PLANNING COMMISSION REGULAR MEETING

Meeting Agenda

Thursday, September 8, 2022

6:30 PM

Council Chambers
9700 Seventh Avenue
Hesperia, CA 92345

Planning Commission Members

Roger Abreo, Chair
Sophie Steeno, Vice Chair
Don Bartz, Commissioner
Dale Burke, Commissioner
Jon Dunbar, Commissioner

Ryan Leonard, Senior Planner
Brian Wright-Bushman, Assistant City Attorney

NOTE: In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (760) 947-1026 or (760) 947-1224. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

AGENDA
HESPERIA PLANNING COMMISSION
9700 Seventh Ave., Council Chambers, Hesperia, CA 92345

As a courtesy, please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

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 PM

A. Pledge of Allegiance to the Flag

B. Invocation

C. Roll Call

D. Agenda Revision and Announcements by Planning Secretary

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 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

1. Page 1 Consideration of the August 11, 2022, Planning Commission Meeting Minutes.

Recommended Action:
It is recommended that the Planning Commission approve the Draft Minutes from the regular meeting held on August 11, 2022.

Staff Person: Maricruz Montes
Attachments: 8_11_2022 Draft PC Minutes

PUBLIC HEARINGS

2. Page 5

Consideration of Conditional Use Permit CUP22-00005 and Variance VAR22-00002 to construct a 69-foot-high wireless telecommunications facility that will be designed as a faux eucalyptus tree within the C-2 General Commercial zone located at 11616 Hesperia Road (Applicant: AT&T Mobility; APN: 0415-081-50)

Recommended Action:

It is recommended that the Planning Commission hear from any parties involved and determine whether to adopt Resolution No. PC-2022-08 and PC-2022-09, approving CUP22-00005 and VAR22-00002.

Staff Person: Edgar Gonzalez

Attachments:
- PC Staff Report
- Attachment 1 - Site Plan
- Attachment 2 - General Plan Land Use Map
- Attachment 3 - Aerial
- Attachment 4 - Service Plan
- Attachment 5 - Elevations
- Attachment 6 - Photo Simulations
- Attachment 7 - Resolution No. PC-2022-08
- Exhibit A (CUP)
- Attachment 8 - Resolution No. PC-2022-09

3. Page 23

Consideration of Conditional Use Permit CUP22-00020 to install a 93-foot-high wireless communications facility on an existing 172-foot high Southern California Edison tower located north of Ranchero Road and west of Maple Avenue. (Applicant: Dish Wireless; APN: 0405-383-14)

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2022-16, approving Conditional Use Permit CUP22-00020.

Staff Person: Yuying Ma

Attachments:
- Staff Report-CUP22-00020
- Attachment 1 Site Plan
- Attachment 2 General Plan Map
- Attachment 3 Aerial Photo
- Attachment 4 Service Plan
- Attachment 5 Elevation
- Attachment 6 Photosimulations
- Attachment 7-Resolution No. PC-2022-16
- Exhibit A- Conditions of Approval

4. Page 37

Consideration of an appeal to the Planning Commission to overturn the Development Review Committee's decision to deny Tentative Tract Extension TT22-00003, a second extension of time for Tentative Tract No. 16505 (Applicant Pacific Communities Builder; APNs: 3046-011-06)

Recommended Action:
That the Planning Commission adopt Resolution No. PC-2022-17, denying appeal APP22-00002 and upholding the Development Review Committee (DRC) denial of a second extension of time for Tentative Tract No. 16505

Staff Person: Ryan Leonard

Attachments: Staff Report

Attachment 1- General Plan Map

Attachment 2- Aerial Map

Attachment 3- DRC Denial Letter

Attachment 4- Resolution No. PC-2022-17

5. Page 45

Consideration of an appeal to the Planning Commission to overturn the Development Review Committee's decision to deny Tentative Tract Extension TT22-00004, a second extension of time for Tentative Tract No. 15033 (Applicant Pacific Communities Builder; APNs: 3046-011-12)

Recommended Action:
That the Planning Commission adopt Resolution No. PC-2022-18, denying appeal APP22-00003 and upholding the Development Review Committee (DRC) denial of a second extension of time for Tentative Tract No. 15033

Staff Person: Ryan Leonard

Attachments: Staff Report

Attachment 1- General Plan Map

Attachment 2- Aerial Map

Attachment 3- DRC Denial Letter

Attachment 4- Resolution No. PC-2022-18

6. Page 53

Consideration of an appeal to the Planning Commission to overturn the Development Review Committee's decision to deny Tentative Tract Extension TT22-00005, a third extension of time for Tentative Tract No. 17655 (Applicant Pacific Communities Builder; APNs: 3046-011-12)

Recommended Action:
It is recommended that the Planning Commission adopt Resolution No. PC-2022-19, denying appeal APP22-00004 and upholding the Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17655

Staff Person: Ryan Leonard

Attachments: Staff Report

Attachment 1- General Plan Map

Attachment 2- Aerial Map

Attachment 3- DRC Denial Letter

Attachment 4- Resolution No. PC-2022-19

PLANNING DIVISION REPORT

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

A. DRC Comments

B. Major Project Update

PLANNING COMMISSION COMMENTS

The Commission Members may make comments of general interest to the City.

ADJOURNMENT

I, Maricruz Montes, Planning Commission Secretary of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Thursday, September 1, 2022 at 5:30 p.m. pursuant to California Government Code §54954.2.

Maricruz Montes,
Planning Commission Secretary

City of Hesperia

Meeting Minutes

PLANNING COMMISSION REGULAR

MEETING

Council Chambers
970 Seventh Aveune,
Hesperia, CA 92345

Thursday, August 11, 2022

CALL TO ORDER - 6:32 PM

A. Pledge of Allegiance to the Flag
Commissioner Dunbar led the Pledge of Allegiance.

B. Invocation
Chair Abreo led the Invocation.

C. Roll Call

Present 5 - Commissioner Burke, Commissioner Abreo, Commissioner Steeno, Commissioner Dunbar, and Commissioner Bartz

D. Agenda Revisions and Announcements by Planning Secretary

There were no revisions to the Agenda or announcements by the Planning Secretary .

JOINT PUBLIC COMMENTS

Public comments opened at 6:34 pm.

There were no white cards.

Public Comments closed at 6:34 pm.

CONSENT CALENDAR

1. Consideration of the July 14, 2022, Planning Commission Meeting Minutes.

Recommended Action:
It is recommended that the Planning Commission approve the Draft Minutes from the regular meeting held on July 14, 2022.

Sponsors: Senior Office Specialist Maricruz Montes

A motion was made by Dunbar, seconded by Steeno, that this item be approved. The motion carried by the following vote:

Aye: 5 - Burke, Abreo, Steeno, Dunbar and Bartz

Nay: 0

PUBLIC HEARINGS

2. Consideration of Conditional Use Permit CUP22-00006 to construct an RV storage and self-storage facility consisting of a 1,632 square foot office building with a caretakers residence and 428 enclosed storage units totaling 97,250 square feet in conjunction with tentative parcel map No. 20405 (TPM21-00005) to create a 7.3 acre parcel from 15.6 acres within the Commercial Industrial Business Park zone of the Main Street and Freeway Corridor Specific Plan located at 8899 Three Flags Avenue. (Applicant: Industrial Builders; APN: 3064-591-14).

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2022-12, approving CUP22-00006 and TPM21-00005.

Sponsors: Senior Planner Ryan Leonard

A motion was made by Dunbar, seconded by Bartz, that this item be approved. The motion carried by the following vote:

Aye: 5 - Burke, Abreo, Steeno, Dunbar and Bartz

Nay: 0

3. Consideration of Conditional Use Permit CUP22-00010 to demolish a portion of an existing building to construct a 3,596 square foot carwash and establish a gym in the remainder 40,790 square foot portion of the building on 5.72 acres within the Neighborhood Commercial (NC) zone of the Main Street and Freeway Corridor Specific Plan located at 16968 Main Street (Applicant: Midtown Square, LLC; APN: 0410-142-61).

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2022-13, approving CUP22-00010.

Sponsors: Associate Planner Edgar Gonzalez

A motion was made by Dunbar, seconded by Burke, that this item be approved. The motion carried by the following vote:

Aye: 5 - Burke, Abreo, Steeno, Dunbar and Bartz

Nay: 0

4. Negative Declaration ND22-02; Applicant: Loyal Brothers; APN: 3064-561-15

Recommended Action:

It is recommended that the Planning Commission adopt Resolution No. PC-2022-15 approving an Initial Study/Mitigated Negative Declaration (IS/MND) for a previously approved project in order to comply with the requirements of an Incidental Take Permit (ITP) with the California Department of Fish and Wildlife (CDFW).

Sponsors: Senior Planner Ryan Leonard

A motion was made by Bartz, seconded by Dunbar, that this item be approved. The motion carried by the following vote:

Aye: 4- Burke, Abreo, Dunbar and Bartz

Nay: 0

Recuse: 1- Steeno

Vice chair Steeno recused herself.

PLANNING DIVISION REPORT

A. DRC Comments

Senior Planner Ryan Leonard Thanked Vice Chair Steeno, for attending DRC on August 10, 2022.

B. Major Project Update

Planning Commission Training coming up on August 26,2022.

PLANNING COMMISSION COMMENTS

Commissioner Dunbar was grateful to be mobile after his surgery. Vice Chair Steeno would like to have Council consider Landscape requirements, as well as concerns with the intersection of Seventh Avenue and Ranchero Road. Commissioner Don Bartz Thanked staff for coordination and compiling the Agenda.

ADJOURNMENT

Meeting adjourned at 7:21 pm, until our next regularly scheduled meeting on September 8, 2022.

_____
Maricruz Montes,
Planning Commission Secretary

_____
Roger Abreo,
Chair

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DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager
Ryan Leonard, Senior Planner

BY: Edgar Gonzalez, Associate Planner

SUBJECT: Conditional Use Permit CUP22-00005 and VAR22-00002; Applicant: AT&T Mobility; APN: 0415-081-50

RECOMMENDED ACTION

It is recommended that the Planning Commission hear from any parties involved and determine whether to adopt Resolution No. PC-2022-08 and PC-2022-09, approving CUP22-00005 and VAR22-00002.

BACKGROUND

On June 9, 2022, the project was presented to the Planning Commission as a 62-foot-high wireless telecommunications facility designed as a faux water tower. There was discussion among the Commission during the public hearing regarding the location and the design of wireless facility. The Commission stated that the proposed location of the facility was too close to Hesperia Road and requested that the facility be relocated near the center of the site away from the street. The Commission also did not agree with the design of the wireless tower as it was mentioned that it will not enhance, nor be consistent with the surrounding area. The Commission requested that the facility be redesigned into a faux pine or eucalyptus tree. Prior to the end of the hearing, the Planning Commission made a motion to continue the item to a future meeting to provide the applicant with additional time to relocate the wireless facility and redesign the wireless tower.

Since the meeting, the applicant has modified the design of the wireless facility from a faux water tower to a faux eucalyptus tree, as requested by the Commission. With regard to the location of the facility, the applicant stated that the owner of the site, which is First Assembly of God Church, did not want the facility to be relocated as it could potentially affect the future expansion of the church. The applicant is requesting that the Planning Commission reconsider the original location of the wireless facility with the new faux eucalyptus tree design.

Proposal: A Conditional Use Permit and Variance to construct a 69-foot-high wireless telecommunications facility designed as a faux eucalyptus tree. Approval of a Variance is needed to allow the facility to exceed the 35-foot height limitation.

Location: 11616 Hesperia Road (Attachment 1).

Current General Plan, Zoning and Land Uses: The property is within the General Commercial (C2) zone and Rural Residential (RR-1) zone, but the project location is only within the General Commercial (C2) zone. The properties to the north and south are zoned General Commercial (C2) and Rural Residential (RR-1). The properties to the west are zoned Rural

Residential (RR-1) and the properties to the east are zoned General Commercial (C2) (Attachment 2). The proposed wireless telecommunications facility will be located within the existing First Assembly of God Church site, specifically at the southeast corner of the site, adjacent to Hesperia Road. The surrounding properties consist of vacant sites and single-family residential homes (Attachment 3).

ISSUES/ANALYSIS

Land Use: AT&T, the service provider, has demonstrated on a service plan that there is a service gap which requires the installation of an additional wireless telecommunications facility in the area (Attachment 4). The proposed facility will provide the necessary coverage to improve the network in this area. The proposed wireless telecommunications facility is consistent with the general plan and all zoning standards, except for the 35-foot height limitation within the General Commercial (C2) Zone. A Variance was submitted in conjunction with the Conditional Use Permit application to allow for the height of the wireless facility to be increase to a maximum height of 69 feet. The Wireless Telecommunications Facility Ordinance provides justification for exceeding this height limitation, based upon providing space for future co-locations. The proposed 69-foot-high faux water tower will provide capacity for two additional carrier.

The ground enclosure will consist of a generator and accessory equipment to service the wireless facility. All equipment will be enclosed by a ten-foot, eight-inch high decorative split-face block wall with a wrought iron cover on top to secure the facility and provide adequate screening of the equipment. The elevations and photo simulations of the proposed faux eucalyptus tree are attached as shown on Attachments 5 and 6.

The facility is planned to be located at the southeast corner of the site, with a 50-foot front yard setback from Hesperia Road and a 10-foot rear setback from the south property line. The access route for the maintenance of the wireless facility will be from Sycamore Street, which is currently the main access for the existing church. Lastly, the carriers will be required to self-certify that the facility is being maintained as originally approved. This shall occur on an annual basis and tied to their business license renewal. This will force carriers to review the appearance of the facility on an annual basis and certify that the facility is being maintained. Failure to self-certify is considered a violation, and such violation must be corrected prior to issuance of any future building permit or final inspection.

Drainage: The site is not impacted by drainage from upstream properties and its impact upon properties downstream is negligible, as its 1,173 square foot lease area is enclosed by a ten-foot, eight-inch-high block wall that will pose a less than significant increase in surface runoff.

Street Improvements: Public street improvements are not required.

Environmental: Approval of the Conditional Use Permit and Variance is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The Commission should determine whether the modifications that were made to the proposed wireless facility based on the direction from the previous meeting are sufficient for the approval of the project.

FISCAL IMPACT

None.

