CITY OF
VICTORVILLE

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vville@ci.victorville.ca.us
14343 Civic Drive
P.O. Box 5001
Victorville, California 92393-5001

AGENDA ITEM
PUBLIC HEARING

CITY COUNCIL MEETING OF: October 5, 2010

SUBMITTED BY: Bill Webb
Director of Development

DATE: September 21, 2010

ATTACHED: ORDINANCE NO. 2265

SUBJECT: DESERT GATEWAY SPECIFIC PLAN AMENDMENT DEV10-00008

RECOMMENDATION: Adopt the Negative Declaration and approve Ordinance 2265

DISCUSSION: At the regular meeting held September 8, 2010, the Planning Commission conducted a Public Hearing to hear arguments for or against a proposed amendment to the Desert Gateway Specific Plan on property generally located west of the Interstate 15 Freeway, east of the Mojave River and north of where they intersect.

Attached is a copy of the Planning Staff Report, an excerpt from the minutes of that meeting and other pertinent data. This matter is presented to the City Council for consideration at the close of the Public Hearing.

PERTINENT INFORMATION

The proposed amendment was initiated by LAFCO in order to alleviate mining company concerns with the City's proposed "Northern Sphere Expansion".

Staff worked with representatives from James Hardie Building Products after the Commission hearing and additional amendment language is proposed for Council approval. The language is acceptable to all parties involved, which include: James Hardie, TRED, LAFCO and Staff.

The entirety of the proposed amendment is attached with the new language highlighted.

CB/pi

DESERT GATEWAY SPECIFIC PLAN AMENDMENTS (DEV10-00008)

Table 4.3 Land Use Designations would be modified to add

Resource Recovery Overlay and provide a general description similar to the following:

This overlay may be placed over any land use designation and any parcel with an existing mining claim. Approval of a conditional use permit is required prior to mining in these designated areas.

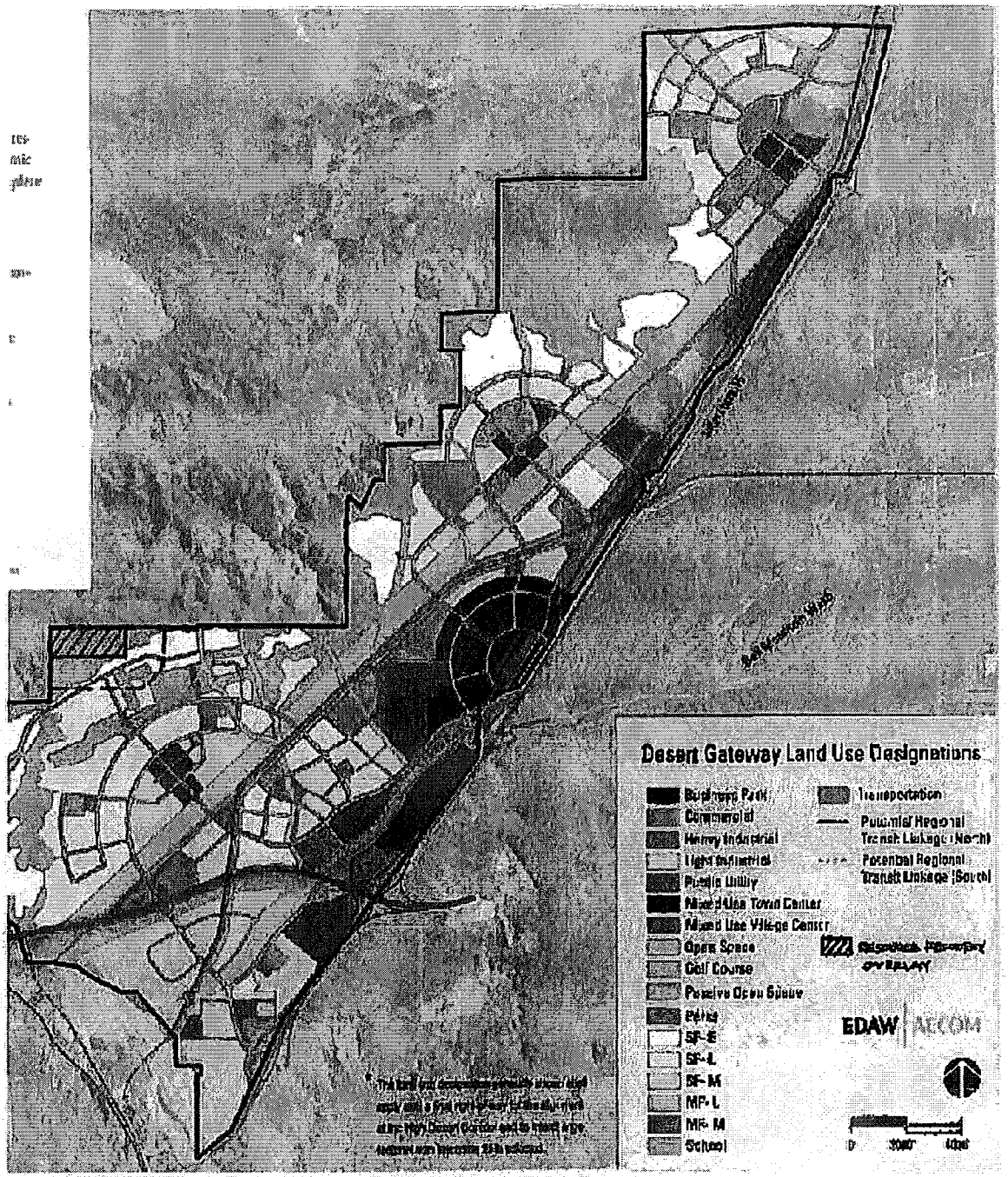
Open Space land use category description would be modified to add:

