARTICLE II, OF THE DEVELOPMENT CODE AND INCLUDE THE FOLLOWING:

Section 16.16.062 – Mobile food vehicle regulations

- A) **Purpose and intent.** The City expressly finds that mobile food vehicles have the potential to pose traffic hazards and special dangers to the public health, safety and welfare. It is the purpose and intent of the City, in enacting this Section, to provide responsible companies and persons, which engage in the operation of a mobile food vehicle, with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.
- B) **Regulations for all mobile food vehicles.** It is unlawful for any person to sell or offer for sale, or operate any vehicle or conduct any business for the purpose of causing the sale of, or offering for sale, any hot and/or cold foods and related goods or merchandise, from any mobile food vehicle parked, stopped or standing upon any public street, alley, parkway, sidewalk or public/private property in the City, except in accordance with all applicable provisions of this Section. All mobile food vehicles and their operators conducting business in the City shall comply with the following:

- i) Shall have a decal and letter grade posted on the vehicle issued by the County Health Department;
- ii) Shall obtain property owner authorization when temporarily or permanently vending on private property;
- iii) Shall carry evidence of written owner authorization at all times;
- iv) Shall not be stationed within a street or a public way or within the clear sight triangle;
- v) Shall not be stationed within 500 feet from any operating commercial restaurant building in the City of Hesperia, unless the mobile food vehicle is operated by said restaurant;
- vi) Shall not be stationed in any location that blocks or otherwise interferes with the free movement of vehicles, pedestrians, or accessible (handicap) parking or path of travel;
- vii) Shall not back up in a street or a public way to make or attempt to make a sale;
- viii) Shall not operate between the hours of nine p.m. and eight a.m. within any residential designated area and shall not operate within 150 feet from any residential designated property;
- ix) Shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such vehicle, and the operator of the food vehicle shall pick up all refuse generated by such operation within a fifty-foot radius of the vehicle before such vehicle is moved;
- x) Shall be subject to other regulations in the Hesperia Municipal Code, including but not limited to noise and light/glare regulations;
- xi) Other mobile food vending apparatuses, not classified as mobile food vehicles, shall be regulated by Chapter 5.24 – Peddling, Soliciting and Hawking and/or subsequent amendments;
- xii) Upon applying for a permit, evidence shall be submitted demonstrating that the operator or vendor has obtained a sellers permit from the State Board of Equalization;
- xiii) No person shall drive or operate or cause or permit to be driven any mobile food vehicle in the City unless the operator or the vendor thereof shall have obtained a liability insurance policy from a responsible and solvent corporation, authorized to issue such policies under the laws of the state, insuring such operator or vendor and covering the mobile food vehicle. The City of Hesperia shall be named as an additional insured under the policy. The Director of Development Services or his/her designee may waive the insurance requirement for minor events or temporary use permits;
- xiv) Shall pay license or permit fees in an amount established by the City Council.

C) Roaming mobile food vehicles: All mobile food vehicles that roam throughout the City, as defined in this Code, shall comply with the following:

- a) Shall be subject to the regulations in Section 16.16.062(B);
- b) Prior to the City issuing a business license and a Mobile Food Service Permit, the applicant of a mobile food vehicle shall submit the following information:

- i) Name of company and person(s) responsible for the vehicle;
 - ii) Address and telephone of company and person(s) responsible for the vehicle;
 - iii) A copy of a California driver's license of person(s) responsible for the vehicle;
 - iv) License plate number and vehicle identification number for the vehicle;
 - v) Two pictures of the vehicle from two sides;
 - vi) A brief description of the business;
 - vii) A list of properties from which the mobile food vehicle will be stationed, as well as property owner authorizations that correspond to those properties. The properties may be listed by address or parcel number (APN);
 - viii) Upon business license renewal and subsequent renewals, vendors shall provide an updated list of sites from which the mobile food vehicle has been, or will be, stationed throughout the previous or upcoming year, as well as owner authorizations that correspond to those properties;
- c) Mobile food vehicles shall not be stationary on any site for a period not to exceed 60 minutes, unless a readily available toilet and handwashing facility are provided within 200 feet of the vehicle. After the allotted time, vehicles shall not vend at the same site, or within 500 feet of that area, for a period of 2 hours;
 - d) Shall prominently display the company's name, address and phone number with two-inch-minimum letters and numbers on both sides of the vehicle;
 - e) A commercial property or shopping center, which has three or more mobile food vehicles at the same time, shall be required a Temporary Use/Special Event Permit;
 - f) The Mobile Food Service Permit shall not be transferrable to a different vehicle, person, company, operator or vendor. The City shall be notified in writing if there are changes in the contact information for the person(s) responsible or company;
 - g) A Mobile Food Service Permit shall be issued by the Director of Development Services or his/her designee.