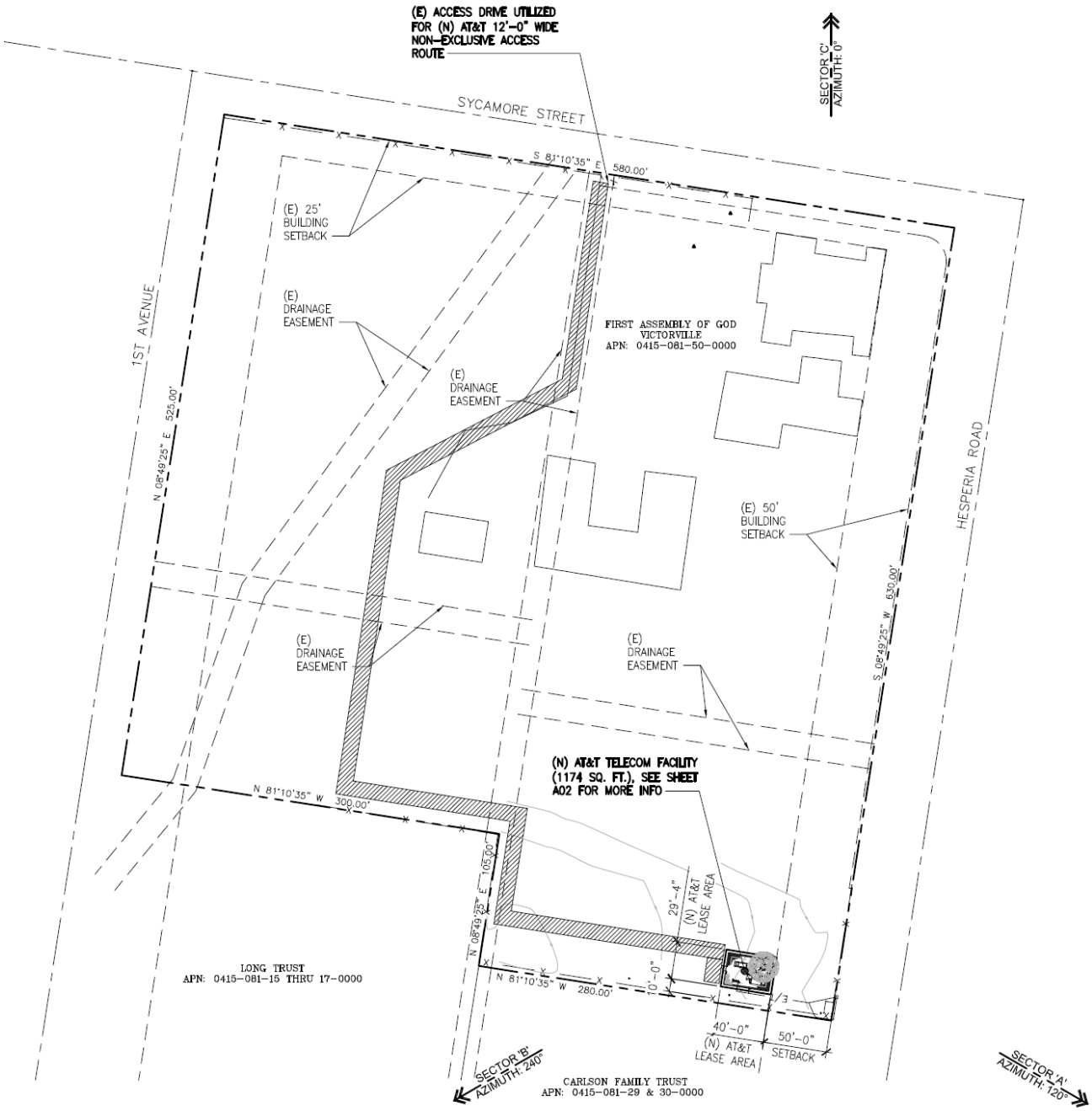
ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. General Plan land use map
3. Aerial photo
4. Service plan
5. Elevations
6. Photo Simulations
7. Resolution No. PC-2022-08, with list of conditions (CUP22-00005)
8. Resolution No. PC-2022-09 (VAR22-00002)

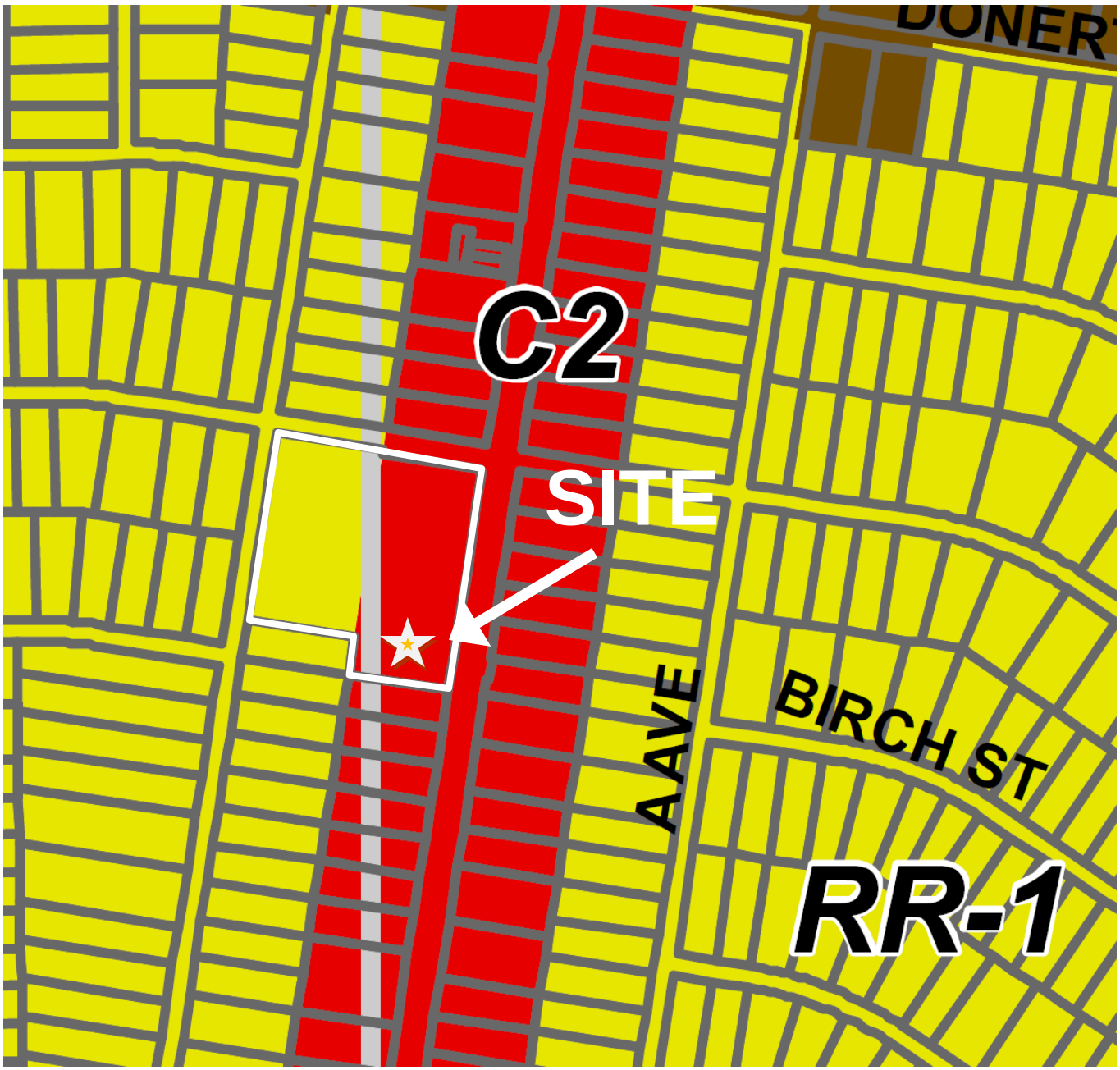
ATTACHMENT 1



APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

SITE PLAN

ATTACHMENT 2



APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

GENERAL PLAN MAP

ATTACHMENT 3

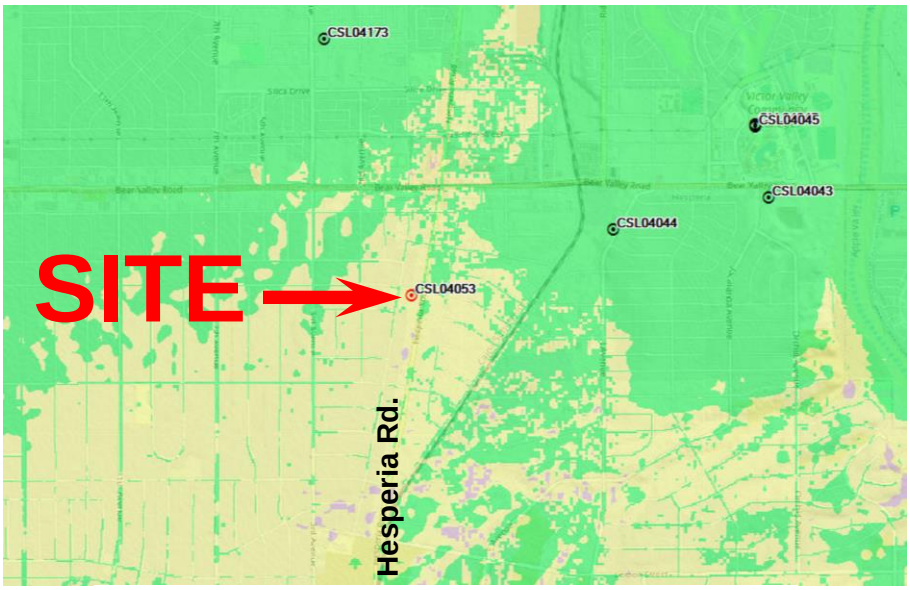
APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

AERIAL PHOTO

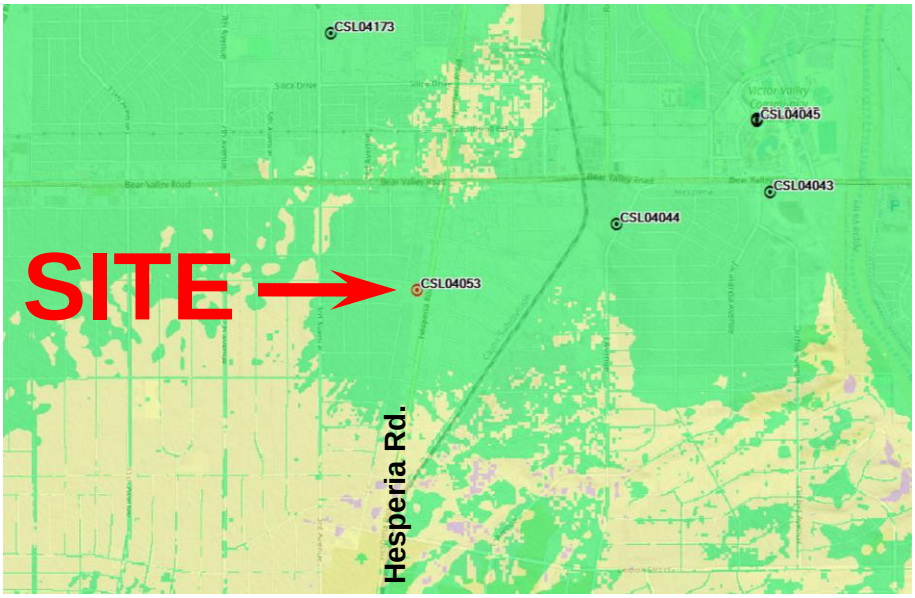
ATTACHMENT 4

LEGEND

- GOOD
- FAIR
- POOR



COVERAGE WITHOUT THE NEW FACILITY

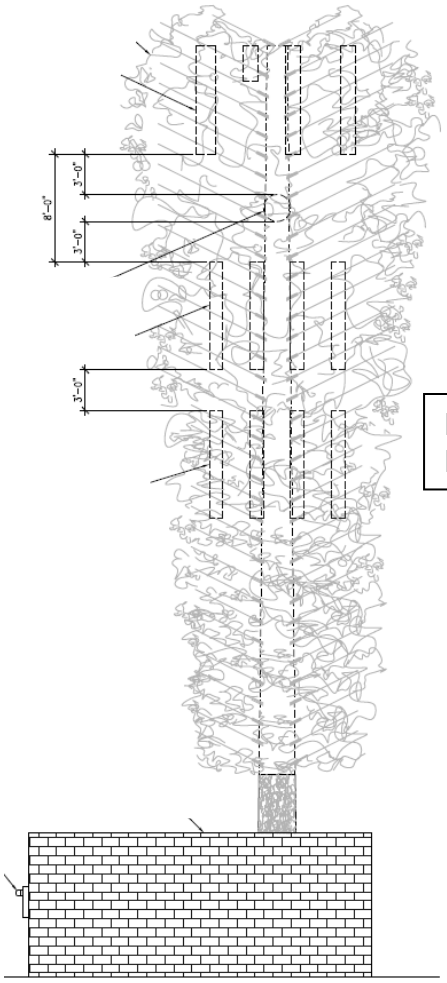


COVERAGE WITH THE NEW FACILITY

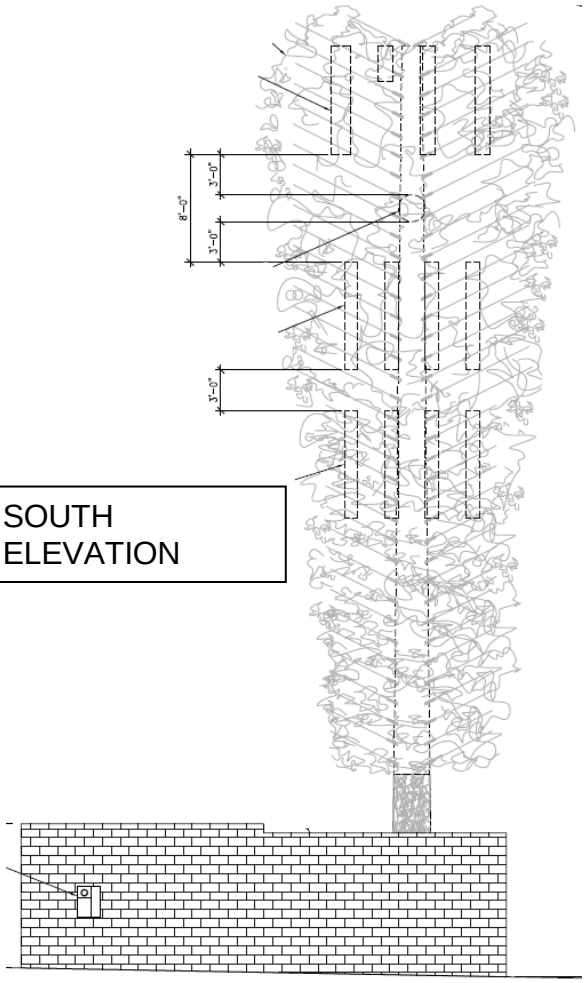
APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

