

PLANNING COMMISSION AGENDA

REGULAR MEETING

Date: October 11, 2012

Time: 6:30 P.M.

COMMISSION MEMBERS

Chris Elvert, Chair

William A. Muller, Vice Chair

Julie Jensen, Commissioner

Eric Schmidt, Commissioner

Tom Steeno, Commissioner

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

Dave Reno, Principal Planner

Jeff M. Malawy, Assistant City Attorney



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

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

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

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

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

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

OCTOBER 11, 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. Installation of Newly Appointed Planning Commissioner and Administration of Oath of Office
- B. Pledge of Allegiance to the Flag
- C. Invocation
- D. Roll Call:

Chair Chris Elvert
Vice Chair William Muller
Commissioner Julie Jensen
Commissioner Eric Schmidt
Commissioner Tom Steeno

JOINT PUBLIC COMMENTS

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

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

CONSENT CALENDAR

- E. Approval of Minutes: September 13, 2012 Planning Commission Meeting Draft Minutes.

-1-

PUBLIC HEARINGS

- 1. Consideration of Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259, to establish a Transfer of Development Rights (TDR) program preserving open space and park sites. (Applicant: City of Hesperia; Area affected: Citywide) (Staff Person: Stan Liudahl)
- 2. Consideration of Development Code Amendment DCA12-10179, to establish Mobile Food Vehicle regulations. (Applicant: City of Hesperia; Affected area: Citywide) (Staff Person: Daniel 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.

F. DRC Comments

3-1

G. Major Project Update

PLANNING COMMISSION BUSINESS OR REPORTS

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

ADJOURNMENT

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

I, Kathy Stine, Planning Commission Secretary for City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, October 4, 2012 at 5:30 p.m. pursuant to California Government Code §54954.2.



Kathy Stine
Planning Commission Secretary

HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
September 13, 2012
MINUTES

DRAFT

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

CALL TO ORDER 6:30 p.m.

Pledge of Allegiance to the Flag

Invocation

Roll Call:

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

Present: Chris Elvert
William Muller
Julie Jensen
Eric Schmidt

Absent: Bill Jensen

JOINT PUBLIC COMMENTS

Chair Elvert opened Public Comments at 6:35 p.m.

Al Vogler spoke regarding the amount of time the public was allowed to speak and wanted more time than three minutes.

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

CONSENT CALENDAR

D. Approval of Minutes: August 9, 2012 Planning Commission Meeting Draft Minutes.

Motion by Julie Jensen to approve the August 9, 2012 Planning Commission Meeting Draft Minutes. Seconded by Chris Elvert and passed with the following roll call vote:

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

PUBLIC HEARING

1. Consideration of Conditional Use Permit CUP12-10165, to establish the sale of beer, wine and liquor in conjunction with a restaurant at 15717 Main Street. (Applicant: Marcelino Lopez; APN: 0413-023-07). (Staff Person: Lisette Sanchez-Mendoza)

Assistant Planner Lisette Sanchez-Mendoza gave a PowerPoint presentation and stated that Staff recommended approval of the project.

Chair Elvert opened the Public Hearing at 6:41 p.m.

No comments to consider.

Chair Elvert closed Public Hearing at 6:42 p.m.

Motion by Eric Schmidt to adopt RESOLUTION NO. PC-2012-13 as presented recommending approval of CUP12-10165. Seconded by Julie Jensen and passed with the following roll call vote:

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

2. Consideration of a Site Plan Review SPR12-10116, to allow a solar farm on 12.5 acres within the Regional Commercial (RC) District of Main Street and Freeway Corridor Specific Plan located at the terminus of Oak Hill Road and west of Caliente Road. (Applicant: David Pitcher; APN: 0357-063-45) (Staff Person: Lisette Sanchez-Mendoza)

Assistant Planner Lisette Sanchez-Mendoza gave a PowerPoint presentation and introduced opposition emails as green sheet items.

Commissioner Julie Jensen asked what other type of business could go on that location.

Lisette Sanchez-Mendoza stated that it was zoned regional commercial so regional businesses such as hotels and big box retail stores could be zoned for this particular property.

Commissioner Eric Schmidt commented regarding the glare of the panels and there should be conditions addressing anti-glare coating.

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

Craig Sundgren with Cubit Engineering spoke as the representative for the project. He stated that it is out of site from homes and the frontage road. Also stated that the topography is unsuitable for any building and they are not going to move any earth.

Al Vogler resident of Hesperia spoke in opposition to the project.

Terry Kostek from Oak Hills Property Association spoke in opposition.

Jerry Kostek resident of Oak Hills stated he was in opposition.

Elizabeth Skzynecky resident of Oak Hills spoke in opposition.

Lynn Buehler resident of Oak Hills spoke in opposition.

Vince Arlotti resident of Oak Hills spoke in opposition.

Teresa Griggs resident of Oak Hills spoke in opposition.

Dean Bledsoe resident of Oak Hills spoke in opposition.

Vivian Johnston resident of Oak Hills spoke in opposition.

Harold Johnston resident of Oak Hills spoke in opposition.

Ron Fosdick resident of Oak Hills was opposed to the project.

Deborah Moore resident of Oak Hills was opposed to the project.

Mike Moore resident of Oak Hills spoke in opposition.

Carol Hill resident of Oak Hills spoke in opposition.

Scott Hill resident of Oak Hills spoke in opposition.

Rhonda Pfeiffer resident of Oak Hills spoke in opposition.

Residents cited concerns regarding drainage, glare, loss of property values and the incompatibility of a solar farm adjacent to homes in Oak Hills

Chair Elvert closed the Public Hearing at 7:48 p.m.

Julie Jensen commented that she went out to view the site and stated the ground is very loose. She stated that there was not a lot of sun in the area however it is commercial property and the commission had an obligation to follow the rules. She stated that it was hard to deny the project based on emotions.

Eric Schmidt stated that the commission cannot take into account the emotional issues. They have to consider the intent of the zoning and what the General Plan has in place.

Discussion ensued regarding three points: wind/dust, water/flooding, abandonment bonds.

Eric Schmidt proposed that Staff include wording in the conditions that if there was erosion there would be a method to deal with it.
Discussion ensued regarding a continuance of the project.

Commissioner William Mueller felt that the Commission had a responsibility to the homeowners.

Motion by Chris Elvert to DENY Resolution No. PC-2012-14 as presented recommending approval of SPR12-10116. Seconded by William Muller and failed with the following roll call vote:

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

Motion by Julie Jensen to ADOPT Resolution No. PC-2012-14 as presented recommending approval of SPR12-10116. Seconded by Eric Schmidt and failed with the following roll call vote:

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

Motion by Chris Elvert to FORWARD SPR12-10116 to the City Council without a recommendation. Seconded by Julie Jensen and passed with the following roll call vote:

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

PRINCIPAL PLANNER'S REPORT

- E. DRC Comments
- F. Major Project Update

Principal Planner Dave Reno, AICP gave an update on the Rancho Undercrossing and Interchange. He also stated that Wal-Mart's opening was scheduled for Wednesday, September 26, 2012.

PLANNING COMMISSION BUSINESS OR REPORTS

No business or reports.

ADJOURNMENT

Chair Elvert closed the meeting at 8:38 p.m. until Thursday, October 11, 2012 at 6:30 p.m.

Chris Elvert
Commission Chair

By: Kathy Stine,
Commission Secretary



DATE: October 11, 2012
TO: Planning Commission
FROM:  Dave Reno, AICP, Principal Planner
BY:  Stan Liudahl, AICP, Senior Planner

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

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution Nos. PC-2012-01 and PC-2012-02, recommending that the City Council introduce and place on first reading ordinances approving DCA10-10226 and SPL10-10259, establishing a Transfer of Development Rights (TDR) program.

BACKGROUND

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

The Transfer of Development Rights (TDR) program allows for the acquisition of open space and park sites as well as establishment of conservation easements for trails in exchange for providing "TDR credits," reimbursing property owners for the land within the sending areas. Establishment of open space, park sites, and a 30-mile trail system advances a legitimate governmental interest as outlined within the General Plan and the Specific Plan. Additionally, this program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation.

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

The Planning Commission held a discussion regarding establishment of a TDR program on January 12, 2012 (Attachment 3). During the discussion, the Commission voiced concerns regarding the transfer of development rights at the staff recommended two to one (2:1) ratio as well as the potential 100 percent density allowance for individual residential projects. During the discussion, it was suggested that the TDR credit for residential development be reduced. In contrast, the Commission voiced support for maintaining and even possibly increasing the proposed TDR credit ratio for non-residential developments. This Ordinance reflects the Commission's priority towards use of TDR Credits for nonresidential development.

ISSUES/ANALYSIS

Laws Requiring Open Space

Government Code Sections 65560 through 65570 (Attachment 4) require adoption of an Open Space Element and a program for its implementation. Section 65567 states that no building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open space plan. The General Plan Open Space Element adopted in 2010 identifies the three areas within the Oro Grande Wash and the unnamed wash east of Interstate 15 for preservation. Further, the Main Street and Freeway Corridor Specific Plan adopted in 2008 established three potential park sites. Implementation of a TDR program is a tool which can be used to implement the City's Open Space Element. In the absence of a TDR program, the City would need to purchase all 726 acres within the sending areas (1,098 acres including those areas within the sphere of influence) or provide other means of compensation.

TDR program

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

The Transfer of Development Rights (TDR) program will allow for the conveyance of the development potential from the approximately 450 acres (identified in Table 1 below) for preservation and park sites, which are defined as "sending areas" to other areas without the same open space and park site potential, which are identified as "receiving areas." Additionally, the program will establish another 276 acres of "sending areas" to allow for the creation of 150-foot wide conservation easements within the Oro Grande and the Unnamed Wash east of Interstate 15, the Mojave River, the four washes emptying into the Mojave River, and that portion of the Antelope Valley Wash not owned or controlled by the San Bernardino County Flood Control District, to enable use of the easement as a 30-mile trail system. The extent of the "sending" and "receiving" areas is shown on Attachments 1 and 2.

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

Although no members of the public spoke during the January 12, 2012 workshop, staff received written comments from the Native American Heritage Commission (NAHC) and the Regional Water Quality Control Board, Lahontan region (Lahontan) concerning the proposed negative declaration. The NAHC recommends that all projects be subject to consultation with the affected Native American tribes. This Ordinance will not authorize any development in and of itself and individual sites will be evaluated for cultural resources as part of their land use entitlement. Consequently, consultation is unnecessary at this time. Nevertheless, on August 16, 2012, staff sent a letter to the NAHC and all tribes potentially affected, inviting consultation. As of the date of preparation of this report, only John Valenzuela of the San Fernando Band of Mission Indians has responded. He understood that the Ordinance would preserve open space and would not directly result in development. Consequently, he only asked to be invited if other tribes also desired to meet for consultation.