D) Temporary Use/Special Event Permits: Mobile food vehicles may be permitted with a Temporary Use Permit or Temporary Special Event Permit and shall be subject to the following:

- a) Shall be subject to the regulations in Section 16.16.062(B);
- b) All mobile food vehicles that are situated on a property for a period exceeding 60 minutes shall maintain adequate restrooms and hand washing facilities within 200 feet consistent with State law;
- c) Shall not conflict with site features, including but not limited to parking and access requirements, required by the Development Code;
- d) May require a Conditional Use Permit where the magnitude or longevity of the use requires the permit and/or approval;
- e) An event, as part of Temporary Special Event Permit, will be limited to six events per parcel per calendar year. A event which takes place on Thursday, Friday, Saturday and Sunday on one weekend will be considered one event, for the purposes of calculating the number of events per parcel.

f) The applicant for a Temporary Use Permit or Temporary Special Event Permit shall supply a site plan and other information the City may reasonably require based upon the location, intensity, and level of services required for each proposed use or event.

i) The applicant must show or provide, at a minimum, the following information:

- (1) Location(s) of vending/staging area(s);
- (2) Existing site features (e.g. property lines, buildings/structures, parking areas, drive aisles, drive approach, etc.);
- (3) Provisions for adequate ingress/egress and adequate parking;
- (4) Trash receptacles;
- (5) Restrooms;

ii) For special events, with anticipated attendance of over 500 persons, the applicant must show or provide, in addition to the above, the following information:

- (1) Sanitary facilities;
- (2) Noise impact(s);
- (3) Site lighting;
- (4) Special traffic control measures, including the use of traffic enforcement officers, barricades, cones, signs, maps and any other traffic control devices of any type;
- (5) Fire protection, including location of fire hydrants and supplemental water sources;
- (6) Medical/first aid facilities;
- (7) Water facilities.

g) A Temporary Use Permit or a Temporary Special Event Permit shall be issued by the Director of Development Services or his/her designee;

E) **Community events:** Mobile food vehicles operated in conjunction with a community event are exempted from the requirements of this Section. A community event means an event that is of civic, public, or educational nature, including city festivals, circuses, farmer's market, and other public gathering events that are sponsored by a public agency or occur on public premises. Authorization from the public agency shall be required.

F) **Denial/Revocation of permit.** Denial of a Mobile Food Service Permit, Temporary Special Use Permit or Temporary Special Event Permit, for failure to comply with City regulations, may be appealed consistent with the provisions in Section 16.12.055 of the Development Code. Any Mobile Food Service Permit, Temporary Use Permit, or Temporary Special Event Permit for a mobile food vehicle may be revoked consistent with the provisions in Section 16.12.075 of the Development Code.



ATTACHMENT 2

DATE: June 14, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel Alcayaga, AICP, Senior Planner
SUBJECT: Workshop regarding Mobile and Temporary Food Services (Hot Food Trucks) 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 the Mobile and Temporary Food Services (Hot Food Trucks) Ordinance.

BACKGROUND

The California Retail Code is part of the Health and Safety Code (Cal Code) that regulates restaurants, temporary food facilities and mobile food facilities (Attachment 1). The State relies on local enforcement agencies (LEA's) which have the primary responsibility for enforcement of the Cal Code. The Environmental Health Services Division (DEHS) of the San Bernardino County Department of Public Health is the LEA authorized to interpret, apply and enforce the Cal Code throughout the County, including within incorporated cities and towns. Although DEHS inspects and permits all permanent and temporary food facilities, DEHS does not have authority over zoning or building codes in Hesperia.

Until recently, San Bernardino and Riverside Counties were the only counties in California that did not permit hot food trucks. Accordingly, DEHS has prohibited food trucks and other mobile vendors from selling hot foods. Exceptions to the County's prohibition included prepackaged foods and foods such as popcorn, snow cones, pretzels, churros, nachos, ice and hot dogs when contained within a fully protected food case. In the past, the County exempted hot food trucks to operate as "temporary food facilities" at "community events" held within the County (e.g. San Bernardino County Fair).

Due in large part to the burgeoning popularity of hot food trucks throughout the state and county, the County's Board of Supervisors authorized County staff to conduct research related to the legal and practical issues involving hot food trucks. On June 5, 2012, the County's Board of Supervisors was scheduled to consider the Food Truck Events Ordinance.

According to County staff, DEHS will require food truck vendors to obtain a permit and the trucks will be inspected. Trucks will be required to meet minimum standards for kitchen facilities, including refrigeration, sinks and running water. DEHS will issue a letter grade to each food truck, similar to restaurants.

New County Ordinance: Food Truck Events will be categorized into two distinct types- Major and Minor. A Major event would be an event other than a Community event, as defined by DEHS, where one or more mobile food facilities operate at a designated single location for not more than one day or a weekend, to sell or provide food to individuals. A Major event will have an anticipated attendance of over 500 persons, and will be limited to four events per parcel per calendar year. A Major event which takes place on both a Saturday and Sunday on one weekend will be considered a single event for the purposes of calculating the number of events per parcel. An example of a Major event would be having Mobile Food Facilities (MFFs) at church events, carnivals or festivals.