SERVICE PLAN

ATTACHMENT 5



EAST ELEVATION



SOUTH ELEVATION

APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

ELEVATIONS

ATTACHMENT 6

APPLICANT(S): AT&T MOBILITY	**FILE NO(S):** CUP22-00005 & VAR22-00002
LOCATION: 11616 HESPERIA ROAD	**APN(S):** 0415-081-50
PROPOSAL: CONSIDERATION OF A CONDITIONAL USE PERMIT AND VARIANCE TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE	**N** ↑

PHOTOSIMULATIONS

ATTACHMENT 7

RESOLUTION NO. PC-2022-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT A 69-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY DESIGNED AS A FAUX EUCALYPTUS TREE AT 11616 HESPERIA ROAD (CUP22-00005)

WHEREAS, AT&T Mobility has filed an application requesting approval of Conditional Use Permit CUP22-00005 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 7.67 gross acre parcel with a lease area of 1,173 square feet within the General Commercial (C2) Zone at 11616 Hesperia Road and includes Assessor Parcel Number 0415-081-50; and

WHEREAS, the Application, as contemplated, proposes to construct a 69-foot-high wireless telecommunications facility designed as a faux eucalyptus tree on the subject property; and

WHEREAS, AT&T Mobility has also filed Variance VAR22-00002 to exceed the 35-foot height limitation; and

WHEREAS, the subject site operates as a church and school facility. The surrounding properties consist of vacant sites and single-family residential homes; and

WHEREAS, the subject site has zoning designation of General Commercial (C2) and Rural Residential (RR-1), but the project location is only within the C2 zone. The properties to the north and south are zoned C2 and RR-1. The properties to the west are zoned RR-1 and the properties to the east are zoned C2; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on June 9, 2022, the project was presented to the Planning Commission as a 62-foot-high wireless telecommunications facility designed as a faux water tower. The Planning Commission had concerns regarding the design and the location of the proposed facility. The Planning Commission voted 5-0 to continue the item to a future meeting to provide the applicant with additional time to relocate the wireless facility and redesign the wireless tower; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, as the site can be accommodated without infringing on required setbacks and will be consistent with the surrounding area.

(b) The wireless facility will not generate additional traffic trips or noise levels; therefore, it will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access through Sycamore Street and the conditions of approval will ensure that an access easement is recorded on the property to provide the facility legal access into the site.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia and the development standards of the General Commercial (C2) zone in conjunction with the proposed variance.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP22-00005, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 8th day of September 2022.

_____
Roger Abreo, Chair, Planning Commission

ATTEST:

_____
Maricruz Montes, Secretary, Planning Commission

ATTACHMENT "A"
List of Conditions for CUP22-00005

Approval Date: September 08, 2022
Effective Date: September 20, 2022
Expiration Date: September 20, 2025

This list of conditions applies to: Consideration of Conditional Use Permit CUP22-00005 and Variance VAR22-00002 to construct a 69-foot-high wireless telecommunications facility that will be designed as a faux eucalyptus tree within the C-2 General Commercial zone located at 11616 Hesperia Road (Applicant: AT&T Mobility: APN: 0415-081-50)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been completed by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

ADDITONAL CONDITIONS

COMPLETED	COMPLIED BY	
NOT IN COMPLIANCE		AQMD APPROVAL. The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)
NOT IN COMPLIANCE		CONSTRUCTION PLANS. Five complete sets of construction plans prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect shall be submitted to the Building Division with the required application fees for review. (B)
NOT IN COMPLIANCE		SOILS REPORT. The Developer shall provide soils reports to substantiate the foundation design. (B)
NOT IN COMPLIANCE		UTILITY CLEARANCES. The Building Division will provide utility clearances after required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)
NOT IN COMPLIANCE		INDEMNIFICATION. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors.

The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

MAINTENANCE OF FACILITY. The water tower, fencing, and all related equipment shall be maintained in good condition during the life of the wireless telecommunications facility. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

ABANDONMENT OF FACILITY. Should the facility fail to be used as approved for more than 180 consecutive days or should its 25 year effective life expire, then the applicant shall cause the removal of the faux eucalyptus tree, fencing and all related equipment at its sole cost and expense. The faux eucalyptus tree and related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facilitys removal is verified by the Planning Division. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

CO-LOCATION AGREEMENT. The applicant shall record a co-location agreement permitting at least two other wireless telecommunications facilities upon the site. The co-location agreement shall be binding for the life of the facility. The agreement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

FACILITY REQUIREMENTS. The faux eucalyptus tree shall be consistent with the elevations and photo simulations approved as part of CUP22-00005. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

FENCING REQUIREMENTS. A ten foot, eight inch high split-face block wall fence shall be used to screen the mechanical equipment and other appurtenant elements of the wireless telecommunications facility. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

BOND. The applicant shall submit a bond and/or letter of credit acceptable to the City in an amount to cover the cost of removing the entire wireless communications facility in the event that the communications facility is abandoned or after 25 years from its date of establishment, whichever occurs first. The bond or letter of credit and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. As an alternative, the removal bond requirement may be included as part of a recorded lease agreement. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

USE OF GENERATORS. A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited. (P)

COMPLETED **COMPLIED BY**
NOT IN COMPLIANCE

UTILITIES. The wireless communications facility shall be served by independent utility connections and shall be

separately metered. (B, P)

COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	VARIANCE. These conditions are concurrent with approved Variance VAR22-00002 becoming effective. (P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	ACCESS EASEMENTS. An access easement shall be recorded, allowing access from a public right-of-way to the wireless telecommunications facility for the benefit of each wireless telecommunications provider using the site for construction and maintenance of the wireless telecommunications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	ANNUAL CERTIFICATION. The wireless telecommunications carrier shall obtain a business license prior to issuance of a building permit and shall maintain a business license during the life of the facility. On an annual basis, the carrier shall self-certify on a form acceptable to the Planning Department that the appearance of the wireless telecommunications facility, including all parts of the facility are maintained consistent with the elevations and photo simulations approved as part of this CUP, and in good working order. Failure to self-certify is a violation of these conditions, and such violation shall be corrected before issuance of any permit or final inspection associated with this wireless facility. (P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	REMOVAL BOND. The applicant shall maintain the bond and/or letter of credit acceptable to the City. The bond or letter of credit shall not expire before the end of the 25-year term in which the facility is to be used. Neither the bond nor the letter of credit shall be released until the facility's removal is verified by the Planning Division. (P)

NOTICE TO DEVELOPER: IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONACT THE APPROPRIATE DIVISION LISTED BELOW:

(B) Building Division	**947-1300**
(E) Engineering Division	**947-1476**
(F) Fire Prevention Division	**947-1603**
(P) Planning Division	**947-1200**
(RPD) Hesperia Recreation and Park District	**244-5488**

ATTACHMENT 8

RESOLUTION NO. PC-2022-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A VARIANCE TO ALLOW A WIRELESS TELECOMMUNICATIONS FACILITY TO EXCEED THE 35-FOOT HEIGHT LIMITATION OF THE GENERAL COMMERCIAL (C2) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN (VAR22-00002)

WHEREAS, AT&T Mobility has filed an application requesting approval of Variance VAR22-00002 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a 7.67 gross acre parcel with a lease area of 1,173 square feet within the General Commercial (C2) zone at 11616 Hesperia Road and includes Assessor Parcel Number 0415-081-50; and

WHEREAS, the Application, as contemplated, proposes to allow a wireless telecommunications facility designed as a faux eucalyptus tree to exceed the 35-foot height limitation on the subject property; and

WHEREAS, AT&T Mobility has also filed an application requesting approval of Conditional Use Permit CUP22-00005 to construct a 69-foot-high wireless telecommunications facility designed as a faux eucalyptus tree; and

WHEREAS, the subject site operates as a church and school facility. The surrounding properties consist of vacant sites and single-family residential homes; and

WHEREAS, the subject site has zoning designation of General Commercial (C2) and Rural Residential (RR-1), but the project location is only within the C2 zone. The properties to the north and south are zoned C2 and RR-1. The properties to the west are zoned RR-1 and the properties to the east are zoned C2; and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The strict or literal interpretation and enforcement of the specified regulations would result in practical difficulties or unnecessary physical hardships because the height restriction would reduce the effectiveness of the wireless telecommunications facility, which would result in the need to establish additional wireless communications facilities in the vicinity. In approving the additional height, a co-location agreement is being implemented which will allow two additional wireless telecommunication providers the ability to utilize the site, further reducing the number of wireless telecommunications facilities necessary to serve the City of Hesperia.

(b) There are exceptional circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties in the same zone because the site will provide the required signal propagation and will not materially affect the character of the site or neighborhood.

(c) The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone because other wireless telecommunications facilities have previously been constructed in the City that exceed the height limitations within the Specific Plan and Development Code.

(d) The granting of the Variance would not constitute a grant of a special privilege inconsistent with the limitations on other properties classified in the same zone because other similar wireless telecommunications facilities have previously been constructed in the City that exceed the height limitations within the Specific Plan and Development Code. In approving the Variance, two additional wireless telecommunication providers will be allowed on the facility, therefore reducing the number of new wireless telecommunications facilities throughout the City.

(e) The granting of the Variance will not be detrimental to the public health, safety, or welfare, and will not be materially injurious to properties or improvements in the vicinity, as the facility is required to comply with the City's Development Code and the 2019 California Building Code.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Variance VAR22-00002.

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

ADOPTED AND APPROVED this 8th day of September 2022.

_____
Roger Abreo, Chair, Planning Commission

ATTEST:

_____
Maricruz Montes, Secretary, Planning Commission

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City of Hesperia
STAFF REPORT

DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner
Yuying Ma, Assistant Planner

SUBJECT: Conditional Use Permit CUP22-00020; Applicant: Dish Wireless; APN: 0405-383-14

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-16, approving Conditional Use Permit CUP22-00020.

BACKGROUND

Proposal: A Conditional Use Permit to construct a wireless communications facility with antennas installed 93-foot high on an existing 172-foot high Southern California Edison tower.

Location: North of Ranchero Road and West of Maple Avenue

Current General Plan, Zoning and Land Uses: The site is within the Utility Corridor (UC) General Plan land use designation. The properties to the north and west are zoned Rural Residential with a 2 ½ acre minimum lot size (RR-2 ½). The properties to the south and to the east are zoned Utility Corridor (UC) (Attachment 2). The proposed wireless telecommunications facility will be placed on an existing Southern California Edison transmission tower, which sits on the west of the subject property. The width of the corridor spans approximately 450 feet. The utility corridor is otherwise vacant. A City owned water tank exists to the west of the site. The remaining surrounding properties are vacant (Attachment 3).

ISSUES/ANALYSIS

Land Use: Dish Wireless, the service provider, has demonstrated on a service plan that there is a service gap which requires the installation of an additional wireless telecommunications facility in the area (Attachment 4). The proposed facility will provide the necessary coverage to improve the network in this residential area without construction of a new tower.

The proposed facility includes three panel antennas, which will be installed at a height of 93-foot. All antennas will be painted to match the electric transmission tower. The ground enclosure will consist of a transformer and accessory equipment to service the wireless facility. The total leasable area, which houses the facility's ground equipment, will be 150 square feet and will be enclosed by an eight-foot high decorative split-face block wall to secure the facility and provide adequate screening of the equipment. The proposed wireless telecommunications facility is consistent with the general plan and all zoning standards.

The proposed access route for the maintenance of the wireless facility will be from Ranchero Road, which is currently the main access for the existing transmission tower. Lastly, the carriers will be required to self-certify that the facility is being maintained as originally approved. This shall occur on an annual basis and tied to their business license renewal. This will force carriers to review the appearance of the facility on an annual basis and certify that the facility is being maintained. Failure to self-certify is considered a violation, and such violation must be corrected prior to issuance of any future building permit or final inspection.

Drainage: The site is not impacted by drainage from upstream properties and its impact upon properties downstream is negligible, as its 150 square foot lease area encircled by an eight-foot high block wall will pose a less than significant increase in surface runoff.

Street Improvements: Public Street improvements are not required. Recordation of an irrevocable access easement will be required from the site to Ranchero Road in accordance with the conditions of approval (Attachment 7).

Environmental: Approval of the Conditional Use Permit is exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures.

Conclusion: The project is consistent with the City's intent to locate new wireless communications facilities on existing buildings and structures, or to conceal their appearance through other means (i.e. use of a monopine, monoelm, or other stealth technology). The project meets the standards of the Development Code and staff recommends approval.

FISCAL IMPACT

None.