Lahontan supports preservation of the Oro Grande Wash and other natural drainage features, as these areas provide natural areas for groundwater recharge and flood attenuation. In addition, Lahontan requests that park sites also be designed to accommodate flood attenuation and groundwater recharge, if feasible. This Ordinance would preserve the Oro Grande Wash, the wash on the east side of Interstate 15, the Antelope Valley Wash, and the tributaries of the Mojave River to remain undeveloped and to only serve as a natural trail and open space amenity besides maintaining its function as a natural drainage and groundwater recharge area. The future parks will include stormwater retention facilities which will ensure that any impervious surfaces created will not cause a drainage problem. These retention facilities contain filtration systems, which also facilitate groundwater recharge.

The property owners of sites within the official map of sending areas will receive TDR credits allowing an additional 0.1 Floor Area Ratio (FAR) per acre for non-residential development or an increase of 0.1 dwelling unit per gross acre (du/ac) for residential development. Each individual nonresidential project shall not exceed the allowable intensity by more than 100 percent. Individual residential projects shall not exceed the allowable density by more than 10 percent.

Using these standards, this Ordinance would create 1,098 acres of TDR credits, based upon the sending areas within the City and sphere. This will allow a maximum of 4,782,888 square feet of additional nonresidential building area or 110 additional residential dwelling units within the approximately 7,746-acre receiving area. The maximum TDR credit allowed for residential and nonresidential development within the receiving areas is shown in Figures 1 and 2 on the following page.

TDR credits used on a single project will be limited to not more than a 100 percent increase in allowable Floor Area Ratio (FAR) for individual non-residential developments or a maximum 10 percent increase in the allowable number of dwelling units for individual residential developments. TDR credits will almost certainly be used for a combination of residential and nonresidential uses, but will not exceed these restrictions. A maximum of 726 acres of TDR credits will be available initially, based upon the sending areas currently within the City boundary.

Figure 1. Maximum residential development potential based upon TDR credits

$$\begin{array}{rclcl} \text{Sending Area Acreage} & & \text{Additional 0.1 unit per acre} & & \text{Additional Dwelling Units} \\ 1,098 & \times & 0.1 & = & 110 \end{array}$$

Figure 2. Maximum nonresidential development potential based upon TDR credits

$$\begin{array}{rclcl} \text{Sending Area Acreage} & \text{sq. ft./acre} & \text{Additional 0.1 FAR per acre} & & \text{Additional floor area} \\ 1,098 & \times & 43,560 & \times & 0.1 & = & 4,782,888 \text{ sq. ft.} \end{array}$$

The Model TDR Ordinance

The following are 10 success factors of the 20 most successful TDR programs in the country in order of importance (the number of the TDR programs exhibiting the factor is in parentheses)³. The first five factors are crucial to a successful TDR program. The last five are less important, but tend to improve its effectiveness. Staff has analyzed this Ordinance using these criteria.

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

³ This data is part of an article entitled "What Makes Transfer of Development Rights Work? Success Factors from Research and Practice," obtained online at www.informaworld.com

- 1) State law requires that jurisdictions provide density bonus and other incentives to promote affordable housing. While the City has processed a number of affordable housing projects, most did not include additional density. However, as the available acreage of higher density residential property becomes developed, the number of projects needing additional density will increase.
- 2) The TDR program includes an official map of receiving areas which excludes many properties proximate to the more rural residential areas. The intent is to reduce the impact that projects receiving additional density per this program would have upon the character of the area.
- 3) The TDR program identifies the three areas for preservation, the potential park sites and the wash areas to be used as a 30-mile trail system on an official map of sending areas. The Ordinance will provide suitable compensation for transfer of title and creation of conservation easements through TDR credits that can be used within the receiving area and limits the additional development to a maximum of a 100 percent increase in nonresidential development and a 10 percent increase in residential dwelling units within a single project. Therefore, the impact of the TDR program over its lifetime is capped.
- 4) The City allows additional development density for affordable housing, consistent with state law or through adoption of a General Plan Amendment and zone change. Therefore, there are few alternatives to use of TDR credits in obtaining additional development density/intensity.
- 5) Currently, the economy does not provide much of an incentive to use density bonus tools. However, tools allowing greater density have been used in the past and are expected to be utilized again in the future.
- 6) This program will require title transfer and/or creation of conservation easements for ministerial projects within the sending area proposed on vacant land and any project necessitating approval of a land use application. TDR credits will be exchanged for the title

transfer and/or conservation easement at that time, recompensing property owners for the affected land.

- 7) The General Plan Open Space Element adopted in 2010 identifies the three areas within the Oro Grande Wash and the unnamed wash east of Interstate 15 for preservation. Further, the Main Street and Freeway Corridor Specific Plan adopted in 2008 established three potential park sites. The General Plan and Specific Plan were adopted after many public meetings and are consistent with the goals and objectives of the General Plan formulated during these meetings.
- 8) This program is based upon a simple development right transfer from the sending areas to the receiving areas equivalent to an additional 0.1 residential dwelling unit per acre and an additional 0.1 Floor Area Ratio (FAR) for nonresidential development. Residential development of individual projects shall not exceed the maximum density limitation by more than 10 percent and the increase in the allowable Floor Area Ratio of any single nonresidential project shall not exceed the maximum allowable FAR by more than 100 percent.
- 9) The date and time of the public hearing for the TDR program was published in the newspaper prior to the public hearing.
- 10) This Ordinance does not include use of a TDR bank, primarily because staff is unaware of a TDR bank other than the state of New Jersey and Palm Beach County, Florida. Besides, this program can be administered by issuing notarized certificates and maintaining a database of the TDR credits issued.

Comparison of TDR Ordinances

Table 2 below compares the TDR program standards of a number of jurisdictions in California. The information in the table suggests that TDR programs in California are less generous than those in other states, possibly due to high property values.

| Table 2. Comparison of TDR Standards of Other Jurisdictions | |
|---|---|
| Jurisdiction | TDR Standard |
| Marin County, CA | A 1:1 TDR credit, allowing for preservation of areas in which development would cause severe environmental or land use impacts. |
| San Luis Obispo County, CA | A 1:1 TDR credit, allowing for the purchase of environmentally sensitive land for open space in the coastal community of Cambria. Property owners in the receiving zone may purchase development credits (in the form of square feet of building area) in order to increase the square footage of their homes above the normally permitted limit. |
| Monterey County, CA | A 1:1 TDR credit in residential areas, allowing preservation of the natural and scenic resources of Big Sur. |

Specific Plan Amendment

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

- Single-family residential density may be transferred to/from any other residential zone.

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

This Ordinance would not restrict use of development credits to receiving areas within the same district as the sending area and will also allow the transfer of development credits to specified areas outside the Specific Plan. Conversely, development credits for sending areas outside the Specific Plan can be used in the Specific Plan. Consequently, staff has included a specific plan amendment to rectify these differences (Exhibit "A"). Additions are shown on the resolution Exhibit "A" using red text and ~~deletions are represented by strikethroughs.~~

Environmental: Approval of this project requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The negative declaration and initial study (Attachment 5) prepared for this project concludes that there are no significant adverse impacts resulting from establishment of the Ordinance.

CONCLUSION

The Development Code Amendment and Specific Plan Amendment are consistent with the General Plan, the Main Street and Freeway Corridor Specific Plan, the Oak Hills Community Plan, and Government Code 65563, which requires jurisdictions to preserve open space consistent with an adopted Open Space Element. Inasmuch as the area within the Community Plan is not within the current City Limits, the 372 acres within the Community Plan cannot be included in the TDR program until such time as the properties are annexed.

FISCAL IMPACT

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

ALTERNATIVES

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

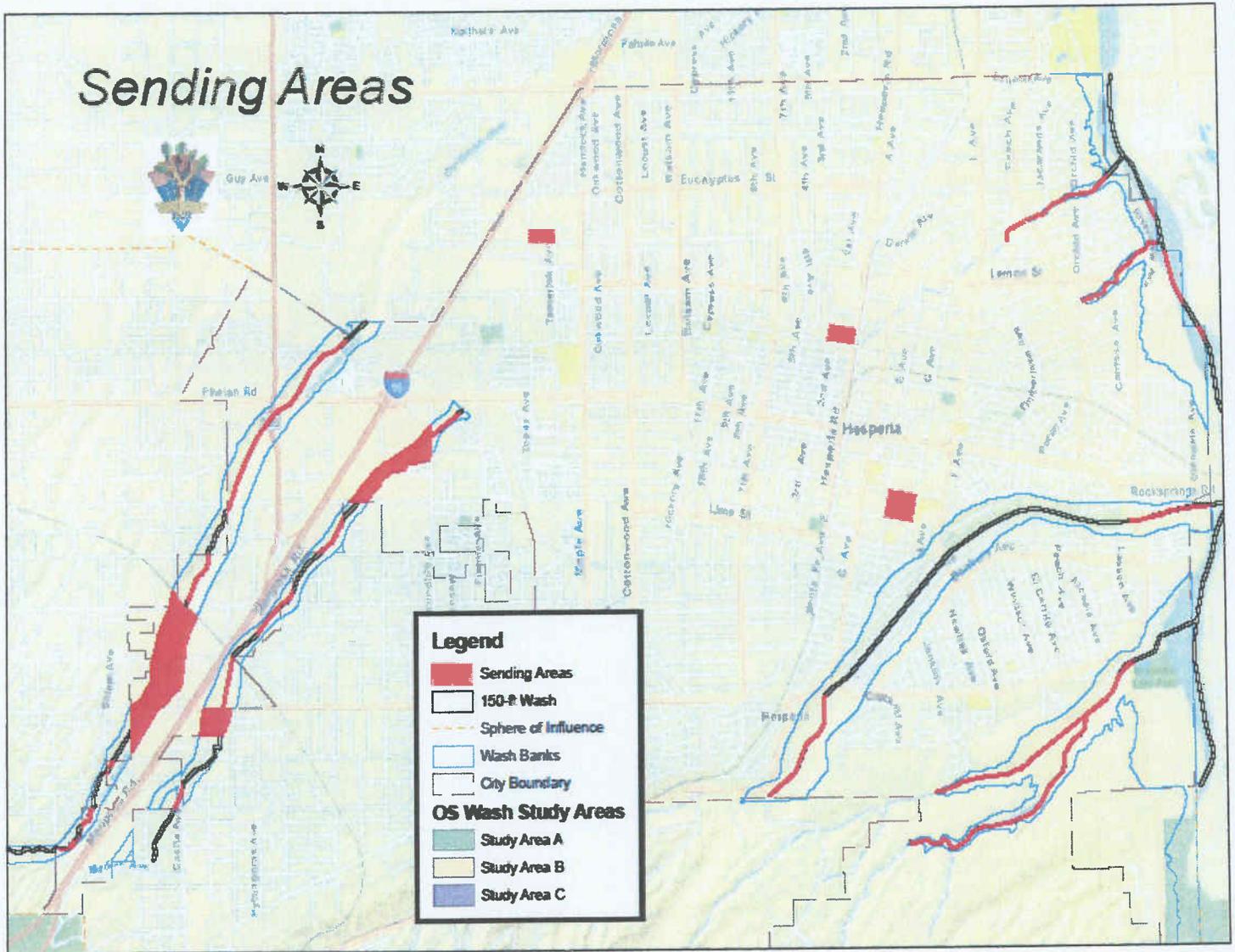
program, it is unlikely that additional park sites will be established, due to constrained City and Hesperia Recreation and Park District funding. As such, staff does not recommend this alternative.