A Minor event would be an event other than a Community event, as defined by DEHS, where one or more mobile food facilities operate at a designated single location in either a single event, or a recurring event on more than one day, not to exceed 365 consecutive days, to sell or provide food to individuals. A Minor event will have an anticipated attendance of 500 persons or less. An example of a Minor event would be having MFFs on commercial facilities, industrial parks or construction sites.

The County's Food Truck Event Permit application, for both a Major and Minor event, would require submittal of a site plan which shows the layout of the Food Truck Event. The key land use considerations, which would be reviewed as part of the permit application, include:

- Food truck locations
- Trash disposal
- Restroom locations
- Structure and tent locations
- Lighting
- Fire prevention
- Other food concessions or vendors
- Site access and parking

Other issues which the County considers in the application process, depending on the size of the event, include the provision of emergency medical facilities, monitoring of noise/music levels, compliance with alcoholic beverage license requirements (if applicable), provision of law enforcement services and emergency evacuation procedures.

In the County, Minor events may be elevated to Major events if the activities require authorization from outside agencies. Additionally, a conditional use permit may be required by if the magnitude or longevity of the use warrants a conditional use permit. The police department would review all major applications; and proof of insurance would be required.

Town of Apple Valley: On May 2, 2012, Apple Valley's Planning Commission held a public workshop to discuss Mobile Food Facilities (MFFs) and Hot Food Trucks: The Commission discussed three options. Those options included:

1. Maintaining the status quo and continuing to allow MFFs as a part of a Special Event permit.
2. Allowing MFFs in commercial areas and establish a review process to address health and safety issues;
3. Allowing MFFs, on an annual basis, at construction sites within residential, commercial and industrial areas.

Hesperia's Regulations: Because they are prohibited in the County, the City does not currently have regulations for hot food trucks. The closest related regulations are within Chapter 5.24 of the Municipal Code pertaining to Peddling, Soliciting and Hawking (Attachment 2). In general, this chapter regulates mobile food vending vehicles, but mostly applies to ice cream trucks. The code requires ice cream trucks to install amber lighting, mirrors, and audible devices when backing-up. In addition, ice cream trucks cannot be stationed within 500 feet from a school or a park. Vehicles must be parked near a curb; cannot sell to a person standing in the street; and cannot vend during nighttime hours. The Police Department is required to inspect all ice cream trucks.

In Hesperia, outdoor events are permitted with a Temporary Special Event (TSE) permit. TSEs are intended for businesses desiring to hold special events such as grand openings or other promotional events. TSE permits may be issued for 21 consecutive days or 4 consecutive weekends in any 90 day period. Potentially, the TSE process may be used to permit mobile food vendors on private property. Operators must submit written property owner authorization and, when serving food, evidence that DEHS has issued a permit. TSE regulations do not provide guidance on how to regulate mobile food facilities.

ISSUES/ANALYSIS

In order to facilitate a discussion, staff prepared a brief analysis of some issues. Included in the analysis was a preponderance of issues related to mobile food regulations found in the California Municipal Revenue Tax & Association (CMRTA) survey, as well as in the San Bernardino County's Food Truck Events Ordinance. The CMRTA survey was conducted using an online forum of CA cities sharing information provided by CMRTA. Those cities that responded to the survey included Delano, Menlo Park, San Rafael, Newport Beach and Daly City.

Regulating Placement: Placement considerations would include:

- The City may consider adopting an Ordinance similar to the San Bernardino County's Ordinance, whereby Mobile Food Facilities (MFFs) would be allowed as part of organized events, as either Major or Minor events (Attachment 3). The County's code, applicable to unincorporated areas, would apply to private and public properties. Public properties include public parks, schools and civic places.
- The City may consider permitting MFFs on private property if they would not conflict with the required improvements such as site access or parking; or if not located within the clear sight triangle or the right-of-way.
- The City may consider allowing MFFs on construction sites.
- On private property, MFFs would require written authorization from all property owners.
- The City may consider giving exceptions to MFFs when situated on schools, parks, or civic facilities or during community events sponsored by a governmental agency. Authorization from the City, School or Park District would be required.
- The County will not allow hot food trucks to roam throughout unincorporated areas. Similarly, the City may consider not allowing MFFs to roam throughout the City.

Regulating Distance: California Assembly Bill AB-1678 has been proposed this legislative session that would regulate mobile food facilities at school campuses. If adopted, AB-1678 would prohibit MFFs within 500 feet of a public elementary or secondary school campus. Exceptions to AB-1678 would apply to nonresidential private properties; construction sites; filming locations; and when a formal agreement exists with a school district. Other considerations would include:

- The City may consider limiting the distance a food truck can be from a fully developed restaurant; another mobile food facility; or a school, a park or other civic facility. The distance limitations may range from 500 feet to 1,000 feet.
- The City may consider not requiring distance limitations for MFFs on construction sites or industrial complexes, due to the size and the location of these land uses.