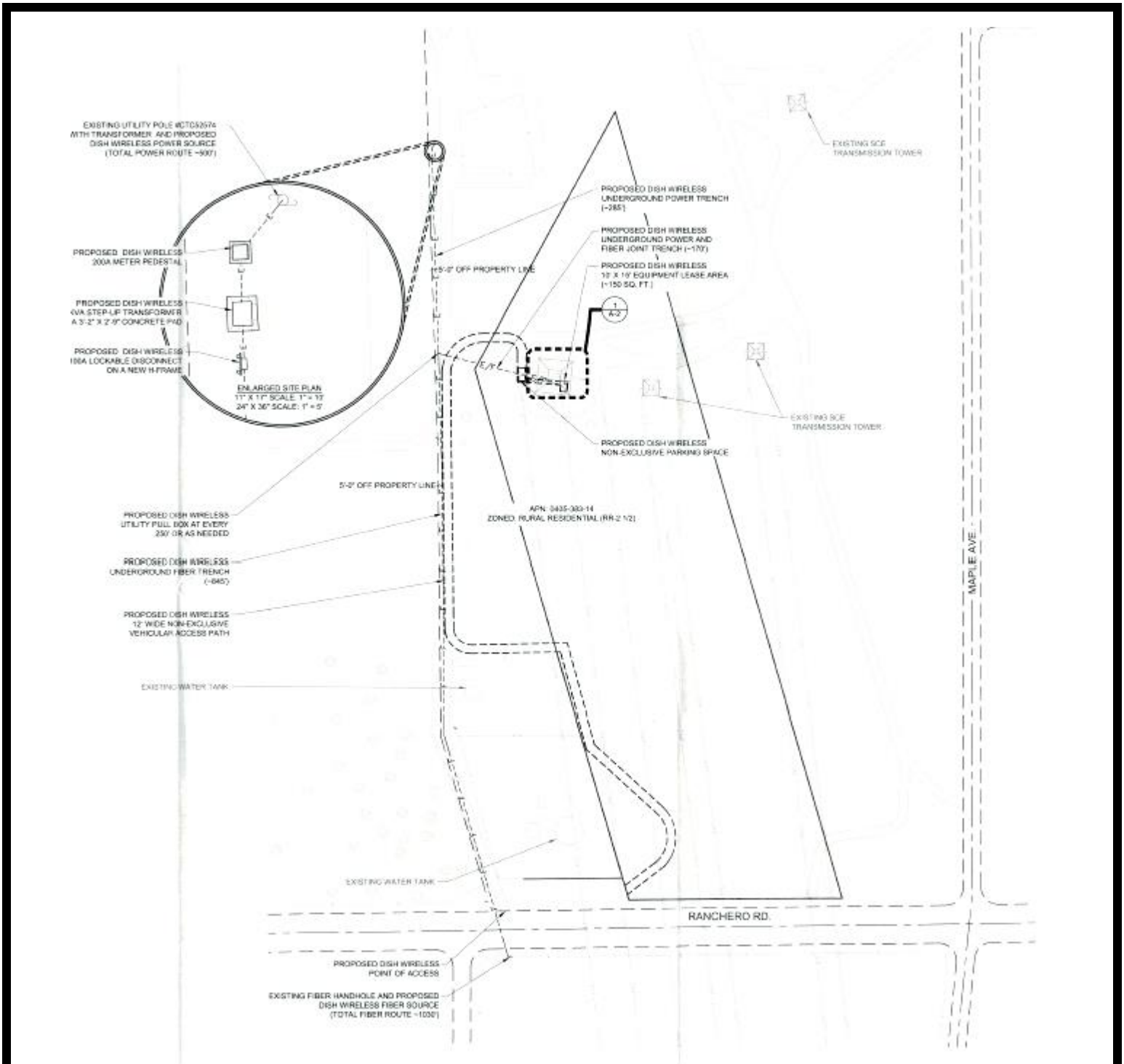
ALTERNATIVES

1. Provide alternative direction to staff.

ATTACHMENTS

1. Site plan
2. General Plan land use and zoning map
3. Aerial photo
4. Service plan
5. Wireless communications facility elevation
6. Wireless communications facility photosimulations
7. Resolution No. PC-2022-16, with list of conditions (CUP22-00020)

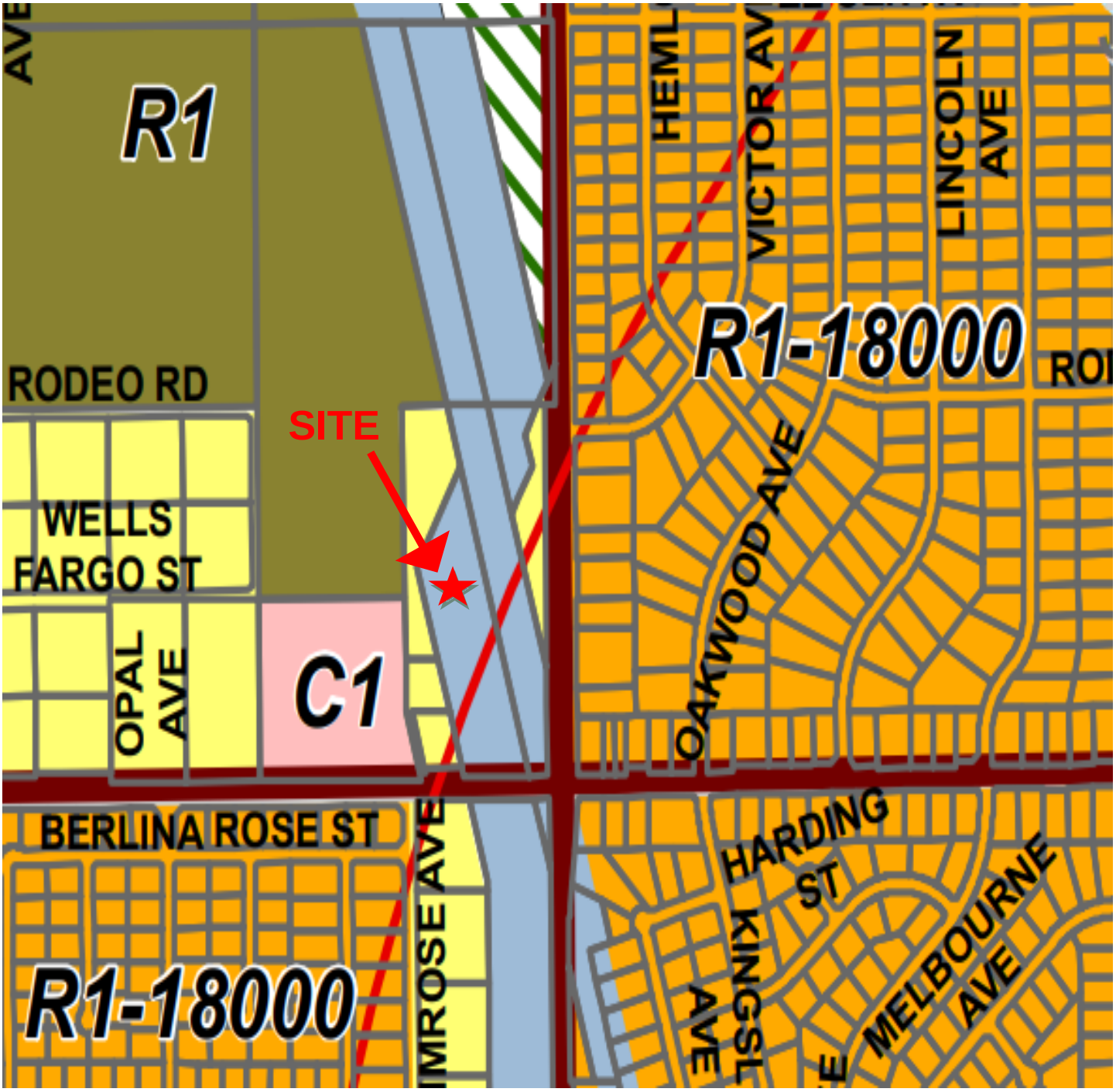
ATTACHMENT 1



APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN:** 0405-383-14
PROPOSAL: CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00020 TO INSTALL A 93-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**N** ↑

SITE PLAN

ATTACHMENT 2



APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN:** 0405-383-14
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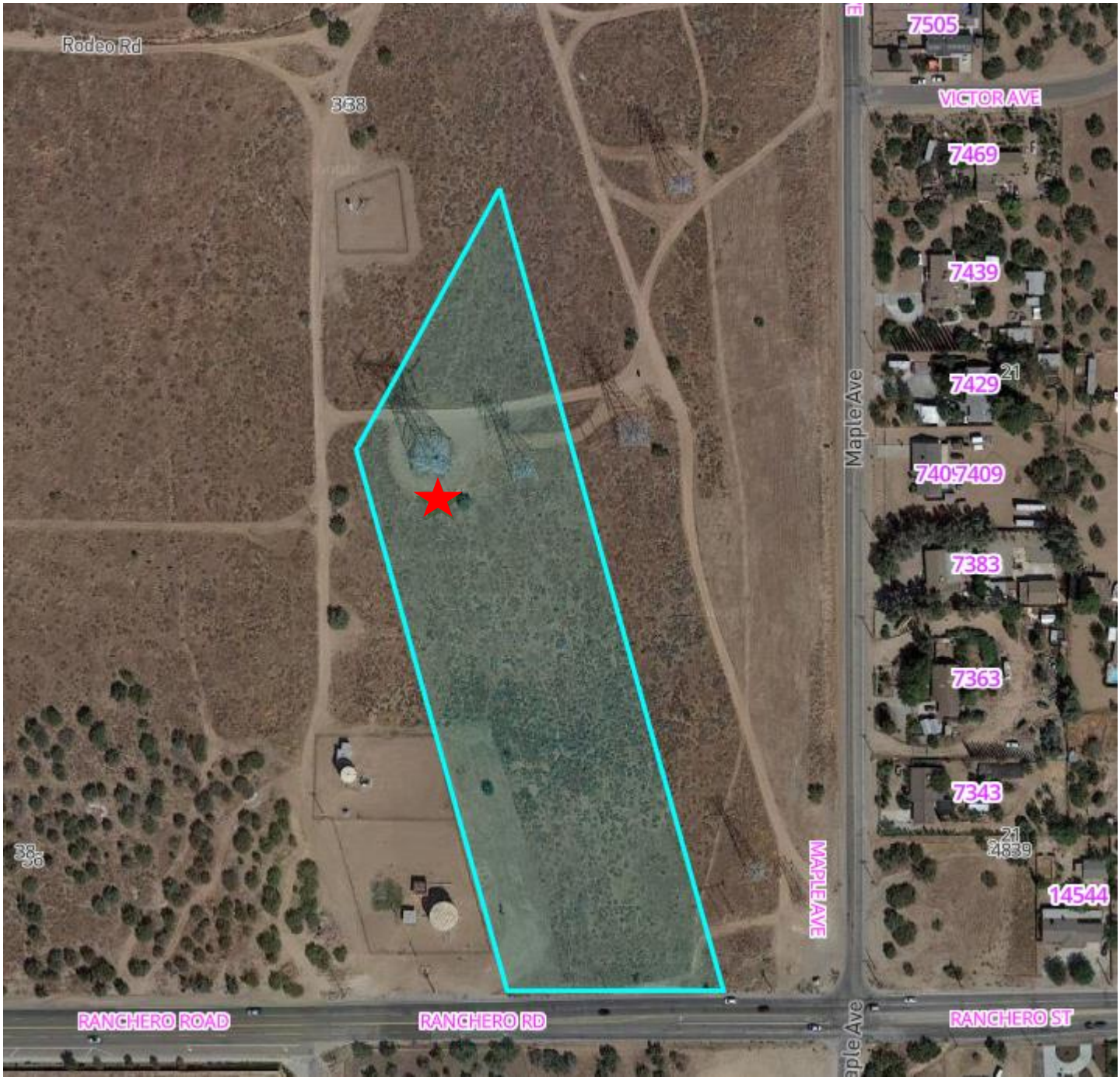
GENERAL PLAN MAP

ATTACHMENT 3



APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN:** 0405-383-14
PROPOSAL: CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00020 TO INSTALL A 93-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**N** ↑