Other uses are allowed as regulated through the Resource Recovery Overlay zone.

The following Section will be added:

Section 4.1.8 Criteria for Development Surrounding Mining Claims Located Within the Resource Recovery Overlay Zone

1. Proposed development within one-half mile of an existing mining claim located within the Resource Recovery Overlay Zone shall prepare a noise study to identify existing ambient noise levels within the development area, and to project future exterior noise levels for all outdoor areas and balconies. The noise study shall include recommendations to the project design and/or identify specific measures to mitigate exterior and interior noise levels consistent with the General Plan, the Noise Control provisions contained in Chapter 13.01 of the City of Victorville Municipal Code, or applicable standards of any other local agencies.
2. Proposed development within one-half mile of an existing mining claim located within the Resource Recovery Overlay Zone shall prepare a blasting study. The purpose of the blasting study would be to establish acceptable setback or buffer requirements between the proposed development and mining activities to mitigate any risk of harm to human life or health.
3. If no mining is currently occurring in the mining claim area located within the Resource Overlay Zone and the mining claim has not been abandoned at the time of development application, the noise and blasting studies analysis of impacts shall be based on assumed future operations, and based on similar mining techniques and operations (if possible).
4. If deemed appropriate by the noise and/or blasting studies, residential dwelling units must be located and/or oriented to achieve consistency with the noise levels in the General Plan and Municipal Code, and increase in safety, from blasting activities. However, notwithstanding the recommendations in any noise and/or blasting study, no residential dwelling unit shall be located closer than one quarter mile from the mining claims located within the Resource Recovery Overlay Zone.
5. In order to put prospective residents of residential units on notice of the mining activities occurring in the Resource Recovery Overlay Zone, the project developer(s) shall prepare and record a disclosure statement regarding the mining operations, which shall include information regarding noise, fumes, vibration and particulates. The disclosure shall be provided to prospective residents within one mile of the mining activity.