Regulating Time: In the County's Ordinance, Major events would be permitted no more than 4 times a year; and Minor events would be permitted on a daily basis, or on a recurring basis, not to exceed 365 consecutive days. The County's Ordinance would not regulate operating hours, except in considering noise levels during the hours of 11 pm thru 7 am. Pursuant to State law, a toilet and a hand washing facility would be required within 200 feet when such vehicle would be stationary for a period of more than 1 hour. The City may consider multiple approaches, including:

- *Allowing MFFs for indefinite period:* The City may consider allowing MFFs when situated on a property for an indefinite period, if there would be enough room on the property to accommodate the facility; and if adequate restrooms and hand washing facilities exist within 200 feet of the food service.
- *Limiting the time and frequency:* The City may consider limiting the time and frequency that mobile food facilities would be allowed to be stationary. The time could range from 15 to 60 minutes. After the allotted time, vehicles would not be allowed to vend at the same location, or in proximity to that area, for a period of 2 hours.
- The City may consider applying time limitations (e.g. 1 hour) on a facility that would not have restrooms and hand washing facilities or in unique circumstances such as when situated on a construction site.
- The City may consider not allowing MFFs to operate during the night hours or in residential neighborhoods.

Regulating Type of Food Facilities: There would be a number of ways to vend from a mobile and temporary facility. Typically, food facilities would be in the form of carts, wagons and catering trucks. During community events, those facilities selling food would also consist of enclosed tents and temporary booths. Existing devices, such as bicycles, shopping carts and strollers have been known to be converted into vending apparatuses. All facilities will be required to be permitted and inspected by DEHS. A facility consideration would include:

- The City may consider prohibiting mobile food facilities in the form of carts or other man-powered devices.

Administrative Procedures: An Ordinance would need to include procedures for permitting mobile food facilities. While the Health and Safety Code has certain controls that would be enforced by County Health, a review process would ensure food facilities do not violate City regulations and would be necessary to protect issues related to public's health and safety that are specific to Hesperia. Administrative considerations would include:

- A site plan identifying the relevant features of the property and location of the vending facility would be necessary; and noise, lighting and trash issues would be addressed as part of the review process.
- The City may consider amending the regulations for ice cream trucks to clarify that current City regulations do not apply to MFFs; and to remove regulations prohibiting ice cream trucks within public parks.
- The City may consider including business license procedures to ensure MFFs and other food vendors would be registered with the State Board of Equalization. This process would ensure that the City receives sales tax from sales transactions that occur in Hesperia.

Environmental: This item is a Planning Commission workshop item. At this time, the Planning Commission is not required to make an environmental finding consistent with the California Environmental Quality Act (CEQA).

CONCLUSION

Staff has provided the Commission with a variety of issues pertaining to regulating mobile and temporary food vendors. A discussion about these issues will be used to draft an Ordinance that fits Hesperia. The amendments would be included within Chapter 5.24 pertaining to Mobile Food Vending operations and within Chapter 16.12, Article XI, of the Development Code pertaining to Special Events and Temporary Uses. The Ordinance shall comply with State law and the Hesperia General Plan, as well as be consistent with the County's health regulations. At this time, the Commission is asked to provide guidance on possible regulations or raise other issues pertaining to mobile and temporary food services.

FISCAL IMPACT

None.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

- ~~1. Excerpts of the Health and Safety Code (Cal Code)~~
- ~~2. Chapter 5.24 of the Hesperia Municipal Code pertaining to Peddling, Soliciting and Hawking~~
- ~~3. San Bernardino County's Food Truck Events Ordinance (Draft)~~

ATTACHMENT 3

TEMPORARY SPECIAL EVENTS AND TEMPORARY USES

16.12.370 - Purpose of provisions.

The purpose of this article is to control and regulate special events and other land use activities of a temporary or recurring nature that may adversely affect the public health, safety, and welfare. The intent is to ensure that these events and uses will be compatible with surrounding land uses, to protect the rights of adjacent residences and landowners, and to minimize any adverse effects on surrounding properties and the environment.

(Ord. 2002-11 Exh. A (part), 2002)

16.12.375 - General provisions.

- A. A temporary use or structure which does not have a valid and current use permit as specified herein is declared to be a public nuisance, subject to the enforcement provisions of the development code and other applicable laws.
- B. A change in ownership or operator of a use or structure subject to a permit as specified in this article, or a change of structure or modification of the structure or use allowed on a parcel subject to such a permit, shall not affect the time periods established by this article to allow such temporary uses, events or structures.
- C. Noncompliance with the conditions set forth in approving the permit shall be grounds for the reviewing authority to cancel and void any use permit for a temporary use. Except in the case of a demonstrated emergency, the reviewing authority shall give prior notice of such an action to the permittee. The permittee may appeal such a decision by filing an appeal as allowed and specified in Section 16.12.055. The revocation shall be considered in accordance with Section 16.12.075.
- D. Unless otherwise specified in this article, the development services director, or his or her designee, is authorized to approve, conditionally approve with reasonable conditions, or to deny a permit for a temporary use or special event. The approval may establish conditions and limitations, including but not limited to: days and hours of operation, provision of parking areas, signing and lighting, traffic circulation and access, temporary or permanent site improvements, and other measures necessary to minimize detrimental effects on surrounding properties.
- E. The development services director, or his or her designee, may require a cash deposit or cash bond to defray the costs of cleanup of a site by the city in the event the applicant fails to leave the property in a presentable and satisfactory condition, or to guarantee removal and/or reconversion of any temporary use to a permanent use allowed in the subject land use designation.