AERIAL PHOTO

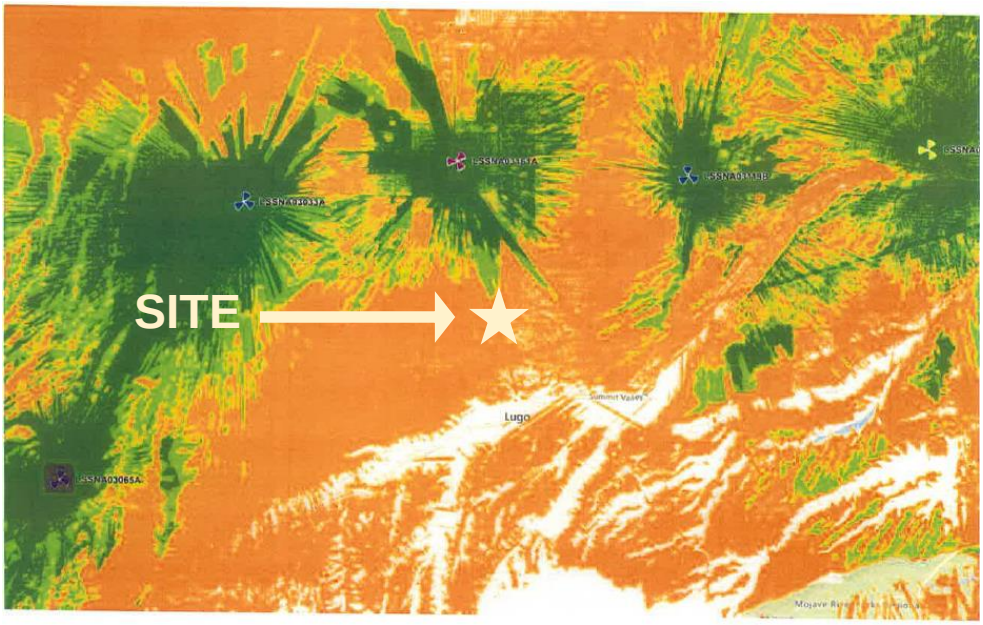
ATTACHMENT 4

LEGEND

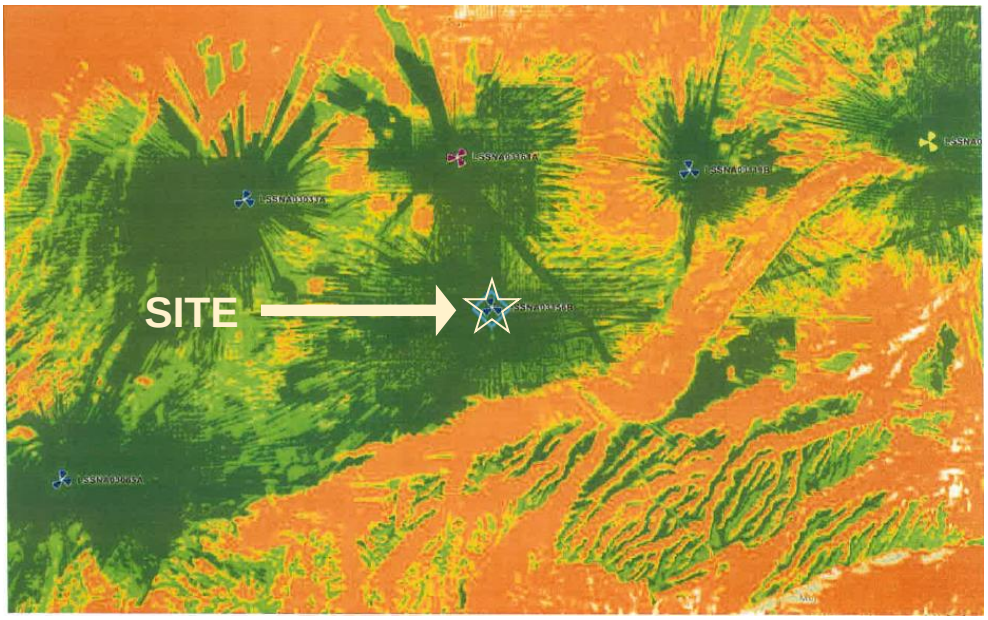
GOOD

FAIR

POOR



COVERAGE WITHOUT THE NEW FACILITY



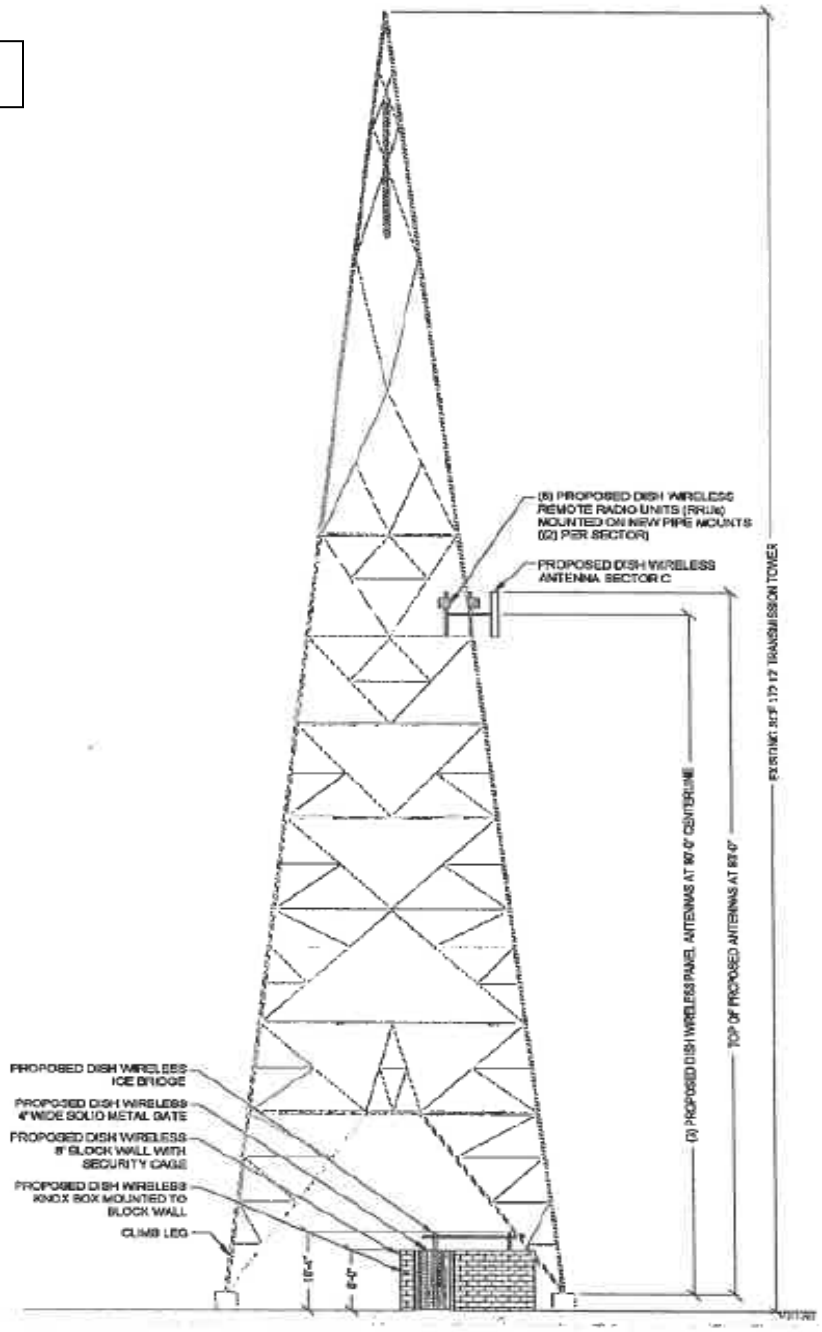
COVERAGE WITH THE NEW FACILITY

APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN:** 0405-383-14
PROPOSAL: CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00020 TO INSTALL A 93-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**N** ↑

SERVICE PLAN

ATTACHMENT 5

PROPOSED WEST ELEVATION



APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN(S):** 0405-383-14
PROPOSAL: CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00020 TO INSTALL A 93-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**N** ↑

WIRELESS COMMUNICATIONS FACILITY ELEVATIONS

ATTACHMENT 6

APPLICANT(S): DISH WIRELESS	**FILE NO(S):** CUP22-00020
LOCATION: NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**APN(S):** 0405-383-14
PROPOSAL: CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00020 TO INSTALL A 93-FOOT HIGH WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO RD AND WEST OF MAPLE AVE	**N** ↑

WIRELESS COMMUNICATIONS FACILITY PHOTOSIMULATIONS

ATTACHMENT 7

RESOLUTION NO. PC-2022-16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT TO INSTALL A 93-FOOT-HIGH WIRELESS TELECOMMUNICATIONS FACILITY ON AN EXISTING 172-FOOT-HIGH SOUTHERN CALIFORNIA EDISON TOWER LOCATED NORTH OF RANCHERO ROAD AND WEST OF MAPLE AVENUE (CUP22-00020)

WHEREAS, Dish Wireless has filed an application requesting approval of Conditional Use Permit CUP22-00020 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to an approximately 6.00 gross acre parcel with a lease area of 150 square feet within the Utility Corridor (UC) zone located north of Ranchero Rd and west of Maple Ave and includes Assessor Parcel Number 0405-383-14; and

WHEREAS, the Application, as contemplated, proposes to install a 93-foot-high wireless telecommunications facility on an existing 172-foot high Southern California Edison tower on the subject property; and

WHEREAS, the subject site is within the Southern California Edison electric transmission corridor, which runs northwest to southeast, and is developed with existing transmission towers and associated equipment. A City owned water tank exists to the west and the remaining surrounding properties are vacant; and

WHEREAS, the subject site has zoning designation of Utility Corridor (UC). The properties to the north and to the west are zoned Rural Residential with a 2 ½ acre minimum lot size; the properties to the south and to the east are zoned Utility Corridor (UC); and

WHEREAS, the project is categorically exempt from the requirements of the California Environmental Quality Act by Section 15303, New Construction or Conversion of Small Structures; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The site for the proposed use is adequate in size and shape to accommodate the proposed use, as the site can be accommodated without infringing on required setbacks and will include similar colors to be consistent with the existing development.

(b) The wireless facility will not generate additional traffic trips or noise levels; therefore, it will not have a substantial adverse effect on abutting property, or the permitted use thereof.

(c) The proposed project is consistent with the goals, policies, standards and maps of the adopted Land Use Plan, Development Code and all applicable codes and ordinances adopted by the City of Hesperia.

(d) The site for the proposed use will have adequate access based on the required access easement from Ranchero Road to the south.

(e) The proposed project is consistent with the adopted General Plan of the City of Hesperia and the development standards of the Utility Corridor (UC) zone.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby approves Conditional Use Permit CUP22-00020, subject to the conditions of approval as shown in Attachment "A."

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

ADOPTED AND APPROVED this 8th day of September 2022.

_____
Roger Abreo, Chair, Planning Commission

ATTEST:

_____
Maricruz Montes, Secretary, Planning Commission

ATTACHMENT "A"
List of Conditions for CUP22-00020

Approval Date: September 08, 2022
Effective Date: September 20, 2022
Expiration Date: September 20, 2025

This list of conditions applies to: Consideration of Conditional Use Permit CUP22-00020 to install a 93-foot high wireless communications facility on an existing 172-foot high Southern California Edison tower located north of Ranchero Rd and west of Maple Ave.(Applicant: Dish Wireless; APN: 0405-383-14)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been completed by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS

COMPLETED	COMPLIED BY	
NOT IN COMPLIANCE		CONSTRUCTION PLANS. Five complete sets of construction plans prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect shall be submitted to the Building Division with the required application fees for review. (B)
COMPLETED	**COMPLIED BY**	
NOT IN COMPLIANCE		INDEMNIFICATION. As a further condition of approval, the Applicant agrees to and shall indemnify, defend, and hold the City and its officials, officers, employees, agents, servants, and contractors harmless from and against any claim, action or proceeding (whether legal or administrative), arbitration, mediation, or alternative dispute resolution process), order, or judgment and from and against any liability, loss, damage, or costs and expenses (including, but not limited to, attorney's fees, expert fees, and court costs), which arise out of, or are in any way related to, the approval issued by the City (whether by the City Council, the Planning Commission, or other City reviewing authority), and/or any acts and omissions of the Applicant or its employees, agents, and contractors, in utilizing the approval or otherwise carrying out and performing work on Applicants project. This provision shall not apply to the sole negligence, active negligence, or willful misconduct of the City, or its officials, officers, employees, agents, and contractors. The Applicant shall defend the City with counsel reasonably acceptable to the City. The City's election to defend itself, whether at the cost of the Applicant or at the City's own cost, shall not relieve or release the Applicant from any of its obligations under this Condition. (P)
COMPLETED	**COMPLIED BY**	
NOT IN COMPLIANCE		USE OF GENERATORS. A generator will only be allowed for backup emergency power to the facility and shall be located within the approved fenced area. Use of a generator to provide power for any other purpose is prohibited unless specifically approved by the Director of Development Services. (P)

COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	COUNTY FIRE. Prior to any construction occurring on any parcel, the applicant shall contact the San Bernardino County Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department

CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE

COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	UTILITY CLEARANCES. The Building Division will provide utility clearances after required permits and inspections for the facility. Utility meters shall be permanently labeled. (B)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	CONSISTENCY WITH APPROVED GRAPHICS. Improvement plans for off site and on site improvements shall be consistent with the graphics approved as part of this conditional use permit application and shall also comply with all applicable Title 16 and Engineering Division requirements. (E,P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	FACILITY REQUIREMENTS. The antennae and all other equipment installed upon the electric transmission tower shall be of a matching color to the tower. (P) (use for tower installations only)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	WALL REQUIREMENTS. An eight-foot high block wall shall be used to screen the mechanical equipment and other appurtenant elements of the wireless communications facility. The block wall shall be split face block on all sides that are viewable from the public ROW or adjacent residential properties. (P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	ACCESS EASEMENT. An access easement shall be recorded, allowing access from a public right-of-way to the wireless communications facility for construction and maintenance of the wireless communications facilities during the operating life of the facility. As an alternative, the access easement requirement may be satisfied by an easement established as part of a recorded lease agreement. The easement, the required application and fees shall be submitted to the Planning Division prior to review and approval by the City. (P)

Others

COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	MAINTENANCE OF FACILITY. The monopole, landscaping, perimeter fencing, and all related equipment shall be maintained in good condition during the life of the wireless communications facility. (P)
COMPLETED NOT IN COMPLIANCE	**COMPLIED BY**	ABANDONMENT OF FACILITY. Should the facility fail to be used as approved for more than 180 consecutive days or should its 25 year effective life expire, then the applicant shall cause the removal of the monopole, fencing and all related equipment at its sole cost and expense. The monopole and

related equipment shall be removed no later than 30 days after the facility has been abandoned. Failure to remove the facility in accordance with this condition shall result in forfeiture of the bond and/or letter of credit posted with the City so that the City will have the funds to cause its removal. The bond shall not be released until the facilitys removal is verified by the Planning Division. (P) (facilities on existing towers owned in fee title by the utility are exempt)

NOTICE TO DEVELOPER: IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONACT THE APPROPRIATE DIVISION LISTED BELOW:

(B) Building Division	**947-1300**
(E) Engineering Division	**947-1476**
(F) Fire Prevention Division	**947-1603**
(P) Planning Division	**947-1200**
(RPD) Hesperia Recreation and Park District	**244-5488**

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DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner

SUBJECT: Appeal to the Planning Commission (APP22-00002); Applicant Pacific Communities Builder; APNs: 3046-011-06

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-17, denying appeal APP22-00002 and upholding the Development Review Committee (DRC) denial of a second extension of time for Tentative Tract No. 16505 (TTE22-00003).

BACKGROUND

Proposal: On June 29, 2022, the DRC denied an application for a second extension of time for TT-16505. The DRC denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the Planning Commission grant this appeal to overturn the DRC's denial, the Planning Commission is precluded from granting an extension of time.

Current General Plan, Zoning and Land Uses: The project is located at the southeast corner of Muscatel Street and Afton Avenue. The site is within Single Family Residential (R1) zone. The surrounding land is designated as noted on Attachment 1. The property is currently vacant. The land to the west, east, and south are vacant. The land to the north on the opposite side of Muscatel Street consists of single-family residences (Attachment 2).

Project Approval Timelines:

- On December 9, 2008, the Planning Commission approved TT-16505 to subdivide 5 gross acres into 17 single-family residential lots. The smallest lot was 7,202 square feet, the largest lot was 13,337 square feet and the average lot size was 8,522 square feet. TT-16505 was approved for 3 years and was set to expire on December 19, 2011.

- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6 total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.

- On January 10, 2018, the DRC approved the first extension of time for TT-16505 that extended the tract for an additional 3 years.

- In 2020 the California Legislature passed Assembly Bill AB-1561 that granted an 18-month extension to residential entitlements that were otherwise due to expire before the end of 2021. AB-1561 was enacted as a result of the ongoing economic and administrative challenges created by the Covid-19 pandemic. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

Land Use Entitlement Activity	Approval Date	Effective Date	Denial Date	Expiration Date	Length of Extension
Tentative Tract No. 16505	12/09/2008	12/19/2008		12/19/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			12/19/17	6 years
TTE17-00019	01/10/2018			12/19/2020	3 years
Assembly Bill 1561	18-month automatic State extension			06/19/2022	18 months

ISSUES/ANALYSIS

In September 2020, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and returned to the applicant on 5 separate occasions, with each plan check containing various corrections. In June of 2022 the 5th plan check was returned to the applicant with corrections. City staff then informed the applicant that TR-16505 was determined to have officially expired.