Desert Gateway Land Use Designations
Business Park
Commercial
Heavy Industrial
Light Industrial
Public Utility
Mixed Use Town Center
Mixed Use Village Center
Open Space
Golf Course
Passive Open Space
Parks
SF-E
SF-L
SF-M
MF-L
MF-M
School
Transportation
Potential Regional Transit Linkage (North)
Potential Regional Transit Linkage (South)
EDAW
AECOM

EXECUTIVE SUMMARY

Specific Plan Amendment DEV10-00008

PROJECT DESCRIPTION: A proposed amendment to the Desert Gateway Specific Plan to provide a "Resource Recovery Overlay" district as a Land Use Designation, which will allow mining operations with the issuance of a Conditional Use Permit on property generally located west of the Interstate 15 Freeway, east of the Mojave River, and north of where they intersect.

APPLICANT:	City of Victorville
PLANNING COMMISSION PUBLIC HEARING DATES:	September 8, 2010
NUMBER OF PEOPLE SPEAKING IN FAVOR:	1
NUMBER OF PEOPLE SPEAKING OPPOSED:	1
NUMBER OF WRITTEN COMMENTS IN FAVOR:	2
NUMBER OF WRITTEN COMMENTS OPPOSED:	1
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION ACTION:	Recommend approval
PLANNING COMMISSION VOTE:	Kurth aye Porter aye Huber absent Wilson aye Jones aye

/pi

ORDINANCE NO. 2265

AN ORDINANCE OF THE CITY OF VICTORVILLE GRANTING DEV10-00008, AN AMENDMENT TO THE DESERT GATEWAY SPECIFIC PLAN TO PROVIDE A "RESOURCE RECOVERY OVERLAY" DISTRICT WITH ACCOMPANYING DEVELOPMENT REQUIREMENTS – CITY OF VICTORVILLE

The City of Victorville has initiated a request for an Amendment to the Desert Gateway Specific Plan to provide a "Resource Recovery Overlay" district as a Land Use Designation, which will allow mining operations on existing mining claims with the issuance of a Conditional Use Permit, and to provide accompanying requirements for development in the vicinity of the designation.

Pursuant to Title 7, Division I, Chapter 3 of the Government Code of the State of California, a public hearing was conducted on the 8th day of September, 2010, to hear arguments for and against Specific Plan Amendment DEV10-00008, and after hearing all testimony offered, the Planning Commission adopted Resolution No. P-10-037, which recommended to the City Council the adoption of Specific Plan Amendment DEV10-00008.

WHEREAS, a Negative Declaration for the proposed Specific Plan Amendment was presented to the Planning Commission, and each member having reviewed and considered the information therein, it was determined that the proposed Specific Plan Amendment will not have a detrimental effect on the environment and therefore recommends adoption to the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. That DEV10-00008, an amendment to the Desert Gateway Specific Plan, to provide a "Resource Recovery Overlay" district as a Land Use Designation, which will allow mining operations with the issuance of a Conditional Use Permit, and providing accompanying development requirements for property generally located west of the Interstate 15 Freeway, east of the Mojave River, and north of where they intersect, be adopted as shown in the attached Exhibit A.

EXHIBIT A

DESERT GATEWAY SPECIFIC PLAN AMENDMENTS (DEV10-00008)

Table 4.3 Land Use Designations would be modified to:

Add a Resource Recovery Overlay designation and provide a general description similar to the following:

This overlay may be placed over any land use designation and any parcel with an existing mining claim. Approval of a conditional use permit is required prior to mining in these designated areas.