(Ord. 2002-11 Exh. A (part), 2002)

16.12.380 - Special event permits.

- A. All special events shall be subject to the following requirements, as applicable:

1. The approval period for any special event shall be for the time period specified on the approval but in no circumstances shall it exceed more than twenty-one (21) continuous days, or more than four consecutive weekends of operation in any ninety (90) day period. Temporary Body Art Facilities are reviewed pursuant to Section 5.22.060. To exceed these time limitations shall require the review and approval of a conditional use permit, pursuant to Section 16.12.105.
2. All such activities shall have a minimum setback of one hundred (100) feet from any residential area. The reviewing authority, may waive this requirement, if it is determined that no adverse impacts would result.
3. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided to the satisfaction of the development services director, or his or her designee.
4. Sanitation facilities shall be provided for the duration of the event; the number and location to be determined by the reviewing authority.
5. Security personnel shall be provided as required by the city police department.
6. Special, designated parking accommodations for amusement enterprise workers and support vehicles shall be provided.
7. Noise attenuation for generators and carnival rides shall be provided as approved by the reviewing authority.
8. Adequate emergency access shall be provided as approved by the fire department.
9. A certificate of insurance shall be submitted to the Planning Division, naming the city as co-insured, for not less than one million dollars (\$1,000,000.00) of general liability coverage, prior to issuance of any permits. This requirement may be waived for small events entirely on private property with no impacts to public facilities.
10. Adequate staging area shall be provided as approved by the development services director, or his or her designee.
11. Any platforms, stages, tents, or screening devices erected for the event shall be constructed to the satisfaction of the building official and/or fire marshal. The structure shall be removed from the site immediately following the event.
12. If involvement by government personnel (public works, fire, and police) is required, a deposit to cover estimated costs shall be submitted prior to issuance of the permit. Upon completion of the event, the city will, within twenty (20) working days, either refund any unused portion of the initial deposit, or require payment of any additional expenses incurred.
13. In cases where food and/or alcohol products will be sold to the general public in conjunction with the event, proof that permits were obtained from the county department of environmental health services and other applicable agencies shall be submitted prior to issuance of any permits.

14. Portable searchlights may be permitted, provided that the beam, when lit, shall not be at an angle of less than sixty (60) degrees from the horizontal, and that no advertising is located on the searchlight or its supporting structure.

15. Inflatable signs, balloons or bounce houses may be permitted provided that they are securely tethered. Insurance as specified in subsection (9) shall be required for any event using such inflatable devices.

B. Special Event Permits. A special event permit shall be required for the following uses, including but not limited to:

1. Parking lot and sidewalk sales for businesses located within a commercially designated property. Any special event for the sale of automobiles, boats, recreational vehicles, pools, spas, trucks, heavy equipment, mobile homes, sheds, modular buildings or similar items shall be limited to businesses with their primary establishment within the Victor Valley, including the town of Apple Valley and the cities of Adelanto, Hesperia and Victorville. The city may, at its option, issue a permit to an applicant with a primary business establishment out of this area, should no special event to sell the proposed items have occurred within the previous three months. The applicant is required to establish the point of sale for the event to be within the city for sales tax purposes.

2. Swap meets, outdoor art and craft shows and exhibits.

3. Fairs, concerts, or festivals, held outdoors or in temporary enclosures.

4. Circuses, carnivals, rodeos, pony riding, or similar traveling amusement enterprises.

5. Parades and other events conducted within the public right-of-way.

6. Auctions or distress sales.

16.12.382 - Temporary uses.

A. A temporary occupancy permit and/or building permit shall be required for the following uses:

1. Seasonal retail sale of agricultural products. Such uses shall be located on unoccupied portions of corner lots abutting at least one road designated on the city's master plan of arterial highways.

2. Food and drink carts, located on the property and adjacent to established commercial or industrial uses shall have obtained permits from the county department of environmental health services.

3. Christmas tree lots or pumpkin patches subject to the following guidelines and conditions:

a. Christmas tree lots may operate during the week before Thanksgiving through December 25th. This time does not include reasonable setup or teardown activities. Pumpkin patches may operate during the last week of September through October 31st.

b. All lighting shall be directed away from and shielded from adjacent residential areas.

c. Adequate provisions for traffic circulation, off-street parking, and pedestrian safety shall be provided as approved by the development services director, or his or her designee.

d. All requirements of the city, fire and police departments shall be met for the duration of the use.