3. The Planning Commission may decide not to recommend the transfer of development credits as recommended. The model ordinance recommends a minimum 2:1 TDR credit ratio to provide value for properties within sending areas. The recommended additional development potential is considerably less than the 2:1 ratio, but appears to better represent the value of the properties within the sending area, which have limited development potential due to topography and drainage concerns. It has been discovered that most TDR programs are ineffective. Although the main cause of this ineffectiveness is not documented, it is believed that the most effective program provides a 5:1 ratio of TDR credits. Creation of a higher TDR credit ratio will allow a significant increase in development density/intensity, which would require additional environmental scrutiny. As such, staff does not support this alternative.
4. Provide alternative direction to staff.

ATTACHMENTS

1. Sending area map
2. Receiving area map
3. Minute excerpts from the January 12, 2012 Planning Commission discussion regarding the proposed ordinance
4. Government Code Sections 65560 through 65570
5. Negative Declaration ND-2011-03 and initial study for DCA10-10226 and SPL10-10259
6. Resolution No. PC-2012-01, recommending adoption of DCA10-10226, with Exhibit "A"
7. Resolution No. PC-2012-02, recommending adoption of SPL10-10259, with Exhibit "A"

ATTACHMENT 1



APPLICANT(S):
CITY OF HESPERIA

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

LOCATION:
CITY-WIDE

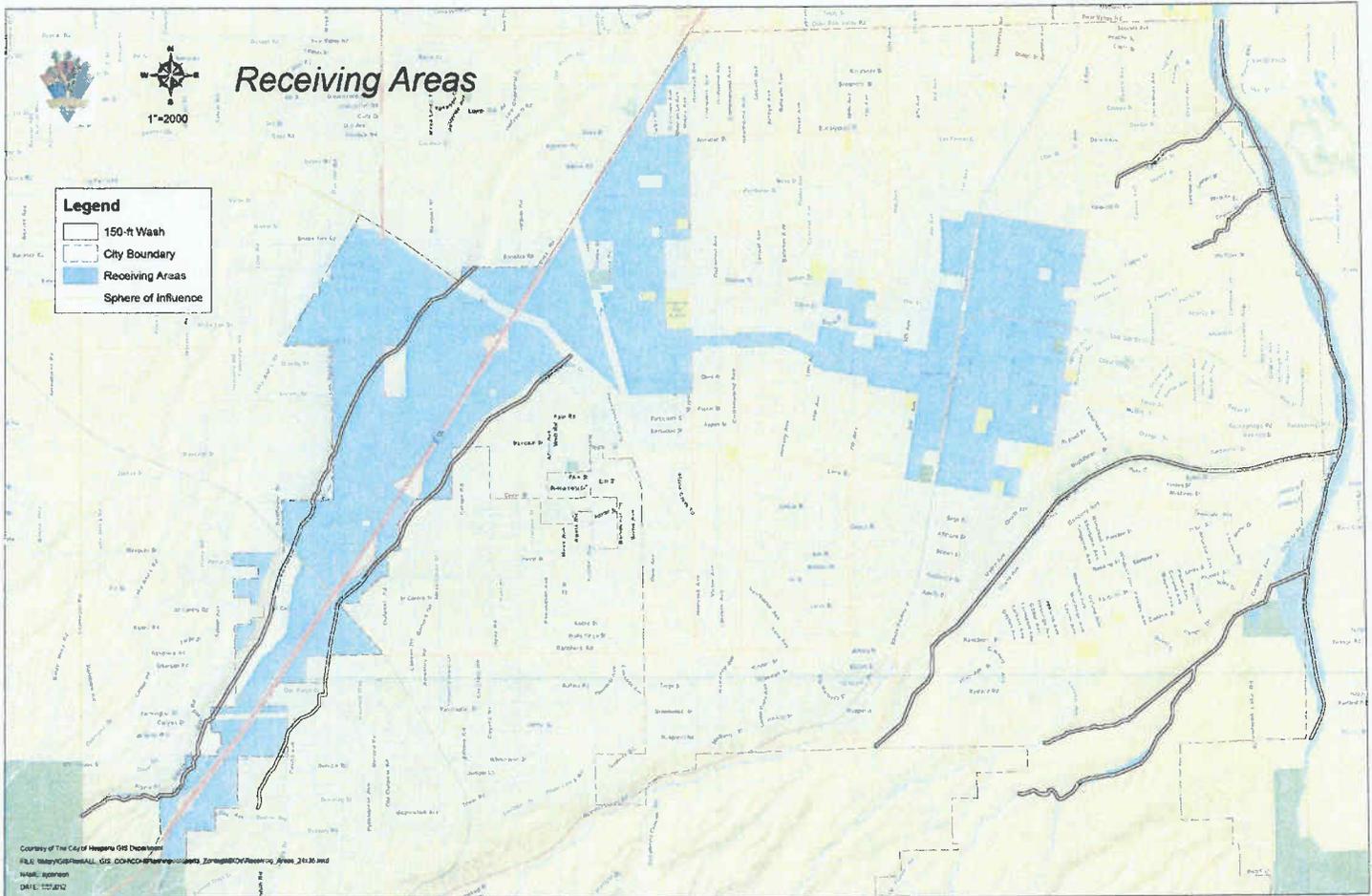
APN(S):
CITY-WIDE

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



SENDING AREA MAP

ATTACHMENT 2



APPLICANT(S):
CITY OF HESPERIA

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

LOCATION:
CITY-WIDE

APN(S):
CITY-WIDE

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



RECEIVING AREA MAP

ATTACHMENT 3

**HESPERIA PLANNING COMMISSION MEETING
REGULAR MEETING
JANUARY 12, 2012
MINUTE EXCERPT**

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

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

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

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

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

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

ATTACHMENT 4

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 65560-65570

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

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

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

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

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

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

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

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

65561. The Legislature finds and declares as follows:

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

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

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

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

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

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

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

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

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

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

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

preparation and implementation of the open-space plan; and

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

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

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

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

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

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

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

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

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

by the Department of Conservation.

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

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

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

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

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

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

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

ATTACHMENT 5

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

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

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

Location: City-wide.

Entity or Person Undertaking Project: City of Hesperia.

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

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

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

Public Review Period: January 9, 2012 through February 7, 2012.

Adopted by the City Council: _____.

Attest:

DAVE RENO, AICP, PRINCIPAL PLANNER

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

PROJECT DESCRIPTION

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

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

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

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

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

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

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

DETERMINATION: (Completed by the Lead Agency)
On the basis of this initial evaluation:

| | | |
|---|--|--------------|
| X | I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. | "De minimis" |
| | 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. | |
| | I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required. | |
| | 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. | |
| | 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

9/6/2012

 Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

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

| I. AESTHETICS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista (1)? | | | | X |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway (1 & 3)? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings (1 & 3)? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (4)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Approval of this amendment would allow for an increase in the allowable development intensity of properties within the official map of receiving areas which are within specific districts of the Main Street and Freeway Corridor Specific Plan (Specific Plan) while allowing for the transfer of property or recordation of conservation easements for creation of open space within the sending areas pursuant to this Development Code Amendment and Specific Plan Amendment (1). The Transfer of Development Rights (TDR) program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 110 additional residential dwelling units within the approximately 7,746-acre receiving area with annexation of the sphere of influence. Based upon build-out in accordance with the General Plan Update Land Use Element, 67,400,000 square feet of non-residential development is expected. The TDR program would allow about a 7.1 percent increase in nonresidential development intensity from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR). Approximately 79,855 dwelling units are estimated within the City at build-out (3). The additional 110 dwelling units equate to about a 0.1 percent increase in dwellings as a result of the TDR program at build-out. The aesthetics of individual developments are evaluated as part of every land use application and must meet the minimum standards within the Development Code or the Main Street and Freeway Corridor Specific Plan. Consequently, only a minor additional environmental impact beyond that identified under the GPUEIR is proposed.

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

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

| 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 (4)? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract (7)? | | | | 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)) (7 & 8)? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use (1, 4 & 8)? | | | | 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 (4 & 8)? | | | | X |

Comments.

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

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

| 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 (10, 11 & 12)? | | | | X |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation (10, 11 & 12)? | | | X | |

| | | | | |
|---|--|--|---|---|
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors) (10, 11 & 12)? | | | X | |
| d) Expose sensitive receptors to substandard pollutant concentrations (4, 10 & 11)? | | | | X |
| e) Create objectionable odors affecting a substantial number of people (1, 4, 10 & 11)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding air quality. The TDR program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 110 additional residential dwelling units within the approximately 7,746-acre receiving area. Based upon build-out in accordance with the General Plan Update Land Use Element, about 67,364,619 square feet of non-residential development is expected. The TDR program would allow about a 7.1 percent increase from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR). Approximately 79,855 dwelling units are estimated within the City at build-out (3). The additional 110 dwelling units equate to about a 0.1 percent increase in dwellings as a result of the TDR program at build-out.

The General Plan Update and its Environmental Impact Report (EIR) address the impact of build-out in accordance with the Land Use Plan, with emphasis upon the impact upon sensitive receptors (10 & 11). Sensitive receptors refer to land uses and/or activities that are especially sensitive to poor air quality. Sensitive receptors typically include homes, schools, playgrounds, hospitals, convalescent homes, and other facilities where children or the elderly may congregate. These population groups are generally more sensitive to poor air quality. Any development utilizing the TDR program must adhere to the standards within the Development Code for the General Plan Land Use designation of the site and will be subject to review and approval of a site plan review, conditional use permit, or tentative tract application. The specific impact upon air quality will be assessed as part of that evaluation.