Modify the Open Space land use category description to add:

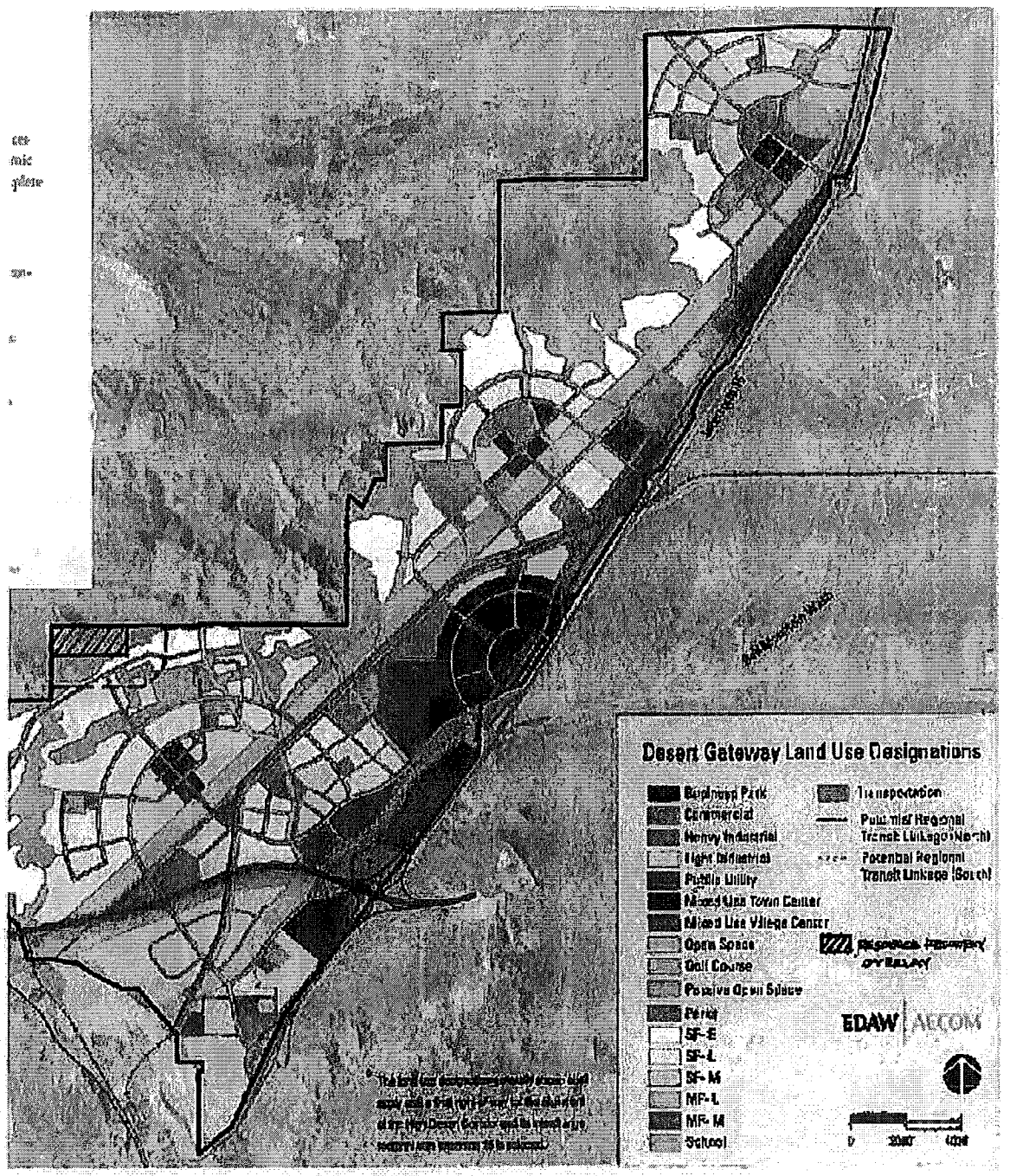
Other uses are allowed as regulated through the Resource Recovery Overlay zone.