On June 16, 2022, the applicant submitted an application for an extension of time. On June 29, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

The Planning Commission does not have the authority to approve any discretionary extensions of time, nor do they have the authority to authorize an amendment to the Development Code to allow for such an approval process.

CONCLUSION

The Planning Commission does not have the authority to overturn the DRC denial of Tentative Tract Extension TTE22-00003. The Planning Commission must uphold the DRC's denial of a second extension of time for Tentative Tract No. 16505.

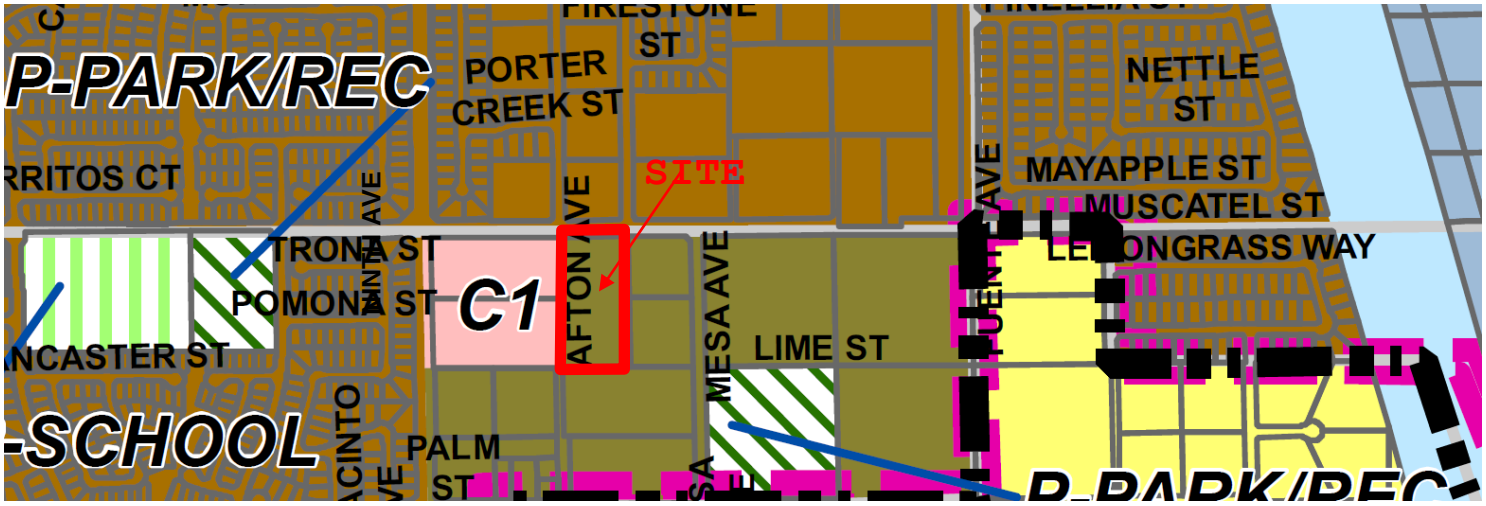
ALTERNATIVE(S)

1. Refer this item to the City Council.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. DRC Denial Letter
4. Resolution No. PC-2022-17

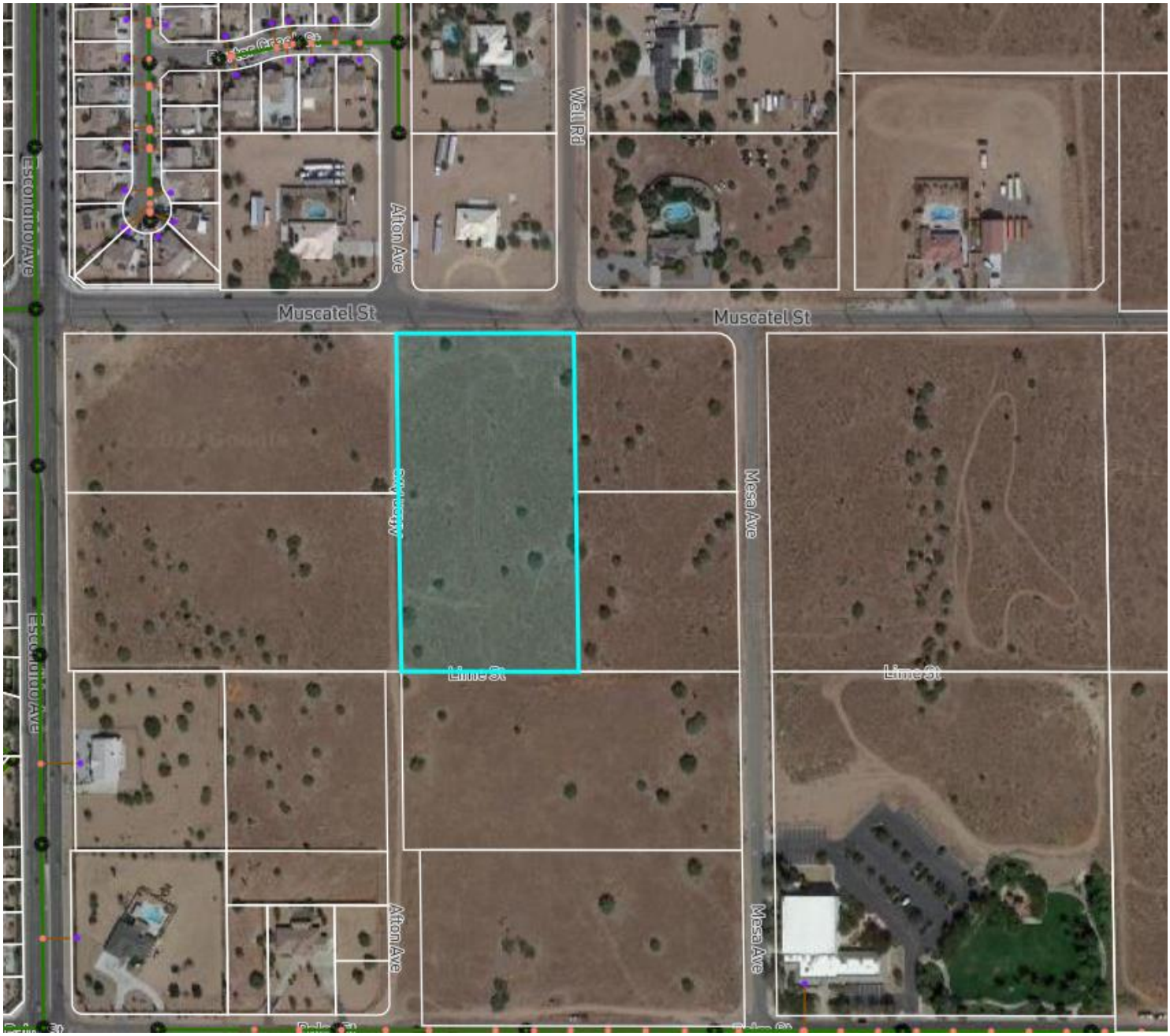
ATTACHMENT 1



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00002
LOCATION: ON THE SOUTHEAST CORNER OF MUSCATEL STREET AND AFTON AVENUE.	**APN(S)**: 3046-011-06
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00003, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 16505	N

GENERAL PLAN

ATTACHMENT 2



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00002
LOCATION: ON THE SOUTHEAST CORNER OF MUSCATEL STREET AND AFTON AVENUE.	**APN(S)**: 3046-011-06
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00003, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 16505	**N**

AERIAL PHOTO

June 29, 2022

Ron Freeman
LCTH Investment LP
1000 Dove Street, Suite 100
New Port, CA 92660

RE: Consideration of TTE22-00003, a second extension of time for Tentative Tract map No. 16505 to create 17 lots on 5 gross acres zoned Single-Family Residential (R-1) located on the southeast corner of Muscatel Street and Afton Avenue. (Applicant: Pacific Community Builders, Inc.; APN: 3046-011-06)

Dear Mr. Freeman:

After reviewing all the information pertaining to this application, it was the decision of the Development Review Committee to deny TTE22-00003 at its June 29, 2022 meeting due to the following:

- Pursuat to Section 17.08.040 (E) of the Hesperia Municipal Code *"no extensions of time are allowed for residential subdivisions."*

Pursuant to Section 16.12.055 of the Hesperia Municipal Code, unless this decision is appealed to the Planning Commission by August 11, 2022, TTE22-00003 will stand denied on August 12, 2022. All appeals must be submitted on forms available at this office, along with the required fee.

If you have any questions, please contact me at (760) 947-1651.

Sincerely,

Ryan Leonard
Senior Planner

ATTACHMENT 4

RESOLUTION NO. PC-2022-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING APPEAL APP22-00002, UPHOLDING THE DEVELOPMENT REVIEW COMMITTEE'S DENIAL OF TENTATIVE TRACT EXTENSION TTE22-00003, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 16505 LOCATED ON THE SOUTHEAST CORNER OF MUSCATEL STREET AND AFTON AVENUE (APP22-00002)

WHEREAS, Pacific Communities Builder has filed an application requesting approval of Appeal APP22-00002, to overturn the Development Review Committee's denial of Tentative Tract Extension TTE22-00003, a second extension of time for Tentative Tract No. 16505 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a second extension of time for Tentative Tract No. 16505 to subdivide 5 gross acres into 17 single-family residential lots and consists of Assessor's Parcel Number 3064-011-06; and

WHEREAS, TT-16505 was originally approved by the Planning Commission on December 9, 2008; and

WHEREAS, in 2009, 2011, and 2013 the California Legislature passed assembly bills AB-333, AB-208 and AB-116 that automatically extended the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions; and

WHEREAS, on January 10, 2018, the Development Review Committee (DRC) approved the first extension of time for TT-16505 that extended the tract for an additional 3 years; and

WHEREAS, in 2020 the California Legislature passed Assembly Bill AB-1561 that granted an 18-month extension to residential entitlements that were otherwise due to expire before the end of 2021; and

WHEREAS, TT-16505 was set to expire on June 18, 2022; and

WHEREAS, on June 29, 2022, the DRC denied a second extension of time for TT-16505; and

WHEREAS, this Application, as contemplated, proposes to appeal the DRC's denial of the extension of time for TT-16505; and

WHEREAS, the 5 gross acre site is currently vacant. The land to the west, east, and south are vacant. The land to the north on the opposite side of Muscatel Street consists of single-family residences; and

WHEREAS, the subject property is currently within the Single Family Residential (R1) zone; and

WHEREAS, in November 2020 a majority of voters of the City approved Ballet Measure N which made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a

subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted duly noticed public hearings pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) In November 2020 a majority of voters of the City approved Ballet Measure N which modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Appeal APP22-00002, denying Tentative Tract Extension TTE22-00003, causing Tentative Tract 16505 to expire.

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

ADOPTED AND APPROVED on this 8th day of September 2022.

_____
Roger Abreo, Chair, Planning Commission

ATTEST:

_____
Maricruz Montes, Secretary, Planning Commission

DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner

SUBJECT: Appeal to the Planning Commission (APP22-00003); Applicant Pacific Communities Builder; APNs: 3046-011-12

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-18, denying appeal APP22-00003 and upholding the Development Review Committee (DRC) denial of a second extension of time for Tentative Tract No. 15033 (TTE22-00004).

BACKGROUND

Proposal: On June 29, 2022, the DRC denied an application for a second extension of time for TT-15033. The DRC denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the Planning Commission grant this appeal to overturn the DRC's denial, the Planning Commission is precluded from granting an extension of time.

Current General Plan, Zoning and Land Uses: The project is located on the northwest corner of Palm Street and Fuente Avenue. The site is within Single Family Residential (R1) zone. The surrounding land is designated as noted on Attachment 1. The property is currently vacant. Single-family residences exist to the south and the Rick Novak Community Center is to the west. The properties to the north and east are vacant (Attachment 2).

Project Approval Timelines:

- On December 9, 2008, the Planning Commission approved TT-15033 to subdivide 10 gross acres into 36 single-family residential lots. The smallest lot was 7,200 square feet, the largest lot was 16,521 square feet and the average lot size was 8,456 square feet. TT-15033 was approved for 3 years and was set to expire on December 19, 2011.

- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6 total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.

- On January 10, 2018, the DRC approved the first extension of time for TT-15033 that extended the tract for an additional 3 years.

- In 2020 the California Legislature passed Assembly Bill AB-1561 that granted an 18-month extension to residential entitlements that were otherwise due to expire before the end of 2021. AB-1561 was enacted as a result of the ongoing economic and administrative challenges created by the Covid-19 pandemic. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

Land Use Entitlement Activity	Approval Date	Effective Date	Denial Date	Expiration Date	Length of Extension
Tentative Tract No. 15033	12/09/2008	12/19/2008		12/19/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			12/19/17	6 years
TTE17-00018	01/10/2018			12/19/2020	3 years
Assembly Bill 1561	18-month automatic State extension			06/19/2022	18 months

ISSUES/ANALYSIS

In September 2020, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and returned to the applicant on 4 separate occasions, with each plan check containing various corrections. In June of 2022 the 4th plan check was returned to the applicant; there were no additional plan check corrections, however, the applicant was required to provide evidence of compliance with the conditions of approval that specified that the applicant needed to provide an off-site grading letter from the adjacent property owner. In addition, the tract required improvements that were outside the boundary of the City and within the jurisdiction of the County. The applicant was required to coordinate the improvements with the County and provide an approval letter to the City. The applicant was not able to provide any documentation to the City regarding the outstanding conditions of approval and City staff subsequently informed the applicant that TR-15033 was determined to have officially expired.

On June 16, 2022, the applicant submitted an application for an extension of time. On June 29, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that “no extensions of time are allowed for residential subdivisions.” Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

The Planning Commission does not have the authority to approve any discretionary extensions of time, nor do they have the authority to authorize an amendment to the Development Code to allow for such an approval process.

CONCLUSION

The Planning Commission does not have the authority to overturn the DRC denial of Tentative Tract Extension TTE22-00004. The Planning Commission must uphold the DRC's denial of a second extension of time for Tentative Tract No. 15033.