4. Trailer coaches, motor homes, or mobile homes may be placed on active construction sites, for use as temporary living quarters for security personnel, or as a temporary residence for the subject property owner with approval of a temporary occupancy permit. The following restrictions shall apply:
 - a. The development services director may approve a temporary vehicle for the duration of the construction project, or for a specified period, but not for more than one year. If exceptional circumstances exist, a one-year extension may be granted; provided, that the building permit for the first permanent dwelling or structure on the same site has also been extended.
 - b. Installation of these vehicles may occur only after a valid building permit has been issued by the Building Division.
 - c. Vehicles permitted pursuant to this section shall not exceed a maximum gross square footage of six hundred fifty (650) square feet in size (tongue not included), and shall have a minimum of two hundred fifty (250) square feet for one or two persons, or a minimum of six hundred (600) square feet for occupancy by three or more persons. The unit must have a valid California vehicle license. Pickup campers shall not be permitted.
 - d. The temporary vehicle installation must meet all requirements of the county department of environmental health services and the city building and safety division.
 - e. Any permit issued pursuant to this section in conjunction with a construction project shall become invalid upon cancellation or completion of the building permit for which this use has been approved, or the expiration of the time for which the approval has been granted.
 - f. The permitted vehicle shall be removed from the site within thirty (30) days of the final approval of the building permit. A motor home, fifth-wheel trailer, or other recreational vehicle permitted under this section shall be disconnected from all utilities at the time of final approval.
 - g. Any vehicle permitted under this section shall be connected to approved sewage, electrical and water facilities at all times when the vehicle is authorized by a temporary occupancy permit
 - h. A building permit for the installation of a mobile home to be used as a temporary residence permitted under this section shall not be issued, if more than ten years have elapsed between the date of manufacture and the date of the application for the issuance of the permit to install the mobile home.
5. Temporary Office Modules. Temporary structures, such as trailers or prefabricated structures for use as interim offices, classrooms or for security personnel shall be allowed in any designation that allows the permanent use proposed. Recreational vehicles shall not be used for this purpose. The location of such structures shall be fully screened from the public right-of-way or adjacent residential properties. The building official may limit the time allowed for the use of such temporary structures, where it is feasible for such offices, classrooms or security facilities to be integrated into permanent structures.
6. Model Homes. Model homes may be used as offices solely for the sale of homes within a recorded tract, subject to the following conditions:
 - a. The sales office may be located in a garage, trailer, or dwelling.
 - b. Approval shall be for a three-year period, at which time the sales office shall be terminated, and if applicable, the structure remodeled to a single-family dwelling. Extensions may be granted by the building official in one-year increments, but no extension shall be granted if over ninety (90) percent of the development is sold.
 - c. A cash deposit, letter of credit, or other security approved by the city shall be submitted to the City, in an amount to be set by the City, to ensure the restoration or removal of the structure.

- d. The sales office is to be used only for transactions involving the sale, rent, or lease of lots and/or structures within the tract in which the sales office is located, contiguous tracts, or a planned community. However, the Planning Commission may consider off-site model homes sales offices where permitted by the land use designation, subject to the granting of a temporary occupancy permit as specified in Section 16.12.105.
 - e. Failure to terminate the sales office and remodel the structure, or failure to apply for an extension on or before the expiration date, will result in forfeiture of the cash deposit, a halt in further construction or inspection activity on the project site, and enforcement action to ensure the remodeling of the structure.
 - f. Street improvements and temporary off-street parking at a rate of two spaces per model shall be completed as approved by the Planning Division, , prior to commencement of sales activities or the display of model homes. Access to the parking area shall be prohibited from the rear of double frontage lots. Future street right-of-way along the front or street side yard, with a fully paved surface, may be used for no more than five of the required parking spaces, prior to the time that said right-of-way is accepted by the city for public use.
 - g. All fences proposed in conjunction with the model homes and sales office shall be located outside the public right-of-way.
 - h. Flags, pennants, or other on-site and off-site advertising shall be regulated pursuant to Chapter 16.36 of the Development Code.
 - i. Use of signs shall require submission of a sign permit application for review and approval prior to installation.
7. Off-Site Model Homes. A model home sales office, when not located within one of the three circumstances identified in item Section 16.12.382 (A)(6)(d), shall be considered an off-site model home sales office. The following criteria shall apply:
- a. A sales office may only be located within the dwelling itself, or within the garage. Trailers, modular units, or any similar temporary structure shall not be permitted.
 - b. The structure shall be constructed pursuant to the minimum requirements of the land use designation in which it is located.
 - c. Paved parking areas shall provide for at least five spaces and shall be located in proximity to the model home sales office. This off-street parking area shall be completed prior to the commencement of activities or display of model homes and shall include applicable handicapped parking spaces, signs and pavement markings.
 - d. All fences proposed in conjunction with the model home sales office shall be located outside of the public right-of-way.
 - e. Adequate on-site lighting shall be provided to ensure a safe and secure environment, while at the same time being designed and placed in such a manner as to prevent stray light or glare from becoming a nuisance factor for adjacent properties. The lighting design employed shall be a low-level type of system and is not intended to provide the same level of lighting as a comparable commercial or office use. A detailed lighting plan shall be submitted for review and approval to the Building Division.
 - f. Temporary occupancy permit shall be for a five-year period. Time extensions may be granted up to a maximum of another two years. Any requests for extension of this temporary use permit beyond the maximum of seven years would require the approval of a conditional use permit, pursuant to Article III of this chapter.
 - g. Adequate access from a public right-of-way shall be provided to the structure. A twenty-six (26) foot wide driveway shall be provided as approved by the city engineer.