The following section will be added to Chapter 4: Land Use:

4.1.8 Requirements for Properties Surrounding any Resource Recovery Overlay Zone

1. Any developer/development within one-half mile of an existing mining claim shall be required to prepare a Noise Study to identify existing ambient noise levels within the Project Area, and to project future exterior noise levels for all outdoor areas and balconies. The Noise Study shall establish that the project design and/or the specific insulation identified in the building plans will mitigate exterior and interior noise levels consistent with the General Plan, the Noise Control provisions contained in Chapter 13.01 of the City of Victorville Municipal Code, or applicable standards of any other local agencies.
2. Any developer/development within one-half mile of an existing mining claim shall be required to prepare a Blasting Study. The purpose of the blasting study would be to establish acceptable setback or buffer requirements from adjacent land uses which present a risk of harm to human life or health.
3. If no mining is currently occurring in the mining claim area at the time of development application, the noise and blasting studies analysis of impacts shall be based on assumed future operations, and be based on similar mining techniques and operations (if possible).
4. If deemed appropriate by the Noise and/or Blasting studies, residential dwelling units must be located as far as practicable from the mining claims, and/or oriented in such a manner as to provide the greatest reduction in noise impacts, and increase in safety, from blasting activities. However, notwithstanding the recommendations in any noise and/or blasting study, no residential dwelling unit shall be located closer than one quarter mile from the mining claims.
5. Prospective residents must be made aware of the proximity of the Residential Development to the mining activities. The Project Developer(s) shall be required to prepare and record Noise Easements and/or Covenants, Conditions and Restrictions, identifying the Project and containing a disclosure provision regarding the mining operations, which shall include information regarding noise, fumes, vibration and particulates.

EXHIBIT A


Desert Gateway Land Use Designations
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Commercial
Heavy Industrial
Light Industrial
Public Utility
Mixed Use Town Center
Mixed Use Village Center
Open Space
Golf Course
Passive Open Space
Park
SF-E
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MF-L
MF-M
School
Transportation
Potential Regional Transit Linkage (North)
Potential Regional Transit Linkage (South)
EDAW
AECOM

CITY OF VICTORVILLE PLANNING DEPARTMENT
14343 Civic Drive, Victorville, California 92392
(760) 955-5135 FAX (760) 269-0070

NEGATIVE DECLARATION

Preparation Date: August 17, 2010

Name or Title of Project: Specific Plan Amendment DEV10-00008 (Desert Gateway).

Location: Generally east of the Mojave River and west of Interstate 15 Freeway, north of the intersection of the two and south of the mountains.

Entity or Person Undertaking Project: City of Victorville
14343 Civic Drive
Victorville, California 92392

Description of Project: A request to amend the Desert Gateway Specific Plan to provide a Resource Recovery Overlay to be placed on properties with existing mining claims. This overlay will require the approval of a Conditional Use Permit in order for the mining to occur and will offer the ability to condition the project to provide compatibility between mining and the surrounding community.

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

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

Further, pursuant to Fish and Game Code Section 711.4, a "No Effect Determination" is hereby made based upon the fact that future projects will require a conditional use permit and will undergo environmental assessment at that time.

Public Review Period: August 20, 2010 to September 8, 2010

Public Hearing Date: Planning Commission on September 8, 2010, City Council in October, 2010.

Adopted by the Planning Commission on September 8, 2010.

ROB KURTH, CHAIRMAN
VICTORVILLE PLANNING COMMISSION

Adopted by the City Council on October 19, 2010.

RUDY CABRIALES, MAYOR
VICTORVILLE CITY COUNCIL

BILL WEBB
DIRECTOR OF DEVELOPMENT

cb

Excerpt of the September 8, 2010
Planning Commission Minutes
Specific Plan Amendment DEV10-00008

"Mr. Bill Webb outlined the staff report noting that due to the LAFCO process previously unknown mining claims had been brought to the attention of Staff. Staff had several meetings with LAFCO as well as James Hardie Building Products and had come to a resolution. Staff presented the Commission with a memorandum amending the recommendation which basically stated that in order to preserve the mining rights, the City would maintain the Conditional Use Permit process currently required under the County's regulations and additionally it would add some stipulations and further requirements submitted to Staff by the mining company. Those stipulations and requirements involved noise and blasting studies as well as set backs and additional noticing requirements for properties within a half-mile perimeter of the sites property line.