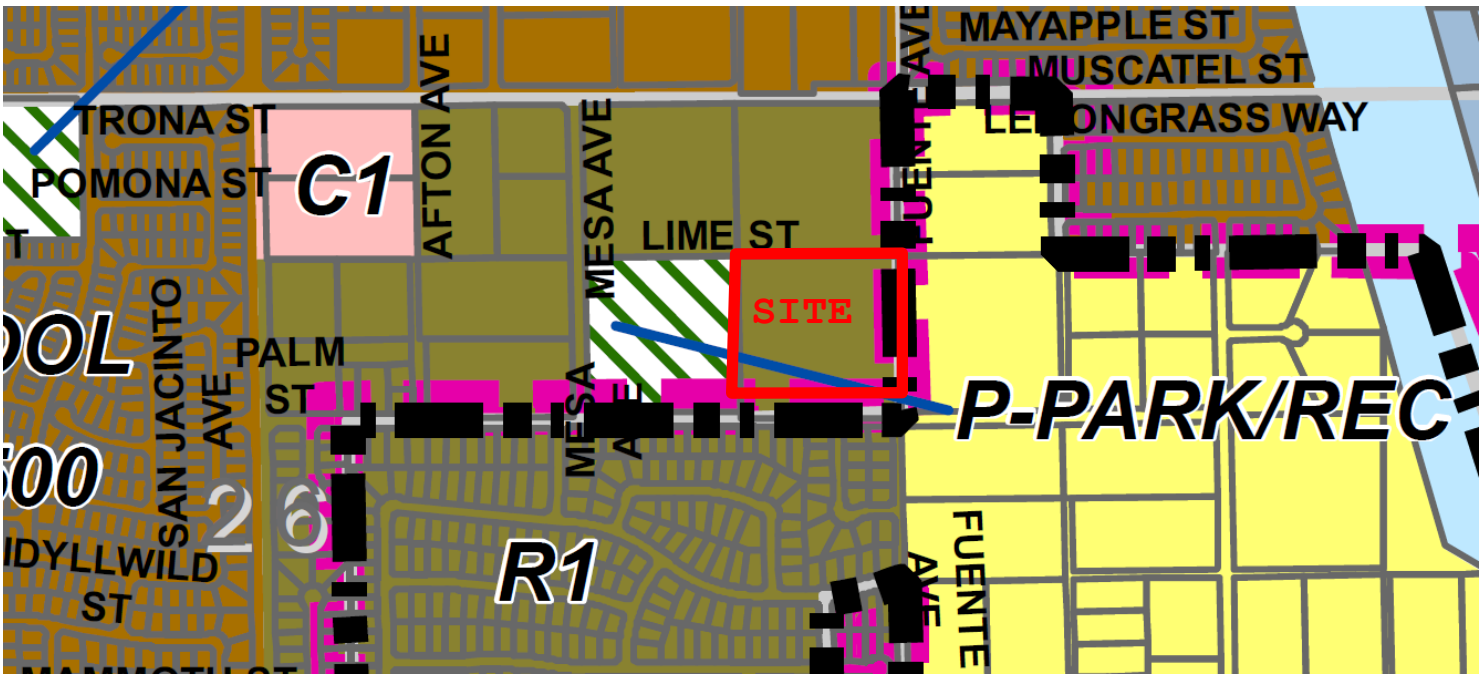
ALTERNATIVE(S)

1. Refer this item to the City Council.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. DRC Denial Letter
4. Resolution No. PC-2022-18

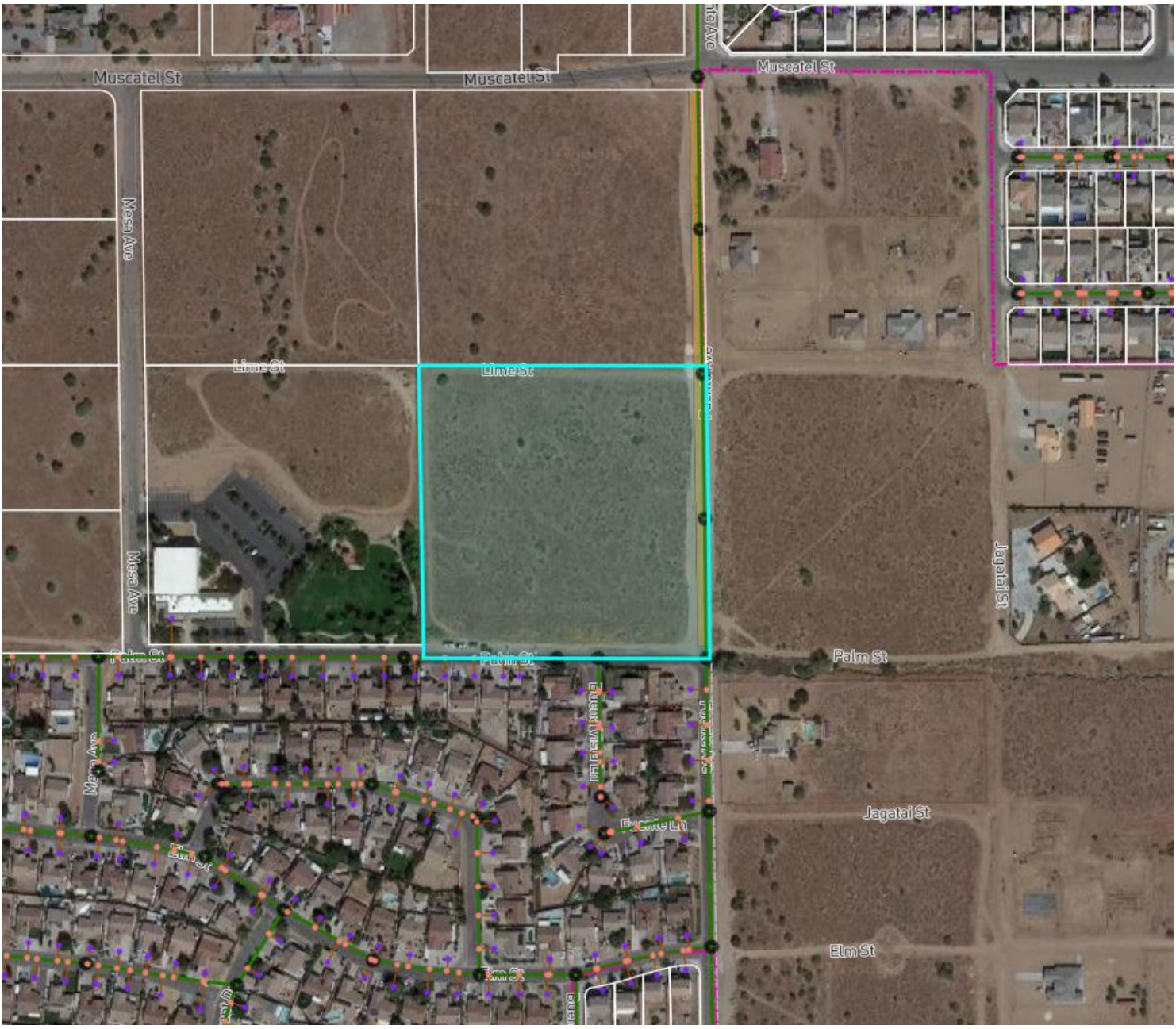
ATTACHMENT 1



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00003
LOCATION: ON THE NORTHWEST CORNER OF PALM STREET AND FUENTE AVENUE	**APN(S)**: 3046-011-12
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00004, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 15033	N

GENERAL PLAN

ATTACHMENT 2



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00003
LOCATION: ON THE NORTHWEST CORNER OF PALM STREET AND FUENTE AVENUE	**APN(S)**: 3046-011-12
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00004, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 15033	**N** ↑

AERIAL PHOTO

June 29, 2022

Ron Freeman
LCTH Investment LP
1000 Dove Street, Suite 100
New Port, CA 92660

RE: Consideration of TTE22-00004, a second extension of time for Tentative Tract map No. 15033 to create 36 single-family residential lots on 10.0 gross acres zoned Single-Family Residential (R-1) located on the northwest corner of Palm Street and Fuente Avenue (Applicant: Pacific Community Builders, Inc.: APN: 3046-011-12)

Dear Mr. Freeman:

After reviewing all the information pertaining to this application, it was the decision of the Development Review Committee to deny TTE22-00004 at its June 29, 2022 meeting due to the following:

- Pursuat to Section 17.08.040 (E) of the Hesperia Municipal Code *"no extensions of time are allowed for residential subdivisions."*

Pursuant to Section 16.12.055 of the Hesperia Municipal Code, unless this decision is appealed to the Planning Commission by August 11, 2022, TTE22-00004 will stand denied on August 12, 2022. All appeals must be submitted on forms available at this office, along with the required fee.

If you have any questions, please contact me at (760) 947-1651.

Sincerely,

Ryan Leonard
Senior Planner

ATTACHMENT 4

RESOLUTION NO. PC-2022-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING APPEAL APP22-00003, UPHOLDING THE DEVELOPMENT REVIEW COMMITTEE'S DENIAL OF TENTATIVE TRACT EXTENSION TTE22-00004, A SECOND EXTENSION OF TIME FOR TENTATIVE TRACT NO. 15033 LOCATED ON THE NORTHWEST CORNER OF PALM STREET AND FUENTE AVENUE (APP22-00003)

WHEREAS, Pacific Communities Builder has filed an application requesting approval of Appeal APP22-00003, to overturn the Development Review Committee's denial of Tentative Tract Extension TTE22-00004, a second extension of time for Tentative Tract No. 15033 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a second extension of time for Tentative Tract No. 15033 to subdivide 10 gross acres into 36 single-family residential lots and consists of Assessor's Parcel Number 3046-011-12; and

WHEREAS, TT-15033 was originally approved by the Planning Commission on December 9, 2008; and

WHEREAS, in 2009, 2011, and 2013 the California Legislature passed assembly bills AB-333, AB-208 and AB-116 that automatically extended the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions; and

WHEREAS, on January 10, 2018, the Development Review Committee (DRC) approved the first extension of time for TT-15033 that extended the tract for an additional 3 years; and

WHEREAS, in 2020 the California Legislature passed Assembly Bill AB-1561 that granted an 18-month extension to residential entitlements that were otherwise due to expire before the end of 2021; and

WHEREAS, TT-15033 was set to expire on June 18, 2022; and

WHEREAS, on June 29, 2022, the DRC denied a second extension of time for TT-15033; and

WHEREAS, this Application, as contemplated, proposes to appeal the DRC's denial of the extension of time for TT-15033; and

WHEREAS, the 10 gross acre site is currently vacant. Single-family residences exist to the south and the Rick Novak Community Center is to the west. The properties to the north and east are vacant; and

WHEREAS, the subject property is currently within the Single Family Residential (R1) zone; and

WHEREAS, in November 2020 a majority of voters of the City approved Ballet Measure N which made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a

subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted duly noticed public hearings pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) In November 2020 a majority of voters of the City approved Ballet Measure N which modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Appeal APP22-00003, denying Tentative Tract Extension TTE22-00004, causing Tentative Tract 15033 to expire.

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

ADOPTED AND APPROVED on this 8th day of September 2022.

_____
Roger Abreo, Chair, Planning Commission

ATTEST:

_____
Maricruz Montes, Secretary, Planning Commission

DATE: September 8, 2022

TO: Planning Commission

FROM: Rachel Molina, Assistant City Manager

BY: Ryan Leonard, Senior Planner

SUBJECT: Appeal to the Planning Commission (APP22-00004); Applicant Pacific Communities Builder; APNs: 0405-052-03 & 27 thru 30

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. PC-2022-19, denying appeal APP22-00004 and upholding the Development Review Committee (DRC) denial of a third extension of time for Tentative Tract No. 17655 (TTE22-00005).

BACKGROUND

Proposal: On August 10, 2022, the DRC denied an application for a third extension of time for TT-17655. The DRC denied the extension of time for the reasons that are listed below in this staff report. Although the applicant is requesting that the Planning Commission grant this appeal to overturn the DRC's denial, the Planning Commission is precluded from granting an extension of time.

Current General Plan, Zoning and Land Uses: The project is located on the southwest corner of Verde Avenue and Topaz Avenue. The site is within the Low Density Residential (LDR) and Office Park zones of the Main Street and Freeway Corridor Specific Plan. The surrounding land is designated as noted on Attachment 1. The property is currently vacant. Single-family residences exist to the east. The properties to the north, south and west are vacant (Attachment 2).

Project Approval Timelines:

- On June 17, 2008, the City Council approved a zone change to change the zoning from RR 2 ½ to R1 in conjunction with TT-17655 to subdivide 20 gross acres into 118 single-family residential lots. The Small Lot Subdivision Ordinance requires a minimum lot size of 3,000 square feet and an average lot size of not less than 4,500 square feet. The smallest lot within the subdivision is 3,948 square feet, the average lot size is 4,542 square feet, and the largest lot is 9,009 square feet in area. Only two lots are over 7,200 square feet. TT-17243 was approved for 3 years and was set to expire on March 25, 2011.

  It should be noted that the existing zoning for a portion of the tract is Office Park (OP). The OP zoning is likely due to a mapping error and will be corrected in the future to reflect LDR zoning.

- In 2009, 2011, and 2013 the California Legislature passed assembly bills automatically extending the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions. The automatic extensions are in addition to multiple City discretionary extensions that are allowed by the Subdivision Map Act. The

Subdivision Map Act allows the City to extend a tentative tract map for a maximum of 6 total years. The 6 years is a cumulative total, and the extensions of time may be broken up into multiple increments.

- On June 29, 2016, the DRC approved the first extension of time for TT-17655 that extended the tract for an additional 2 years.

- On September 04, 2019 the DRC approved a second extension of time for TT-17655 that extended the tract for an additional 3 years. Table 1 provides the chronological order of the entitlements for this project.

Table 1: Timeline of the Project Entitlement

Land Use Entitlement Activity	Approval Date	Effective Date	Denial Date	Expiration Date	Length of Extension
Tentative Tract No. 17655	06/17/2008	07/31/2008		07/31/2011	-
Assembly Bill 333; AB-208; AB-116	6 years of automatic State extensions			07/31/17	6 years
TTE16-00011	06/29/2016			07/31/2019	2 years
TTE19-00008	09/04/2019			07/31/2022	3 years

ISSUES/ANALYSIS

In March of 2022, the applicant submitted grading plans and improvement plans to the Engineering Division for plan check. The grading plan and improvement plans were reviewed and returned to the applicant with corrections. The applicant attempted to submit revised plans shortly after the July 31st expiration date but was told by the City that TR-17655 was determined to have officially expired.