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

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Prior to development, approval of a site plan review, conditional use permit, and/or tentative tract will be necessary. As part of analyzing the application(s), specific impacts can be evaluated. Approval of this amendment would allow for an increase in the allowable development intensity of properties within the official map of receiving areas which are within a land use designation of the General Plan or a specific district of the Main Street and Freeway Corridor Specific Plan (Specific Plan), but won't change the allowable land use. The TDR Program simply facilitates the transfer of property or creation of conservation easements to maintain areas as open space pursuant to the General Plan. The TDR program would allow a maximum of 4,782,888 square feet of additional nonresidential building area or 110 additional residential dwelling units within the approximately

7,746-acre receiving area. Based upon build-out in accordance with the General Plan Update Land Use Element, 79,855 dwelling units will be developed (2). 67,364,619 square feet of nonresidential development is also expected. The additional 4,782,888 square feet is equivalent to about a 7.1 percent increase in nonresidential building area or about a 0.1 percent increase in residential units from what was analyzed by the General Plan Update Environmental Impact Report (GPUEIR).

The General Plan Update identifies large areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact to air quality upon build-out of the General Plan. Based upon this analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with air quality impacts (13). As part of the General Plan Update Environmental Impact Report (GPUEIR), the impact of residential and nonresidential development to the maximum allowable density permitted by the Land Use Plan was analyzed. The minor increase in allowable development density/intensity will not cause a significant increase in emissions. Consequently, the proposed TDR Program will not have a significant negative impact upon air quality.

| IV. BIOLOGICAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (4 & 14)? | | | | X |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U. S. Fish and Wildlife Service (4)? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (4)? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites (4)? | | | | X |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (4)? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan (4 & 16)? | | | | X |

Comments.

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

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

The receiving areas are not within the boundary of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. The General Plan Background Technical Report identifies two sensitive vegetation communities (17). These vegetation communities, the Southern Sycamore Alder Woodland and Mojave Riparian Forest communities, exist within the Rancho Las Flores Specific Plan and vicinity (18). The receiving areas are mostly within developed portions of the City and are not within these sensitive vegetation communities. Consequently, approval of the development code amendment and specific plan amendment will not have an impact upon biological resources.

| V. CULTURAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 (19)? | | | | X |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 (19)? | | | | X |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature (19)? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries (20)? | | | | X |

Comments.

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

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

| VI. GEOLOGY AND SOILS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42 (21 & 22). | | | | X |

| | | | | |
|---|--|--|--|---|
| ii) Strong seismic ground shaking (21 & 23)? | | | | X |
| iii) Seismic-related ground failure, including liquefaction (6 & 21)? | | | | X |
| iv) Landslides (21)? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil (6)? | | | | X |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse (6 & 23)? | | | | X |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property (6 & 22)? | | | | X |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater (8 & 22)? | | | | X |

Comments.

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

| VII. GREENHOUSE GAS EMISSIONS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (25)? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases (25 & 26)? | | | X | |

Comments.

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

On April 13, 2009, OPR submitted to the Secretary for Natural Resources its proposed amendments to the state CEQA Guidelines for greenhouse gas emissions, as required by Senate Bill 97 (Chapter 185, 2007). The Natural Resources Agency forwarded the adopted amendments and the entire rulemaking file to the Office of Administrative Law (OAL) on December 31, 2009. On February 16, 2010, OAL approved the Amendments, which became effective on March 18, 2010 (27). This initial study has incorporated these March 18, 2010 Amendments.

Lead agencies may use the environmental documentation of a previously adopted Plan to determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project complies with the requirements of the Plan or mitigation program under specified circumstances. As part of the General Plan Update, the City also adopted a Climate Action Plan (CAP)(25). The CAP provides policies along with implementation and monitoring measures which will enable the City of Hesperia to reduce greenhouse emissions 29 percent below business as usual by 2020, consistent with AB 32 (26).

The City's Climate Action Plan (CAP) Table 2 of the CAP on page 18 identifies the greenhouse gas emissions generated within the City in 2009, 2020, and at build-out. According to this information, 1,256,312 metric tons of carbon dioxide will be emitted by sources within the City at build-out annually (26). A 0.1 percent increase in residential dwellings will potentially add another 897 metric tons of carbon dioxide, which is insignificant. Although it cannot be quantified, a 7.1 percent increase in nonresidential development will reduce greenhouse emissions significantly, due to a reduction in the number of residents commuting to work in the Inland Empire. Further, this Ordinance implements Strategy CAP-4, which promotes compact development by protecting open space and encouraging infill and redevelopment of underutilized parcels in urbanized areas.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. The increased density/intensity of development will be subject to approval of a land use application, which will include specific analysis regarding GHG emissions. Job creation in the City will reduce the number of residents commuting to other communities for work, reducing vehicle miles traveled and resulting in additional GHG reductions. Providing more opportunities for consumers to purchase retail items within the City will also result in additional reductions. The TDR Program allows at most a 7.1 percent increase in nonresidential development intensity and 0.1 percent increase in residential density. Consequently, the impact upon GHG emissions associated with the proposed development code amendment and specific plan amendment is less than significant.

| VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials (4)? | | | | X |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (4 & 28)? | | | | X |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school (4)? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment (4)? | | | | X |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area (29)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area (29)? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (30)? | | | | X |

| | | | | |
|--|--|--|--|---|
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands (4)? | | | | X |
|--|--|--|--|---|

Comments.

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

| IX. HYDROLOGY AND WATER QUALITY. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements (31)? | | | | X |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted) (32 & 33)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (34)? | | | X | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site (34)? | | | X | |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff (34)? | | | X | |
| f) Otherwise substantially degrade water quality (34)? | | | X | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map (4)? | | | | X |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows (4 & 35)? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam (34 & 36)? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow (37)? | | | | X |

Comments.

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

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

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

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

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin (33).

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

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

| X. LAND USE AND PLANNING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Physically divide an established community (4)? | | | | X |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect (14 & 38)? | | | | X |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan (14)? | | | | X |

Comments.

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

| XI. MINERAL RESOURCES. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state (39)? | | | | X |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, specific plan or other land use plan (39)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. Each site will be analyzed independently regarding mineral resources as part of any land use application (7). According to data in the Conservation Element of the City's General Plan, no naturally occurring important mineral resources occur within the project site (39). Known mineral resources within the City and sphere include sand and gravel, which are prevalent within wash areas and active stream channels. Sand and gravel is common within the

Victor Valley. Consequently, the proposed development code amendment and specific plan amendment would not have an impact upon mineral resources.

| XII. NOISE. Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local General Plan or noise ordinance, or applicable standards of other agencies (1, 4 & 40)? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels (41 & 42)? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project (43)? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (43)? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels (44)? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels (44)? | | | | X |

Comments.

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

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

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

Since the TDR Ordinance will not change any land use designations, it will not cause any new sources of noise not currently accounted for by the General Plan Update Environmental Impact Report (GPUEIR). The noise associated with vehicular traffic to and from new uses caused by trucks and passenger vehicles operated by residents, employees, customers, etc... will be considered as part of the land use application for development. The GPUEIR accounts for the impact upon the City by development up to the maximum allowable density and intensity. Therefore, this Ordinance will only impact noise to the degree that it would allow at most an additional 0.1 Floor Area Ratio (FAR) per acre for non-residential development or an increase of 0.1 dwelling unit per gross acre (du/ac) for residential development. Each individual nonresidential project shall not exceed the allowable intensity by more than 100 percent. Individual residential projects shall not exceed the allowable density by more than 10 percent. Therefore, the impact of the TDR program would have a less than significant impact beyond that currently allowed by the current General Plan.

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the noise impact upon build-out of the General Plan to the maximum allowable density and intensity permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with noise impacts (13). Inasmuch as only a minor increase in development density and intensity beyond that allowed by the General Plan Land Use Plan would result, a less than significant increase in noise impact beyond that previously analyzed would occur.

| XIII. POPULATION AND HOUSING. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure) (4)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere (1)? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere (1 & 7)? | | | | X |

Comments.

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

The population in Hesperia has increased mainly because of the availability of affordable housing in the high desert and its proximity to the job-rich areas of the Inland Empire. There is currently more demand for commercial services and jobs than there are services and jobs available in Hesperia. Based upon the maximum 0.1 percent increase in residential density afforded by this Ordinance, approval of the development code amendment and specific plan amendment would have a less than significant impact upon population and housing.

| XIV. PUBLIC SERVICES. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services (1 & 2): | | | X | |
| Fire protection? (1 & 2) | | | X | |
| Police protection? (1 & 2) | | | X | |
| Schools? (1 & 2) | | | X | |
| Parks? (1 & 2) | | | X | |
| Other public facilities? (1 & 2) | | | X | |

Comments.

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

| XV. RECREATION. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated (4 & 13)? | | | | X |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment (4)? | | | | X |

Comments.

Approval of the proposed development code amendment and specific plan amendment will not, in and of itself, result in establishment of any land uses. A minor increase in demand for public services beyond that which is allowed by the General Plan will occur, based upon the increased density and intensity with approval of individual land use applications (2). The proposed development code amendment and specific plan amendment will provide a method for establishing additional areas for recreational use consistent with the goals of the Conservation Element of the General Plan (4). Therefore, the proposed ordinance will have a positive impact upon recreation.

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

Comments.

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

The City's Circulation Plan is consistent with the Congestion Management Program (CMP) for San Bernardino County (50). The CMP requires a minimum Level Of Service (LOS) standard of "E." When a jurisdiction requires mitigation to a higher LOS, then the jurisdiction's standard takes precedence. The Circulation Element requires a minimum LOS of D for street segments instead of LOS E. The Element also strives to maintain a LOS of C or better on roadways which exhibit an LOS better than D.

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

The General Plan Update identifies areas where future residential, commercial, industrial, and institutional development will occur. The GPUEIR analyzed the impact upon transportation at build-out of the General Plan to the maximum allowable density and intensity permitted by the Land Use Plan. Based upon the analysis, the City Council adopted a finding of a Statement of Overriding Considerations dealing with transportation impacts (13).

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

| XVII. UTILITIES AND SERVICE SYSTEMS. Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|---|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (53)? | | | | X |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (54 & 55)? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (4)? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed (32 & 33)? | | | X | |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments (54 & 55)? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs (56 & 57)? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste (58)? | | | | X |

Comments.

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

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

The Mojave Water Agency (MWA) has adopted a regional water management plan for the Mojave River basin. The Plan references a physical solution that forms part of the Judgment in City of Barstow, et. al. vs. City of Adelanto, et. al., Riverside Superior Court Case No. 208548, an adjudication of water rights in the Mojave River Basin Area (Judgment). Pursuant to the Judgment and its physical solution, the overdraft in the Mojave River Basin is addressed, in part, by creating financial mechanisms to import necessary supplemental water supplies. The MWA has obligated itself under the Judgment "to secure supplemental water as necessary to fully implement the provisions of this Judgment." Based upon this information the project will not have a significant impact on water resources not already addressed in the Judgment or the City's Urban Water Management Plan (UWMP) adopted in 1998. Furthermore, in a letter dated May 21, 1997 from the MWA's legal counsel confirmed for the City that the physical solution stipulated to by the Hesperia Water District provides the mechanism to import additional water supplies into the basin (32).