- h. The structure shall meet all requirements of the city Building Division, including but not limited to the installation of handicapped accessible restroom facilities, and adequate utility facilities.
- i. With the exception of the paved parking and signs, an off-site model home shall be developed and landscaped as a single-family residence. Full landscaping, utilizing drought-resistant type materials, shall include a permanent, underground irrigation system, specimen size trees, and the use of shrubbery, ground cover, non-plant landscape materials, to produce an efficient yet pleasing outdoor environment.
- j. When the temporary occupancy permit allowing a model home t has expired, the home shall be converted and/or remodeled to conform to all requirements for single-family homes, including a two-car garage. A detached garage may be constructed to meet this requirement.
- k. A city business license shall be required.

(Ord. 2002-11 Exh. A (part), 2002)

16.12.385 - Application procedure.

Applications for temporary use permits and special event permits shall be filed with the Planning Division in a manner prescribed by the city, along with a fee as adopted by resolution of the City Council.

(Ord. 2002-11 Exh. A (part), 2002)

16.12.390 - New application following denial.

Following the denial of a permit application for a temporary use, no application for the same or substantially the same use on the same or substantially the same site shall be filed within one year of the date of denial.

(Ord. 2002-11 Exh. A (part), 2002)

Chapter 5.24

PEDDLING, SOLICITING AND HAWKING

Sections:

- 5.24.010 Application requirements.
- 5.24.020 License limitations.
- 5.24.030 Hours of operation.
- 5.24.040 Hawking prohibited.
- 5.24.050 Exceptions.
- 5.24.060 Mobile food vending vehicle operations.

5.24.010 Application requirements.

In addition to the application requirements specified in Section 5.04.050, the following information shall be required:

- A. The supplier of the goods to be sold;
- B. The place and date of any court judgment rendered against the applicant as a sex offender or as a defendant guilty of a criminal battery, fraud, burglary or theft;
- C. A copy of the state sales tax permit (California Revenue and Taxation Code §6066) for the applicant's activities attached to the application;
- D. A description of every type of merchandise or service that the applicant proposes to peddle or solicit;
- E. A designation of the location or locations at which place or places the applicant proposes to peddle or solicit and the dates and time of the same;
- F. A copy of the permit for any food products which are regulated. (Ord. 250 (part), 1997; Ord. 197 Exh. A (SBCC § 41.0126(a)), 1994)

5.24.020 License limitations.

Upon filing a complete application and all required documentation and payment of the required fee, the city shall transmit one copy to the police department. The chief of police or designee shall, within thirty (30) business days of the referral report to the collector, in writing, recommend approval or denial of the license and state the reasons therefore. The license shall not be issued unless all of the following conditions have been met:

- A. The applicant has submitted a correct and complete application form;
- B. The applicant has paid all required fees;
- C. The supplier of the personal property to be sold has been sufficiently identified as required by this chapter and there is no reasonable doubt as to the title or ownership of the personal property;
- D. The applicant has not had a judgment rendered against him as a violator of California law as a sex offender, as a person who has committed a criminal battery, burglary or theft, or as a person who has committed a fraud;
- E. The time and place of the proposed licensed activities is in accordance with the regulations set forth in this chapter. (Ord. 250 (part), 1997; Ord. 197 Exh. A (SBCC § 41.0126(b)), 1994)

5.24.030 Hours of operation.

A license issued under this chapter shall authorize the licensee to peddle or solicit during the dates specified on the license and only during daylight hours. (Ord. 197 Exh. A (SBCC § 41.0126(c)), 1994)

5.24.040 Hawking prohibited.

Hawking, as defined in this title, is prohibited within the city limits of the city. (Ord. 197 Exh. A (SBCC § 41.0126(d)), 1994)

5.24.050 Exceptions.

The following persons must apply for and be given a license pursuant to this chapter and shall be subject to the exemption specified below:

A. **Veterans Exemption.** Any person who was honorably discharged or honorably relieved from the armed services of the United States shall not be required to pay a license fee under this chapter unless the merchandise includes spirituous, malt, vinous, or other intoxicating liquor.