On July 27, 2022, the applicant submitted an application for an extension of time. On August 10, 2022, the Development Review Committee denied the extension (Attachment 3) on the basis that the request was in conflict with Measure N. Ballot Measure N was approved by City voters in November 2020. Measure N made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a majority of voters and therefore may only be amended by a subsequent ballot measure. *As a result, there is no mechanism in the Development Code that authorizes an approval process for any extensions of time. Furthermore, the Development Code may not be modified to allow for such an approval process.*

The Planning Commission does not have the authority to approve any discretionary extensions of time, nor do they have the authority to authorize an amendment to the Development Code to allow for such an approval process.

CONCLUSION

The Planning Commission does not have the authority to overturn the DRC denial of Tentative Tract Extension TTE22-00005. The Planning Commission must uphold the DRC's denial of a third extension of time for Tentative Tract No. 17655.

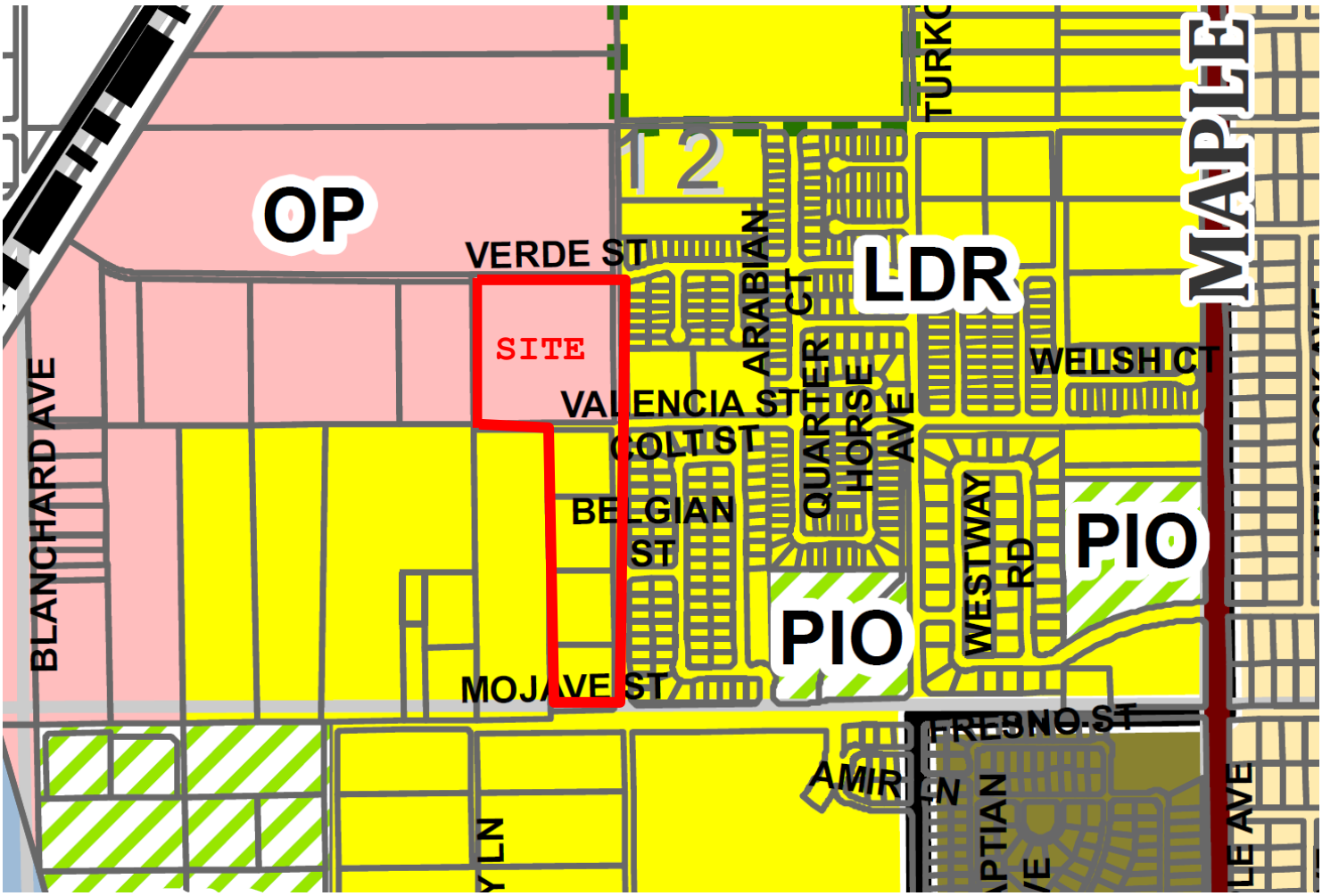
ALTERNATIVE(S)

1. Refer this item to the City Council.

ATTACHMENTS

1. General Plan Map
2. Aerial Photo
3. DRC Denial Letter
4. Resolution No. PC-2022-19

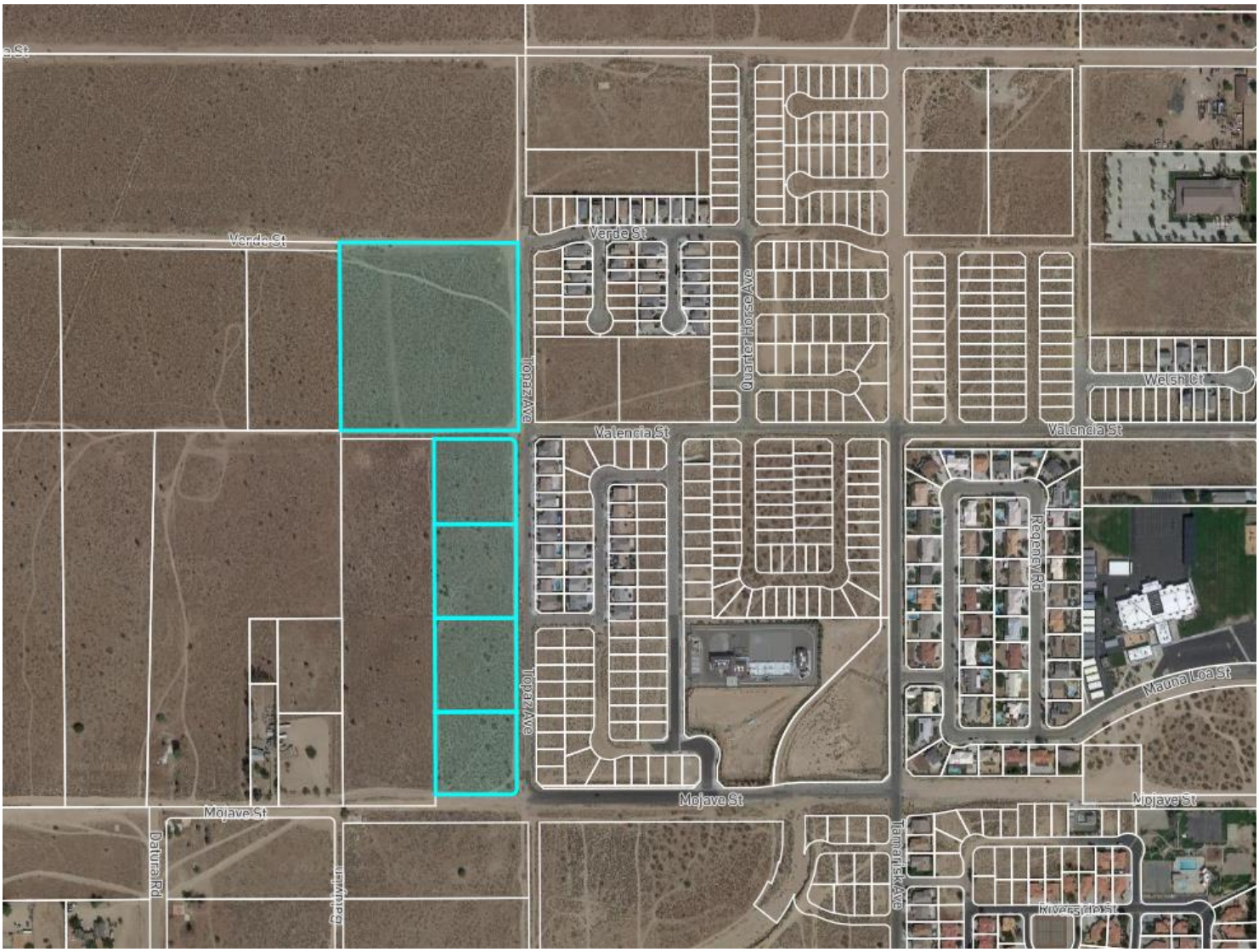
ATTACHMENT 1



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00004
LOCATION: ON THE SOUTHWEST CORNER OF VERDE AVENUE AND TOPAZ AVENUE	**APN(S)**: 0405-052-03 & 27 thru 30
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00005, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17655	N

GENERAL PLAN

ATTACHMENT 2



APPLICANT(S): PACIFIC COMMUNITIES BUILDER	**FILE NO(S):** APP22-00004
LOCATION: ON THE SOUTHWEST CORNER OF VERDE AVENUE AND TOPAZ AVENUE	**APN(S)**: 0405-052-03 & 27 thru 30
PROPOSAL: AN APPEAL TO THE PLANNING COMMISSION TO OVERTURN THE DEVELOPMENT REVIEW COMMITTEE'S DECISION TO DENY TTE22-00005, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17655	**N**

AERIAL PHOTO

August 11, 2022

Ron Freeman
LCTH Investment LP
1000 Dove Street, Suite 100
New Port, CA 92660

RE: An extension of time (TTE22-00005) for TT-17655 to create 118 single family residential lots on approximately 20.0 gross acres designed Low Density Residential (LDR) and Office Park (OP) within the Main Street and Freeway Corridor Specific Plan located on the southwest corner of Verde Street and Topaz Avenue (Pacific Communities Builder; APN(S): 0405-052-03 & 27 thru 30)

Dear Mr. Freeman:

After reviewing all the information pertaining to this application, it was the decision of the Development Review Committee to deny TTE22-00005 at its August 10, 2022 meeting due to the following:

- Pursuat to Section 17.08.040 (E) of the Hesperia Municipal Code *"no extensions of time are allowed for residential subdivisions."*

Pursuant to Section 16.12.055 of the Hesperia Municipal Code, unless this decision is appealed to the Planning Commission by August 22, 2022, TTE22-00005 will stand denied on August 23, 2022. All appeals must be submitted on forms available at this office, along with the required fee.

If you have any questions, please contact me at (760) 947-1651.

Sincerely,

Ryan Leonard
Senior Planner

ATTACHMENT 4

RESOLUTION NO. PC-2022-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, DENYING APPEAL APP22-00004, UPHOLDING THE DEVELOPMENT REVIEW COMMITTEE'S DENIAL OF TENTATIVE TRACT EXTENSION TTE22-00005, A THIRD EXTENSION OF TIME FOR TENTATIVE TRACT NO. 17655 LOCATED ON THE SOUTHWEST CORNER OF VERDE AVENUE AND TOPAZ AVENUE (APP22-00004)

WHEREAS, Pacific Communities Builder has filed an application requesting approval of Appeal APP22-00003, to overturn the Development Review Committee's denial of Tentative Tract Extension TTE22-00005, a third extension of time for Tentative Tract No. 17655 described herein (hereinafter referred to as "Application"); and

WHEREAS, the Application applies to a third extension of time for Tentative Tract No. 17655 to subdivide 20 gross acres into 118 single-family residential lots and consists of Assessor's Parcel Numbers 0405-052-03 & 27 thru 30; and

WHEREAS, TT-17655 was originally approved by the City Council on June 17, 2008 in conjunction with a zone change to change the zoning from RR-2 ½ to R1; and

WHEREAS, in 2009, 2011, and 2013 the California Legislature passed assembly bills AB-333, AB-208 and AB-116 that automatically extended the expiration dates of tentative maps. These automatic extensions amounted to 6 years of automatic State extensions; and

WHEREAS, on June 29, 2016, the Development Review Committee (DRC) approved the first extension of time for TT-17655 that extended the tract for an additional 2 years; and

WHEREAS, on September 04, 2019, the Development Review Committee (DRC) approved the second extension of time for TT-17655 that extended the tract for an additional 3 years; and

WHEREAS, TT-17655 was set to expire on July 31, 2022; and

WHEREAS, on August 10, 2022, the DRC denied a third extension of time for TT-17655; and

WHEREAS, this Application, as contemplated, proposes to appeal the DRC's denial of the extension of time for TT-17655; and

WHEREAS, the 20 gross acre site is currently vacant. Single-family residences exist to the east and the properties to the north, south and west are vacant; and

WHEREAS, the subject property is currently within the Low Density Residential (LDR) and Office Park zones of the Main Street and Freeway Corridor Specific Plan. The existing Office Park zoning is an administrative error and will be corrected in the future to reflect LDR zoning; and

WHEREAS, in November 2020 a majority of voters of the City approved Ballet Measure N which made changes to the City General Plan, Main Street and Freeway Corridor Specific Plan, and City Municipal Code. Among other things, Measure N modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a

subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time; and

WHEREAS, denial of a project is exempt from the requirements of the California Environmental Quality Act; and

WHEREAS, on September 8, 2022, the Planning Commission of the City of Hesperia conducted duly noticed public hearings pertaining to the proposed Application, and concluded said hearing on that date; and

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

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

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

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced September 8, 2022 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) In November 2020 a majority of voters of the City approved Ballet Measure N which modified City Municipal Code Section 17.08.040 (E) to state that "no extensions of time are allowed for residential subdivisions." Measure N was approved by a ballot measure and therefore may only be amended by a subsequent ballot measure. As a result, the Planning Commission does not have the authority to approve any discretionary extensions of time.

Section 3. Based on the findings and conclusions set forth in this Resolution, this Commission hereby denies Appeal APP22-00004, denying Tentative Tract Extension TTE22-00005, causing Tentative Tract 17655 to expire.

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

ADOPTED AND APPROVED on this 8th day of September 2022.

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Roger Abreo, Chair, Planning Commission

ATTEST:

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Maricruz Montes, Secretary, Planning Commission