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

The City is in compliance with the California Integrated Waste Management Act of 1989, which requires that 50 percent of the solid waste within the City be recycled. Currently, approximately 71 percent of the solid waste within the City is being recycled (56 & 58). 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.

Based upon about a 7 percent increase in development density or intensity, only a minor increase in utility capacity is needed. Therefore, the proposed development code amendment and specific plan amendment will not create a significant increased impact upon utilities and service systems.

| XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. | Potentially Significant Impact | Less Than Significant With Mitigation | Less Than Significant Impact | No Impact |
|--|--------------------------------|---------------------------------------|------------------------------|-----------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | | | X |

| | | | | |
|---|--|--|---|---|
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse affects on human beings, either directly or indirectly? | | | | X |

Comments.

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

XIV. EARLIER ANALYSES.

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

The Certified General Plan Environmental Impact Report.

- a) **Earlier analyses used.** Earlier analyses are identified and stated where they are available for review.
- b) **Impacts adequately addressed.** Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.
- a) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated," describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.

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

Authority: Public Resources Code Sections 21103 and 21107.

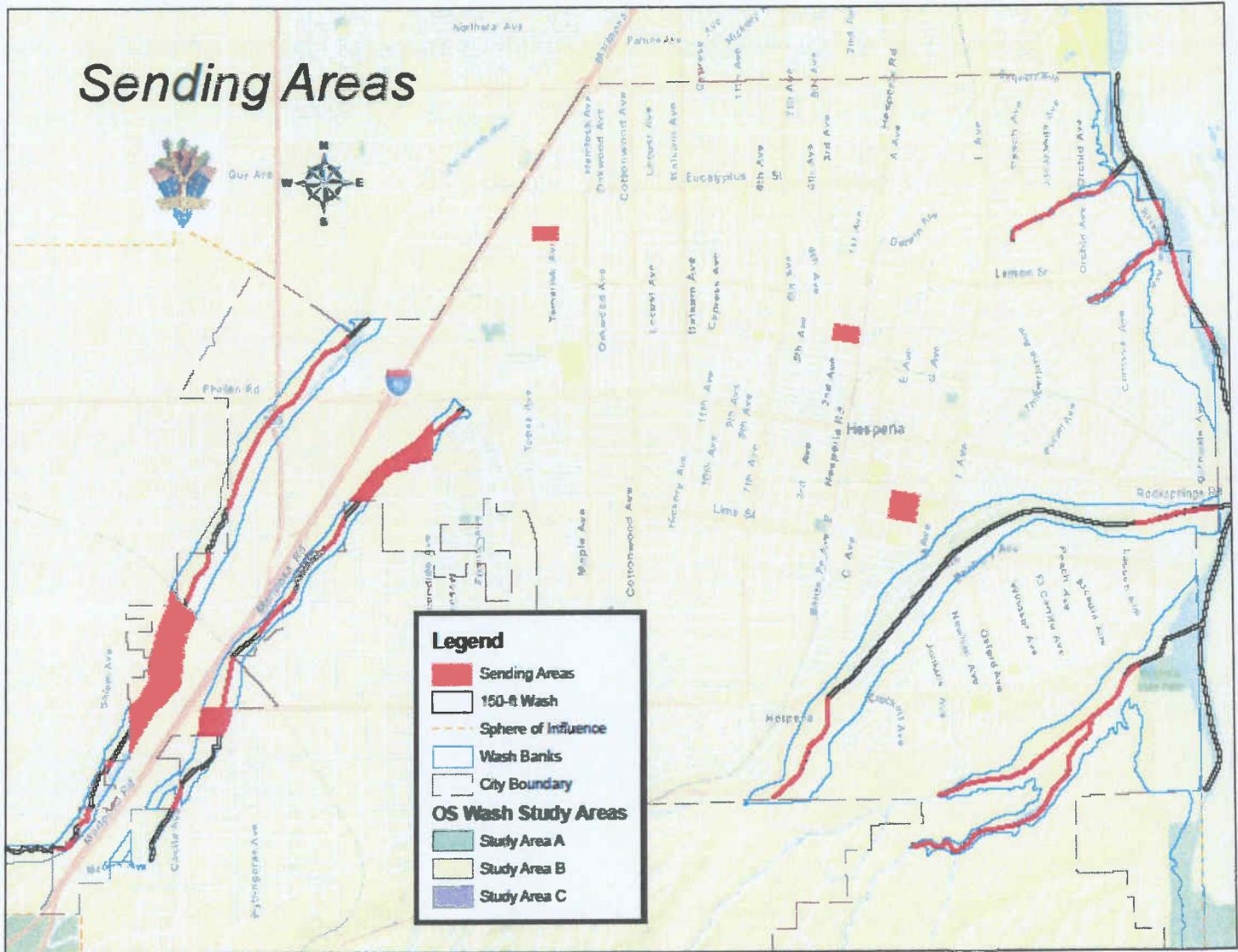
REFERENCES

- (1) Aerial photos of the City of Hesperia taken February, 2011.
- (2) Section 4.3.12 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), page 4-12.
- (3) Section 4.3.9 of the 2010 City of Hesperia GPUEIR, page 4-10 and Tables 2-1 and 2.2 of Section 2.2.1 of the GPEIR, page 2-2.
- (4) Development Code Amendment DCA10-10226 and Specific Plan Amendment SPL10-10259 applications and related materials.
- (5) Table ES-3 of the City of Hesperia GPUEIR, page ES-6.
- (6) United States Soil Conservation Service Soil Survey of San Bernardino County, California, Mojave River Area.
- (7) Official Map showing the General Plan Land Use of the City of Hesperia and its sphere of influence.

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

- (34) Flooding Hazards Section of the 2010 City of Hesperia General Plan Update Safety Element, pages SF-16 thru SF-18.
- (35) FEMA Flood Map within Section 3.1 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-9.
- (36) Dam Inundation Map within Section 3.2 of the 2010 City of Hesperia General Plan Update Safety Element background technical report, page 3-22.
- (37) Section 3.0 of the 2010 City of Hesperia General Plan Update Safety Element, page SF-8.
- (38) Table 1 of Section 16.16.465 of the Hesperia Municipal Code.
- (39) Section 3.0 of the 2010 City of Hesperia General Plan Update Conservation Element, page CN-20.
- (40) Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, page NS-4.
- (41) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467 and Table NS-5 of Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, pages NS-11 and NS-12.
- (42) Table 7 of Section 2.2.1 of the 2010 City of Hesperia General Plan Update Noise Element background technical report, page 22.
- (43) Table 3.11-10 of the 2010 Hesperia General Plan Update Environmental Impact Report (GPUEIR).
- (44) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element.
- (45) Section 16.20.125 of the Hesperia Municipal Code, pages 464 thru 467 and Table NS-5 of Section 2.0 of the 2010 City of Hesperia General Plan Update Noise Element, pages NS-11 and NS-12.
- (46) 1991 City of Hesperia Ordinance 180 entitled "An Ordinance of the City Council of the City of Hesperia, California, Establishing a Development Impact Fee for all New Residential, Commercial, and Industrial Structures" and Resolution No. 2007-110 on November 20, 2007.
- (47) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element, page CI-17.
- (48) Section 3 of the 2010 City of Hesperia General Plan Update Land Use Element, pages LU-60 and LU-61.
- (49) Traffic Circulation Plan within Section 3.0 of the 2010 City of Hesperia General Plan Update Circulation Element.
- (50) Section 2.2 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, page 4.
- (51) Sections 6.3 and 6.4 of the 2010 City of Hesperia General Plan Update Circulation Element background technical report, pages 74 and 75.
- (52) 2004 Trip Generation Manual, Volume III, 7th Edition, Institute of Transportation Engineers.
- (53) Section 3.8 of the 2010 City of Hesperia General Plan Update Environmental Impact Report (GPUEIR), pages 3.8-8 thru 3.8-14.
- (54) Environmental policies of the Lahontan Regional Water Quality Control Board regarding use of private wastewater treatment systems.
- (55) 2007 California Plumbing Code, Table 7-3.
- (56) 2010 California Department of Resources, Recycling and Recovery Annual AB939 Report.
- (57) California Integrated Waste Management Act (AB 939).
- (58) Quarterly data of the San Bernardino County Disposal Reporting System for the 2010 calendar year.
- (59) Environmental policies of the Lahontan Regional Water Quality Control Board regarding use of private wastewater treatment systems.

ATTACHMENT 1



APPLICANT(S):
CITY OF HESPERIA

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

LOCATION:
CITY-WIDE

APN(S):
CITY-WIDE

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



SENDING AREA MAP

ATTACHMENT 6

RESOLUTION NO. PC-2012-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A DEVELOPMENT CODE AMENDMENT TO ESTABLISH A TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM (DCA10-10226)

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

WHEREAS, The City of Hesperia has initiated DCA10-10226, amending Title 16 of the Hesperia Municipal Code to establish a Transfer of Development Rights (TDR) program to preserve open space and park sites; and

WHEREAS, the TDR program allows for the preservation of open space and park sites and establishment of a trail system within washes, while providing an effective means of reimbursing property owners for the transfer of land and/or creation of conservation easements within these designations. Establishment of open space and park sites advances a legitimate governmental interest as outlined within the General Plan and the Main Street and Freeway Corridor Specific Plan. Additionally, this program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation; and

WHEREAS, the City of Hesperia has determined that the TDR program is an appropriate mechanism for acquisition of title and/or conservation easements necessary to preserve open space and acquire future park sites, consistent with the goals and policies of the Specific Plan and the City's General Plan; and

WHEREAS, The City of Hesperia has determined that the TDR credits to be issued to property owners within sending areas upon approval of a land use application or development of vacant property is fair and adequate compensation for the transfer of title and/or recordation of conservation easements within the sending area; and

WHEREAS, The City of Hesperia has determined that the additional development afforded the receiving areas is consistent with the Specific Plan and General Plan; and

WHEREAS, approval of this project requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The negative declaration and initial study prepared for this project concludes that there are no significant adverse impacts resulting from this development code amendment; and

WHEREAS, On October 11, 2012, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and Specific Plan Amendment and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted Main Street and Freeway Corridor Specific Plan and the General Plan.