Chairman Kurth opened the public hearing.

Mark Ostoich, 550 East Hospitality Lane, San Bernardino, addressed the Chair representing James Hardie Building Products. He agreed with Mr. Webb and appreciated the way Staff had worked with them to craft a set of stipulations in the Specific Plan that would protect mining from future urban development that would occur. Mr. Hardie's soul concern throughout the process was to ensure as much as possible, it's ability to mine in the future. Mining was a long term proposition, many activities had a five to ten year horizon. Mining companies had a 100 year horizon because it frequently took 100 years to mine out an ore body. The product that James Hardie's company was mining was silica, a very high grade product necessary in the product it made. This made the reserves very valuable. The company currently had an active mining operation nearby, an active quarry that was subject to a plan of operations from the Bureau of Land Management (BLM). The property in the cross hatched area, although not currently being mined was located pursuant to lawful claims which they intended to mine. He had come into the process with the soul purpose of protecting that future right to mine and recognizing that as development occurred it may become more difficult to mine. Everything he spoke on this evening was based on that concern.

First, because they were looking so far out into the future, it's possible that some development may occur before an active mining operation started on the existing claims. One thing he would like considered in any action the Commission took would be a stipulation that in the event and at the time the adjacent development occurred, if there was not active mining occurring on this property that the statistics from other mines in the area would be used to scope the noise and blasting studies since there wouldn't be any basis for doing the noise and blasting studies. He didn't want there to be a misunderstanding that in order to receive the protections that were being afforded by the specific plan that there would have to be active mining on the property at that time. He felt that was just a detail and that it was something that everyone intended.

The bigger point was the one that Mr. Webb eluded to which was the underlying land use that applied to the cross hatched property. His understanding at the present time was that the underlying zone designation was Open Space, which would not permit mining. What this action would do, would overlay...

Mr. Webb apologized for interrupting, and referred back to the first request. He questioned whether Mr. Ostoich was requesting to add a stipulation to the other stipulations they had provided Staff.

Mr. Ostoich stated it was really more of a clarification.

Mr. Webb questioned whether the clarification occurred since 4:00 p.m. when he received an e-mail from Mr. Ostoich.

Mr. Ostoich stated this was requested in their first comments but didn't make it into the text.

Mr. Webb stated unfortunately Chris Borchert wasn't present and he didn't have the ability to go back through his e-mails and figure out what came when. The wording stated any developer or development within ½ mile of an existing mining claim not an active mining claim; Mr. Hardie had an existing mining claim. He questioned whether that wording was sufficient.

Mr. Ostoich stated this was just a detail, if there wasn't any mining going on at the claims at the time, what would be the basis of the noise and blasting studies. He felt it somewhat presumes that they would have to develop some information from other mines, in order to conduct the noise and blasting studies.

Mr. Webb stated that was correct, but it would be other mines using the current technology, which wasn't available today.

Mr. Ostoich stated he could accept that.

Mr. Webb stated that was obviously how it would be done but the language would have to be written into the plan in order to do that. It was an assumption that Staff would obviously look to the best examples of other mines that were operating at that time, whether it be five or ten years from now. He just wanted to make sure what Mr. Ostoich was requesting.

Mr. Ostoich stated that was what he was requesting. If there wasn't active mining on the site that that didn't automatically mean that the adjacent development didn't have to conduct a noise study and a blasting study using...

Mr. Webb stated that wasn't the way it was written. It was written as the existing mining claim, not mining operation, which meant that as long as there was a claim. Mr. Hardie had an existing mining claim. That would occur to the surrounding properties whether the mine was in operation or not.

Mr. Ostoich questioned whether the data would presumably be reasonable data based on other operations in the area at the time.