B. **Religious, Scientific or Charitable Organizations.** Organizations qualifying under this chapter shall not be required to pay a license fee.

C. **Senior Citizens, Youth, Physically Disabled and Blind Persons.** Any person who is either: (1) at least fifty-five (55) years of age, or is (2) under eighteen (18) years of age, or is (3) physically disabled, or is (4) certified by a physician to be blind, shall not be required to pay a license fee. (Ord. 197 Exh. A (SBCC § 41.0126(e)), 1994)

5.24.060 Mobile food vending vehicle operations.

Special requirements for mobile food vending vehicle operations shall apply as follows:

A. **Equipment Requirements for Mobile Food Vending Operations.** In addition to other equipment required by law, every mobile food vending vehicle shall be equipped with:

1. Signal lamps mounted at the same level and as high and as widely space laterally as practicable. These lamps shall be five to seven inches in diameter and shall display two alternately flashing amber lights visible at five hundred (500) feet to the front and rear in normal sunlight upon a straight level street. The light output of each indicator shall not be less than five candle power nor more than fifteen (15) candle power at any time;

2. A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the truck obscured by the hood;

3. An audible warning device to indicate vehicle backing automatically activated and audible at a distance of one hundred (100) feet to the direct rear of the vehicle.

B. **Use of Special Lights on Mobile Food Vending Vehicles.**

1. The driver of a mobile food vending vehicle stopped on the street for the purpose of vending shall actuate the special amber flashing lights required by subsection (A)(1) of this section;

2. These lights shall not be used when the truck is in motion nor at any time the truck is stopped for a purpose other than vending.

C. **Inspection Required.** Every mobile food vending vehicle shall be inspected by the chief of police or designee once each year prior to its use in this city for the purpose of retail sales of frozen dairy products. The department shall inspect each mobile food vending vehicle to determine whether it complies with this chapter and other state and local laws. Notice from the captain or designee shall be made to the business license officer prior to issuance of a city business license.

D. Vending Restrictions.

1. A person shall not vend within five hundred (500) feet of any property used as a grade school, junior high school or middle school, either public or private, from one hour before the regular school day to one hour after the regular school day; provided, this subsection shall not apply on days when school is not attended by children or on school property when vending has been approved in writing by the principal.

2. A person shall vend only when the vehicle is lawfully parked or stopped.

3. A person shall vend only from the side of the vehicle away from moving traffic and as near as possible to the curb or edge of the right-of-way.

4. A person shall not vend to a person standing in the roadway.

5. A person shall not stop on the left side of a one-way street to vend.

6. A person shall not vend on a street unless there is a clear view of the mobile food vending vehicle for a distance of at least two hundred (200) feet in each direction.

7. A person shall not vend except during the period between thirty (30) minutes before sunrise and thirty (30) minutes after sunset.

8. A person shall not vend within five hundred (500) feet of any property used as a public or private park or playground.

E. Backing Restricted. The vendor shall not back up the vehicle on a public street to make or attempt a sale.

F. Unauthorized Riders Prohibited.

1. The driver shall not permit any unauthorized person to ride in or on the vehicle.

2. A person shall not ride in or on a mobile food vending machine unless employed by its owner or unless authorized in writing to do so by the owner or police department.

G. Exemption Authorized.

1. The planning director, with the concurrence of the chief of police or designee, may exempt from the requirements of this chapter any mobile food vendor which is not used to vend to persons under twelve (12) years of age.

2. The special equipment, inspection, and vending restrictions do not apply to vendors which do not vend to persons under twelve (12) years of age. (Amended during 1997 codification; Ord. 197 Exh. A (SBCC § 41.0126(f)), 1994)

ATTACHMENT 5

Excerpts of the Health and Safety Code (Cal Code):

The regulations relevant to mobile/temporary food facilities include:

- Sections 114294-14327 regulate Mobile Food Facilities (MFF).
- Section 113831(a) provides a definition for a "Mobile food facility."

"Mobile food facility" means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. "Mobile food facility" does not include a "transporter" used to transport packaged food from a food facility, or other approved source to the consumer.

- Section 113930 provides a definition for a "Temporary food facility" (TFF).

"Temporary food facility" means a food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved community event or at a swap meet only as a part of the community event or swap meet.

- Section 114315 requires a toilet and a hand washing facility within 200 feet when stopped for more than 1 hour:

114315. (a) A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b) This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

The California Law, in its entirety, is available online:

<http://www.leginfo.ca.gov/calaw.html>



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE**

**City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, AUGUST 1, 2012**

A. PROPOSALS:

1. GREGORY POWELL (ME12-10152)

Proposal: A minor exception to allow a 288 square foot shed, which in combination with the existing 1,080 square foot garage and 120 square foot shed, exceeds the 5% accessory building area limitation.

Location: 14538 Appleton Street (APN: 0408-011-18)

Planner: Stan Liudahl

Action: Administrative Approval