Section 3. This Commission has determined that the TDR program will enable the preservation of open space and acquisition of park sites consistent with the goals and policies of the Specific Plan and General Plan while not constituting a taking, as TDR credits will provide value for the property within the official map of sending areas.

Section 4. The Planning Commission hereby finds that there will be no significant environmental impacts resulting from the project as per Negative Declaration ND-2011-03, attached to the staff report for this item. That document reflects the Planning Commission's independent judgment and analysis, and the Planning Commission hereby recommends adoption of the Negative Declaration.

Section 5. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA10-10226 and its negative declaration, adopting a Transfer of Development Rights (TDR) program as shown on Exhibit "A" as well as the official maps of sending and receiving areas.

Section 6. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 11th day of October 2012.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

EXHIBIT "A"

ARTICLE XIV. TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

16.20.720 Purpose.

The Transfer of Development Rights (TDR) Program provides a means whereby areas identified for open space, park sites and trails will be either transferred to the City or included within a conservation easement consistent with the purposes identified within the City's General Plan, the Main Street and Freeway Corridor Specific Plan (Specific Plan), and the Oak Hills Community Plan (Community Plan). These areas contain sensitive environments as well as amenities such as bluffs, Joshua tree forests, and juniper woodlands which will become fragmented due to development in the absence of a mechanism which will facilitate their preservation or setting aside as park sites.

The TDR Program provides a mechanism to reserve land needed by the community at large for open space, park sites, and a trail system as required by the General Plan, Specific Plan and Community Plan, consistent with Government Code Section 65567. This Section states that no building permit may be issued nor subdivision map, or other land use entitlement be approved unless it is consistent with the local open space plan.

TDR credits will be issued as compensation for transfer of the properties to the City within Study Areas "A," "B," and "C" on Exhibit OS-7 of the General Plan Open Space Element and the Potential Park Sites identified within the Main Street and Freeway Corridor Specific Plan. Similarly, conservation easements will be created in favor of the City to establish the trail system shown on Exhibit OS-10 of the Open Space Element. Establishment of open space, park sites, and a trail system advances a legitimate governmental interest and implementation of a TDR program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation.

16.20.730 Definitions.

A. Sending areas.

1. The sending areas are those properties or portions of properties shown on the official map of sending areas that are to be preserved or to be used as park sites. These areas are those shown as Study Areas "A," "B," and "C" on Exhibit OS-7 of the General Plan Open Space Element and the properties identified as potential park sites within the Specific Plan;
2. The sending areas are those properties or portions of properties shown on the official map of sending areas which make up the trail system and are defined as the 140-foot wide area within the Antelope Valley Wash and the 150-foot wide areas located within the Oro Grande and the Unnamed Wash east of Interstate 15, the Mojave River, and the four washes emptying into the Mojave River designated Open Space / Drainage (OS / D) and FP (Flood Plain Overlay) as per the General Plan, within the Wash Protection Overlay of the Specific Plan, and identified as Floodway/ Open Space per the Community Plan;

- B. **Receiving areas.** These are those properties or portions of properties shown on the official map of receiving areas not designated for open space, park or trail purposes and not included as part of a sending area as defined within this article. These areas will receive the Transfer of Development Rights (TDR) credits from the sending areas as outlined within this Article.

16.20.740 Applicability of the TDR Program.

- A. The Transfer of Development Rights (TDR) Program applies to all properties within the official map of sending areas or receiving areas. No building permit, except for a permit to expand an existing single-family residence or to construct a residential accessory building or structure on a property with an existing primary use, shall be issued a permit without compliance with this Article. Additionally, a land use entitlement shall not be approved except for a minor exception or variance application to construct a residential accessory building(s) or structure(s) for any property within the official sending areas map without meeting TDR Program requirements.
- B. Owners of properties not within the official sending areas map may participate on a voluntarily basis as approved by the reviewing authority. The property or properties must be immediately adjacent to a property within the official sending areas map and shall only be added to the official sending areas map if approved by the reviewing authority.
- C. Any sending area owned by the Hesperia Recreation and Park District, the City of Hesperia, a Hesperia Successor Agency, the Hesperia Water District, or other public entity to be used for a public purpose is not subject to this ordinance.

16.20.750 TDR Program Application Requirements.

- A. Prior to approval of any land use application or prior to issuance of a ministerial permit for any property located within the official sending areas map, except for those exceptions within Section 16.20.740, the following shall occur:
 - 1. The properties within Study Areas "A," "B," or "C" on Exhibit OS-7 of the General Plan Open Space Element or identified as potential park sites within the Specific Plan shall be transferred to the City. The property owner(s) shall file, obtain approval and record a tentative parcel map to create a lettered lot to be transferred to the City for public use.
 - a. The property owner shall contract with a licensed surveyor or civil engineer to file a parcel map which when recorded will transfer that portion of the property within the official map of sending areas to the City. The City shall waive all filing fees and plan check review fees and shall reimburse the property owner for the property within the sending area in the form of TDR credits.
 - 2. Conservation easements shall be recorded in favor of the City to allow public use of that portion of private property: 1) within 70 feet of the centerline of the Antelope Valley Wash; and 2) within 75 feet of the centerline of the Oro Grande Wash and the Unnamed Wash east of Interstate 15, the Mojave River, and the four washes emptying into the Mojave River.
 - a. The property owner shall contract with a licensed surveyor or civil engineer to create a record of survey to be used in creation of the conservation easement in favor of the City. When recorded, the easement will allow the public legal access and enable creation of the trail system. The City shall waive all filing fees and plan check review fees. The property owner will be recompensed for the property within the sending area in the form of TDR credits.

16.20.760 Establishment and Maintenance of TDR credits.

- A. **TDR credits.** The property owners of each site within the official map of sending areas will receive TDR credits allowing additional development density or intensity beyond that allowed by the General Plan designation or the Specific Plan or Community Plan District within the receiving areas. TDR credits will be issued through a certificate equivalent to an additional 0.1 Floor Area Ratio (FAR) of nonresidential development for every acre of land within the sending area or an additional 0.1 dwelling unit per gross acre (du/ac) of residential development for every acre of land within the sending area.
1. Use of TDR credits for each individual nonresidential project cannot cause the project to exceed the maximum allowable development intensity by more than 100 percent.
 2. Use of TDR credits for each individual residential project cannot cause the project to exceed the maximum allowable development density by more than 10 percent.
- B. The City shall administer the Program. However, this is restricted to issuing certificates and maintaining records of the property owners of the participating properties within the official map of sending areas and receiving areas and all other information necessary to administer the program. The TDR credits created may be sold on the open market to be used on any property (ies) within the official map of receiving areas, subject to the restrictions within this Article. The City will not regulate the value of the credits, which shall be governed by the free market, but must be contacted after TDR credits are sold to enable the City to issue a new certificate with the new certificate holder and other information necessary to administer the program. Prior to issuance of any certificate, satisfactory evidence of the transfer of the TDR credits shall be provided, ensuring that only one certificate will be maintained for the TDR credits issued per property within the sending area. Acceptable evidence shall include a notarized document evidencing the transfer of TDR credits and/or receipt of its sale.
- C. The City shall issue an updated certificate accounting for all unused TDR credits upon issuance of a certificate of occupancy for development of property within the receiving area that used the TDR credits.
- D. When all of the TDR credits have been used in development of receiving area for an individual participating sending area, the City will notify all certificate holders that all of the TDR credits associated with that sending area have been used.
- E. Any certificate issued in reliance upon fraudulent or inaccurate documentation is void. Transfer of TDR credits in a manner inconsistent with this Article shall be invalid. Any dispute regarding the transfer of TDR credits between private parties or the transfer of void or used TDR credits shall be a civil matter and the City shall not be a party in any legal disputes of this nature.

ATTACHMENT 7

RESOLUTION NO. PC-2012-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN TO IMPLEMENT THE TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM (SPL10-10259)

WHEREAS, the City of Hesperia has initiated SPL10-10259, amending the Main Street and Freeway Corridor Specific Plan to reference the Transfer of Development Rights (TDR) program to preserve open space and park sites; and

WHEREAS, the TDR program allows for the preservation of open space and park sites and establishment of a trail system within washes, while providing an effective means of reimbursing property owners for the transfer of land and/or creation of conservation easements within these designations. Establishment of open space and park sites advances a legitimate governmental interest as outlined within the General Plan and the Main Street and Freeway Corridor Specific Plan. Additionally, this program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation; and

WHEREAS, the City of Hesperia has determined that the TDR program is a mechanism for acquisition of title and/or conservation easements necessary to preserve open space and acquire future park sites, consistent with the goals and policies of the Specific Plan and the City's General Plan; and

WHEREAS, the City of Hesperia has determined that the TDR credits to be issued to property owners within sending areas upon approval of a land use application or development of vacant property is fair and adequate compensation for the transfer of title and/or recordation of conservation easements within the sending area; and

WHEREAS, the City of Hesperia has determined that the additional development afforded the receiving areas is consistent with the Specific Plan and General Plan; and

WHEREAS, approval of this project requires adoption of a negative declaration pursuant to the California Environmental Quality Act (CEQA). The negative declaration and initial study prepared for this project concludes that there are no significant adverse impacts resulting from this development code amendment; and

WHEREAS, on October 11, 2012, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and Specific Plan Amendment and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed specific plan amendment is consistent with the goals and objectives of the adopted Main Street and Freeway Corridor Specific Plan and the General Plan.

Section 3. This Commission has determined that the TDR program will enable the preservation of open space and acquisition of park sites consistent with the goals and policies of the Specific Plan and General Plan while not constituting a taking, as TDR credits will provide value for the property within the official map of sending areas.

Section 4. The Planning Commission hereby finds that there will be no significant environmental impacts resulting from the project as per Negative Declaration ND-2011-03, attached to the staff report for this item. That document reflects the Planning Commission's independent judgment and analysis, and the Planning Commission hereby recommends adoption of the Negative Declaration.

Section 5. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Specific Plan Amendment SPL10-10259 and its negative declaration, amending the section regarding the Transfer of Development Rights (TDR) program as shown on Exhibit "A."

Section 6. That the Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED on this 11th day of October 2012.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

EXHIBIT "A"

Eliminated text is shown with a strikethrough and additions are shown in red text.

D. TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM

~~Transfer of development rights (TDR) Programs use the market to implement and pay for development density and location decisions. TDR programs allow landowners to sever development rights from properties in government-designated low-density areas (sending areas), and sell them to purchasers who want to increase the density of development in areas that local governments have selected as higher density areas (receiving areas). TDR programs offer many advantages to local governments that want to control land use but also compensate landowners for restrictions on the development potential of their properties. TDR programs make development more predictable and use the market to compensate landowners for lost property value. This plan recommends that a TDR program be set up in order to protect the washes' rights-of-way.~~

~~The following criteria should be considered in the establishment of such a program:~~

- ~~• The receiving sites should be in areas where there is pressure for development and where infrastructure and services can be efficiently provided.~~
- ~~• Single-family residential density may be transferred to/from any other residential zone.~~
- ~~• Multi-family residential density within the Regional Commercial zone may only be transferred to/from other areas with the same designation within the Main Street/Interstate 15 District.~~
- ~~• Commercial development rights may only be transferred to/from any commercial zone.~~
- ~~• Industrial development rights may only be transferred to/from other areas with the same zoning designation.~~

~~The establishment of a TDR program, would generally include the following steps:~~

~~Designation of sending areas. All properties that fully or partially fall within the Wash Protection Overlay should be designated as sending areas.~~

~~Designation of receiving areas. Selected properties within the following four districts: Main Street/Interstate 15 District, Highway 395/Interstate 15 District, Freeway—South District and Freeway—North District; should be designated as receiving areas. The selection of these sites should be based on the criteria listed above. More receiving opportunities than there are rights available for transfer should be provided. Infrastructure investments should be targeted in the receiving areas.~~

~~Establishment of TDR credits. In a TDR program, the rights become the currency of development. The development value (not price) of a TDR credit is set so that one equals another. Credits can be bought and sold at any time, not just when a particular development in the receiving site is pending. Also, a TDR should be a general investment available to anyone, not just possible developers. Local citizens, land trusts and investors may all have an interest in the market for other reasons aside from development.~~

~~Public education. Public education is essential so that everyone remembers the program goals and learns the operation of the market. The program should be aggressively marketed in both the sending and receiving areas. Mailings to and public meetings for landowners in sending areas, potential developers and residents of receiving areas are an integral part of the education effort. TDR program staff can also assist people with the legal aspects of the program.~~

The Transfer of Development Rights (TDR) program within Article XIV of the Development Code provides a mechanism whereby areas identified for both open space and park sites will be either transferred to the City or included within a conservation easement consistent with the purposes identified within the Main Street and Freeway Corridor Specific Plan (Specific Plan). These areas contain sensitive environments and amenities such as bluffs, Joshua tree forests, and juniper woodlands. Open space areas should be contiguous or connected through trails to provide accessibility for hikers and equestrians as well as wildlife.

The TDR program allows for the preservation of these open space and park sites, while providing an effective means of reimbursing property owners for the land within these designations. Establishment of open space and park sites advances a legitimate governmental interest as outlined within the General Plan and the Specific Plan. Additionally, this program does not constitute a taking or partial taking, as it does not deny any landowner economically viable use of land without compensation.



DATE: October 11, 2012
TO: Planning Commission
FROM: Dave Reno, AICP, Principal Planner
BY: Daniel Alcayaga, AICP, Senior Planner
SUBJECT: Consideration of Development Code Amendment DCA12-10179 regarding Mobile Food Services (Hot Food Trucks); Applicant: City of Hesperia; Area affected: Citywide

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2012-15, recommending that the City Council introduce and place on first reading the Ordinance approving DCA12-10179.

BACKGROUND

On June 14, 2012 and August 9, 2012, the Commission held two workshops 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 understood 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 when mobile food vendors operate as part of community events and large festivals. The 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;
- Whether vendors would obtain property owner permission;
- Expressed a preference to collect one permit/license fee per user, rather than collect one fee for each site;
- Provided examples of other communities that encountered problems with too many food trucks at one time and place.
- Questioned how the City or property owners would regulate the number of trucks on a particular site; 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 proposed 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: 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 proposed 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 an annual Mobile Food Services (MFS) 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 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 a 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.

The Commission expressed a preference to collect one permit/license fee per user, rather than collect one fee for each site. The proposed Ordinance requires food truck vendors to obtain a business license, as well as 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 stated that they would like an opportunity to recommend a fee to the Council. Staff has provided a list of other business types and associated license fees (Attachment 1). The Commission may use this information to formulate a recommendation for a fee. Currently, the City's business license fee is \$83 and the renewal fee is \$69. Other investigation fees, which are in addition to the regular fee, include:

- Home Occupation: \$46
- Taxi Cab/Ice Cream Truck: \$42¹ (involves criminal background checks)
- Temporary Use/Special Event: \$85
- Massage Facility: \$200 (involves processing application and inspections from at least two departments)

1. Sheriff Administrative Fee (\$10) & Department of Justice Fee (\$32)

Staff's time would involve processing/reviewing the application, issuing a permit and maintaining an inventory of all food trucks operating in the City. Unlike ice cream trucks and massage facilities, a MFS permit would not involve criminal background checks or inspections. The business license process which closely resembles staff's time needed to process a MFS permit would be a "Home Occupation". If the Home Occupation fee were used to structure a fee, a vendor would pay a license/permit fee totaling \$129 per food truck (\$83 business license fee, plus \$46 MFS fee). Staff recommends a renewal fee in the same amount for the reason that the same amount of time verifying information would be expended every year processing MFS permits. Upon renewal, the mobile food vendor would pay an annual renewal fee of \$115 (\$69 renewal fee, plus \$46 MFS fee).

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 proposed 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 how the City or the property owners would regulate the number of trucks on a particular site. Ultimately, it will be responsibility of the owner to enforce who is allowed on their property. If there is a dispute, the City will request for mobile food trucks to produce evidence of property owner's authorization. Staff proposes that property owners have the option to post notices at the entrance(s) of the property prohibiting or limiting mobile food trucks. An exception will be provided when a Temporary Use Permit/Special Event (TUP/TSE) permit has been issued to a food truck or special event. Currently, the Code allows notices to be posted on commercial/industrial properties prohibiting skateboarding, rollerblading and bicycling. When there is a dispute or a problem, property owners may post signs and, through a TUP/TSE permit process, identify the number of vendors authorized to be on the property. If there is a dispute that the property owner cannot resolve, the Director of Development Services (Director) may order the signs to be posted and the property owner to obtain a TUP/TSE permit.

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. Nevertheless, the proposed Ordinance has been structured in a way that the City may take action whenever there is a violation caused by a roaming food truck. Violations would be subject to Chapter 1.12, which outlines the enforcement policies established by the City Council.

In addition, a Mobile Food Services Permit may be revoked by the Planning Commission if a food truck operator falsifies information to the City or if a food truck violates the law. The Director would have the discretion to place operating conditions on a permit as a condition of approving the permit. If there is substantial evidence on the record of violations caused by the mobile food vendor, the Director or his/her designee may deny a license/permit upon renewal. The measures would also apply to Temporary Use/Special Event Permits.

Temporary Use/Special Event Permits: In addition, the proposed Ordinance will allow mobile food vehicles 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 special 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 proposed Ordinance increases the frequency to 6 events per calendar year. The proposed Ordinance states that an event which takes place Friday, Saturday and Sunday on one weekend will be considered a single event for the purposes of calculating the number of events per parcel. If Monday occurs on a legal holiday it would be considered part of a weekend.

Temporary Use/Special Event Permits process provides the City with an opportunity to review the 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 proposed Ordinance would exempt community events sponsored by a governmental agency or events that occur on school, park, or civic facilities from having to obtain permits required by this Ordinance. Authorization from the City, School or Park District would be required. Examples of community events would be the Hesperia Days Parade and the Civic Plaza Park Farmer's Market.

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. The proposed Ordinance provides new definitions for a "mobile food vehicle" and a "roaming mobile food vehicle". 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 the right-of-way.

CONCLUSION

Staff has provided the Commission with an Ordinance that addresses a variety of issues pertaining to regulating mobile food services. A discussion about these issues has been used to complete an Ordinance that staff believes fits Hesperia. The Ordinance complies with State law and the Hesperia General Plan, as well as is consistent with the County's health regulations. At this time, the Commission is asked to raise other issues pertaining to mobile food services and forward a recommendation to the City Council.

FISCAL IMPACT

None.

ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Business License Fees
2. Excerpts of the Health and Safety Code (Cal Code)
3. Minute excerpts from the June 14, 2012 and August 9, 2012 Planning Commission workshops regarding the proposed Ordinance
4. Resolution No. PC-2012-15, recommending adoption of DCA12-10179, with Exhibit "A"

ATTACHMENT 1

SECTION 70: Business License

Business License

| | | |
|----|--|-------------|
| 1) | Business License Fee (annual) | \$50 |
| 2) | Renewal License (annual) | \$50 |
| 3) | Late Fee (within 30 days, after 30 days) | \$25, \$50 |
| 4) | Administration Fee | \$33 |
| | A. New License | \$19 |
| | B. Renewal License | \$19 |
| | C. Changes to Business License (address, name, etc.) | \$62 |
| | D. Department of Justice Review/Process | \$62 |
| 5) | Investigation Fee (added to initial license) | \$100 |
| | A. Junk dealer or Pawnbroker | \$100 |
| | B. Pool and/or Billiard Halls | \$100 |
| | C. Theaters | \$200 |
| | D. Massage Office | \$100 |
| | E. Dance Halls | \$200 |
| | F. Adult Entertainment Business | \$129, \$88 |
| | G. Home Occupations (includes Admin. Fee) | |

ATTACHMENT 2

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>

ATTACHMENT 3

EXCERPTS FROM DRAFT MINUTES

PLANNING COMMISSION REGULAR MEETING

MEETING OF JUNE 14, 2012

WORKSHOP ITEM

1. Mobile & Temporary Food Services (Hot Food Trucks) Workshop discussion regarding potential changes to the current ordinance. (Area affected: Citywide) (Staff Person: Dan Alcayaga)

Senior Planner Daniel Alcayaga gave a PowerPoint Presentation.

Chris Elvert stated that he thought a business should be charged a one-time annual charge, not per event.

Chair Elvert opened public comments at 7:37 pm.

Mark Pearson, mobile food truck owner, stated that he felt the commission was over complicating the issue.

Eric Schmidt stated three categories should be considered: Mobil, Stationary and Private Event Catering.

Discussion ensued.

Dave Reno stated that County EHS has guidelines that the Mobile Food Trucks must follow and will still have to be licensed through the County.

Chair Elvert closed public comments at 8:15 p.m.

Bill Muller stated that there are areas that need to be fleshed out and an ordinance would do that. He stated concerns about roaming trucks putting a burden on Code Enforcement. He said that perhaps there should be a year agreement that we can change if required. He stated he doesn't want other businesses coming in and taking money from local vendors and restaurants.

Obtaining permission from the property owner was discussed regarding the parking of a food truck on a property.