Mr. Webb stated he thought everyone would presume that, but questioned whether Mr. Ostoich was now requesting additional language be added to that effect. He felt it would be odd for either Mr. Ostoich's operation or the Commission, at any time in the future, to fix something that wasn't related. He was confused as to what Mr. Ostoich was requesting.

Mr. Ostoich stated he was just trying to be clear that...

Mr. Webb stated the Commission did not take new information or try to materialize things at this point in the process. He questioned whether Mr. Ostoich was requesting that the Commission re-write any of that wording right now.

Mr. Ostoich stated he would like to have language that stated in the event that there's not an active mining operation at the time, that statistics from other nearby, similar mining operations would be used to do the blasting study and noise study.

Mr. Webb stated the language just given by Mr. Ostoich was on the record so it would be taken verbatim and added.

Mr. Ostoich stated the other point was far more important to them. The existing zoning in the Specific Plan as he understood would not permit mining. The action being proposed would create an overlay zone that would permit mining with a Conditional Use Permit. He had a concern that an inherent conflict was being created in the zoning. Once again, based on his concern that was mentioned earlier, as the area became more populated, there would be more pressure against mining in the area. He felt the zoning conflict could make it impossible to permit a mine at any time.

His second point was driven by the same consideration. A Conditional Use Permit was the most discretionary permit authorized in California law and a planning agency who was asked to issue a Conditional Use Permit could issue the permit, issue it with conditions or it could deny the permit. Once again, their sole concern was for James Hardie to have the ability over time to have a reasonable chance of being able to mine that property. He was concerned that the combination of an underlying zone that did not permit mining coupled with a need for a Conditional Use Permit and envisioning the potential controversy that might exist in the future when that mine sought to obtain a permit would in effect prevent them from obtaining a permit. Their suggestion was to amend the specific plan to create a designation that allowed mining subject to whatever discretionary design review requirement the Commission wished in order to ensure that the design of the mine was consistent with their view of what it ought to be.

Chairman Kurth questioned whether in other overlay situations it was typical to have a conflict of zoning.

Mr. Webb stated there would be no reason for an overlay if it matched the underlying zoning.

Chairman Kurth stated that was true.

Mr. Webb stated an overlay zone was intended to add additional development requirements that weren't allowed by the underlying zoning.

Chairman Kurth questioned whether the underlying zoning was called Passive Open Space.

Mr. Webb stated that was correct. It was true that mining was not permitted, hence the overlay zone. The only other alternative would have been to re-zone just that square something else. Before tonight, it had never been suggested that there was an issue with the zoning. The issue with the CUP came up earlier, but there was never an issue with the overlay zone at any of the meetings before LAFCO or previous meetings with Mr. Hardie's representatives as far as he knew.

Mr. Ostoich stated they had suggested a different zone with a design review permit.

Mr. Webb clarified as a permitted use.

Mr. Ostoich stated as a permitted use subject to the design review.

Mr. Webb stated Staff's intent was to carry over and provide the same rights as Mr. Hardie had with the County. He knew there was an issue with the CUP but he didn't recall an issue with the overlay zone. The overlay zone was intended to provide additional development standards or permit additional uses that the underlying zoning did not allow. He didn't feel that in land use law there would be an objection or problem with the Conditional Use Permit in an overlay zone since that was what it was intended for. He felt the core issue was the Conditional Use Permit which he thought was the only issue not resolved.