EXCERPTS FROM DRAFT MINUTES
PLANNING COMMISSION REGULAR MEETING
MEETING OF AUGUST 9, 2012

WORKSHOP ITEM

2. Mobile Food Services (Hot Food Trucks) Workshop discussion regarding potential changes to the current ordinance. (Area affected: Citywide) (Staff Person: Dan Alcayaga)

Senior Planner Daniel Alcayaga gave a PowerPoint presentation for the Hot Food Truck second workshop.

Discussion ensued regarding Temporary Use Permits and the number of trucks and property owners policing them.

Chris Elvert wanted the ordinance that will be forwarded to the City Council to include the fees so that the Council would not have to discuss it.

Dave Reno responded that the fees would be figured on cost reasonably born and that they could be included in the ordinance that is forwarded to Council.

Chair Chris Elvert opened Public Comments at 7:52 p.m.

Dr. Jim Krider, owner of a food truck, spoke and considered it an exciting business different than the "work" food truck.

Chair Chris Elvert closed Public Comments at 7:58 p.m.

The Commission agreed that they were ready for Staff to bring back a draft Ordinance for their recommendation.

ATTACHMENT 4

RESOLUTION NO. PC-2012-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT A DEVELOPMENT CODE AMENDMENT TO ESTABLISH MOBILE FOOD VEHICLE REGULATIONS (DCA12-10179)

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

WHEREAS, The City of Hesperia has initiated DCA12-10179, amending Title 16 of the Hesperia Municipal Code to establish Mobile Food Vehicle regulations; and

WHEREAS, The City initiated the Ordinance because the County of San Bernardino recently adopted an Ordinance lessening their historical prohibition of hot food trucks; and

WHEREAS, 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 Ordinance, 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; and

WHEREAS, The City prohibits the vending of mobile food vehicles in the right-of-way because allowing mobile food vehicles to park in the right-of-way would make roadways less efficient; cause traffic congestion and accidents; and pose a danger to the public's safety. Allowing mobile food vehicles to park in the right-of-way would be inconsistent with the City's General Plan and Section 10.08.090(D), which prohibits parking in the any highway or right-of-way for the principal purpose of vending. The General Plan Circulation Element sets the street sections for all arterial and collector roads, which include Main St., Bear Valley Rd., I Ave., Hesperia Rd. and Mariposa Rd. These roads are not planned to support on-street parking. It continues to be a long-term goal of the City to make roadways more efficient and safe. Currently, some of these existing roads, such as Main St. and Bear Valley Rd., do not have room to support on-street parking. Collector and arterial roads are the roads that front most businesses, which is where mobile food vehicles will most likely conduct business. In addition, a mobile food vehicle is considered a commercial vehicle and Section 16.20.090(H)(3) of the Development Code currently prohibits commercial vehicles from parking in the right-of-way in residential areas; and

WHEREAS, The City Planning Commission conducted two workshops, on June 14, 2012 and August 9, 2012, after which this proposed Development Code Amendment was formulated; and

WHEREAS, The City has determined that the Mobile Food Vehicle regulations are consistent with the General Plan and the Main Street and Freeway Corridor Specific Plan; and

WHEREAS, The proposed Development Code amendment is exempt from the requirements of the California Environmental Quality Act by Section 15061 (B)(3) since the proposed code amendment will not have a significant negative impact on the environment; and

WHEREAS, On October 11, 2012, the Planning Commission conducted a duly noticed public hearing pertaining to the proposed Development Code Amendment and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Commission, including written and oral staff reports, the Commission specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby recommends adoption of Development Code Amendment DCA12-10179, adopting the Mobile Food Vehicle regulations as shown on Exhibit "A."

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

ADOPTED AND APPROVED on this 11th day of October 2012.

Chris Elvert, Chair, Planning Commission

ATTEST:

Kathy Stine, Secretary, Planning Commission

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 Food Code (Part 7 of Division 104 of the Health & Safety Code), upon which food is sold or distributed at retail.

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 for food vending purposes.

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 obtain a business license for each mobile food vehicle before vending in the City. In addition, the mobile food vehicle shall possess a Mobile Food Services Permit, a Temporary Use Permit or a Temporary Special Event Permit.
 - ii) Shall have a decal and letter grade posted on the vehicle issued by the County Health Department;
 - iii) Shall obtain property owner authorization when temporarily or permanently vending on private property;
 - iv) Shall carry evidence of written property owner authorization at all times;
 - v) Shall not be stationed within a street or a public way or within the clear sight triangle;

- vi) 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;
- vii) 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;
- viii) Shall not back up in a street or a public way to make or attempt to make a sale;
- 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) A commercial property or shopping center, which has three or more mobile food vehicles at the same time, shall be required to obtain a Temporary Use/Special Event Permit;
- xii) It is unlawful and a public nuisance for any person to operate a mobile food vehicle upon any private property within the City, where notice of such prohibition has been posted and is clearly visible from at least two entrances to the prohibited area or in the immediate area where such activity is prohibited. If the property has a single (sole) entrance, posting a notice at one entrance shall be sufficient. This provision shall not apply to mobile food vehicles participating in any event for which a temporary use/special event permit has been granted or for a community event.
- xiii) If there is a dispute that the property owner cannot resolve, the Director may order the signs to be posted consistent with Section 16.16.062(B)(xii) and the property owner to obtain a Temporary Use Permit/Special Event Permit.
- xiv) 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;
- xv) 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;
- xvi) 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;
- xvii) The Director of Development Services or his/her designee is responsible for interpreting this section and determining which permit is applicable to a particular circumstance.
- xviii) 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 possess a Mobile Food Services Permit before vending in the City. The Mobile Food Services Permit shall be an annual permit;
 - 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, evidence of the vehicle's current registration, 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 on 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 on which the mobile food vehicle has been, or will be, stationed throughout the previous and upcoming year, as well as owner authorizations that correspond to those properties;
 - c) Shall comply with regulations in Section 16.16.062(B);
 - d) Mobile food vehicles shall not be stationary on any site for a period exceeding 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 on the same property, or within 500 feet of that property, for a period of 2 hours;
 - e) 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;
 - f) Shall prominently display the company's name, address and phone number with two-inch-minimum letters and numbers on both sides of the vehicle;
 - g) One portable sign, not to exceed 20 square feet and a height of four feet, may be displayed outside of a mobile food vehicle when displayed in conjunction with an operating mobile food vehicle. The sign shall be considered part of the mobile food vehicle and cannot be placed where the vehicle would otherwise be prohibited. The sign shall be removed upon the mobile food vehicle leaving the property;
 - h) 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;
 - i) Upon the applicant demonstrating compliance with these regulations, a Mobile Food Service Permit may be issued by the Director of Development Services or his/her designee.

D) **Temporary Use/Special Event Permit:** Mobile food vehicles may be permitted with a Temporary Use Permit or Temporary Special Event Permit consistent with Sections 16.12.370 thru 16.12.390 of the Development Code and subject to the following:

- a) **Temporary Use Permit:** Food trucks that are stationary for a period of more than 60 minutes on a property, and not part of a special event, shall obtain a Temporary Use Permit.
- b) **Temporary Special Event Permit:** Mobile food vehicles may operate as part of a special event or festival only when a Temporary Special Event Permit has been granted for such event. Special events with one or more mobile food vehicles shall obtain a Temporary Special Event Permit.
- c) Mobile food vehicles allowed with a Temporary Use Permit or Temporary Special Event Permit shall be subject to the following:
 - i) Mobile food vehicles shall be subject to the regulations in Section 16.16.062(B);
 - ii) Shall not conflict with site features, including but not limited to parking and access requirements, required by the Development Code;
 - iii) 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;
 - iv) May require a Conditional Use Permit where the magnitude or longevity of the use requires the permit and/or approval in the discretion of the Director;
 - v) A parcel shall be limited to six special events with mobile food vehicles per calendar year. An event which takes place on Friday, Saturday and Sunday on one weekend will be considered one event, for the purposes of calculating the number of events per property. If Monday occurs on a legal holiday, it will be considered part of a weekend.
- d) 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.

e) Upon the applicant demonstrating compliance with the regulations, a Temporary Use Permit or a Temporary Special Event Permit may 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 not required to obtain a Mobile Food Services Permit, a Temporary Use Permit or a Temporary Special Event Permit. 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 is sponsored by a public agency or occurs on public premises. Authorization from the public agency shall be required;

F) **Actions as a result of violations:**

- a) Denials. The Director of Development Services or his/her designee may deny an application for a Mobile Food Services Permit, a Temporary Use Permit, a Temporary Special Event Permit or renewal thereof, if there is evidence on the record that the mobile food vehicle has operated, or the event operator has operated an event, within the City, in violation of the law; and/or poses a threat to the public's health, safety or welfare.
- b) Conditions of Approval. The Director of Development Services or his/her designee may place operating conditions as a condition of approving the permit. It shall be unlawful and a public nuisance to violate any condition of approval associated with a permit issued pursuant to this section.
- c) Appeals. Denial of a Mobile Food Service Permit, Temporary Special Use Permit or Temporary Special Event Permit or conditions of approval thereof, may be appealed consistent with the provisions in Section 16.12.055 of the Development Code.
- d) Revocation of a permit. 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.



CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE

City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, SEPTEMBER 12, 2012

A. PROPOSALS:

1. OCTAVIO VARGAS (ME12-10166)

Proposal: A minor exception to construct a 1,200 square foot workshop in excess of the 5% maximum accessory building area limitation.

Location: 16485 Sage Street (APN: 0412-255-05)

Planner: Daniel Alcayaga

Action: Administrative Approval



**CITY OF HESPERIA
DEVELOPMENT REVIEW COMMITTEE
City Hall Joshua Room
9700 Seventh Avenue
Hesperia, CA 92345
BEGINNING AT 10:00 A.M.
WEDNESDAY, SEPTEMBER 26, 2012**

A. PROPOSALS:

1. PENTECOSTAL CHURCH OF GOD (SPR12-10169)

Proposal: A revised Site Plan Review to establish a 2000 square-foot church within an existing building on 1.3 gross acres zoned I-1.

Location: 11129 G Avenue (APN: 0415-231-11)

Planner: Lisette Sanchez-Mendoza

Action: Administrative Approval

2. TORTAS DE SINALOA (CUP12-10170)

Proposal: Consideration of Conditional Use Permit to allow for the on-site sale of beer in conjunction with a restaurant.

Location: 15555 Main Street, Unit A1 (APN: 0413-111-49)

Planner: Stan Liudahl

Action: Forwarded to November 8, 2012 Planning Commission

3. ADVANCE DISPOSAL COMPANY, INC (CUP12-10171)

Proposal: A revision to approved conditional use permit CUP11-10217 to allow for an expansion of the existing material recovery facility on 15.0 gross acres.

Location: 17105 Mesa Street (APN: 0415-201-06, 07, 10 & 24)

Planner: Daniel Alcayaga

Action: Administrative Approval