Mr. Webb noted that there had been lengthy discussions for months and Staff had requested some type of industry standards so they could be built into the specific plan. Nothing was ever received. Staff's first intention was to go forward and require certain set backs and requirements, which he would not say would have actually permitted the use but it would have come closer to that. As time went on Staff still received nothing and as of the meeting last week Staff told Mr. Hardie's representatives that nothing had been received and was going forward with the amendment. Mr. Hardie's representatives brought forward the requirements currently before the Commission with the objection to the CUP process. Staff agreed that they were acceptable except for the CUP. He felt it was better not to build in requirements or conditions at this time, as it was completely premature. Staff still didn't have any idea of what or where they were going to blast, how much noise that made or what distance was considered safe. These were the issues Staff asked for requirements on. This was a mining claim on BLM property that wasn't active or being used. Hopefully, when it did become active, everyone would have a better understanding of the technology. Staff had asked Mr. Ostoich's team to provide specific data but it was never provided. To permit something anywhere within the City without any standards or criteria was not something the City was in the habit of doing. Staff would not allow a heavy industrial use to be permitted by right unless there were some stipulations or unless Staff had a list of certain types of industrial uses and knew what the potential for that use was. Mining was completely foreign to Staff, but he felt that they had done everything possible to accommodate the use. As far as Mr. Hardie's requests, the first one, with regard to the additional language, was not a problem. As for the second issue, Staff's recommendation stands; there would be an overlay zone. There was no need to create one zone for that area and allow for a CUP; the overlay zone seemed to take care of it. As far as the third request, Staff was not prepared nor did they know the industry standards for which to allow mining as a permitted use.

Mr. Ostoich stated his intent in suggesting a design review was to build in whatever discretionary review the City wished in order to impose requirements for the design of the mine. His concern about the conflict between the overlay zone and the underlying zone was based on previous situations he had encountered with overlay zones where they had added uses that were compatible with the underlying uses. This one had a use that was not only not compatible but not even permitted. Those were his points and he apologized if the perception was that they came in late and weren't clear about what they wanted.

Mr. Webb stated they would have to get the records before the September 15th meeting, which left a very short time. The meetings he attended with LAFCO didn't have any representatives from Mr. Hardie's group. The items Mr. Ostoich brought up at this meeting had been requested

by Staff months ago from a representative present at tonight's meeting. Nothing was ever received.

Mr. Ostoich stated it was probably not productive to get into that issue and apologized for any inconvenience.

Chairman Kurth questioned, if the zoning were to be changed in this situation, what it would be called.

Mr. Webb stated it wouldn't be changed. Staff could add a line onto Open Space that mining would be permitted under a Conditional Use Permit through the Resource Recovery Overlay District. It would obviously be written out better than that, but he proposed that as a draft to everyone. Staff would highly recommend that language be inserted, if it was agreeable to everyone, as it would settle one more issue before going forward on it. He was disappointed that the negotiations weren't more successful and clear on both sides.

Chairman Kurth stated he was just trying to understand the type of zoning they were asking for.

Mr. Webb stated the overlay would always permit mining. Mr. Ostoich's statement was that mining wasn't compatible with Passive Open Space. It wasn't permitted in Passive Open Space due to all the Passive Open Space zoning noted on the map. That would mean mining would be allowed with a CUP anywhere that was zoned Passive Open Space. By approving an overlay zone, mining would only be permitted in the overlay zone.

Chairman Kurth stated mining was permitted in the overlay zone but questioned how the overlay zone could be removed and how the applicant could be hurt. He questioned whether it could just be removed.

Mr. Webb stated no it couldn't be removed then corrected himself that it could be removed by the Planning Commission or City Council.

Chairman Kurth stated correct, it would have to be by the action of a body.

Mr. Webb stated yes, but that could be done by the County Board of Supervisors or the City Council. Anyone's property could be re-zoned without their agreement, however Staff was agreeing to the operations that they were requesting. In order to take one more argument out of the amendment prior to September 15th, he suggested that the Commission also recommend draft language that would not only address the first item stated for the record but an insertion of language into the permitted land uses under Open Space that would say conditional use permitted mining through adoption of a Resource Recovery Overlay to address the second item.

Chairman Kurth stated he wasn't sure if that was the way the Commission wanted to go, but he had one more card from a Mr. Gormley who wished to speak on the item.

Mr. T. Duncan Gormley, PO Box 1485, addressed the Chair and stated a Conditional Use Permit was like the eight dreaded words, "I'm from the government; I'm here to help you." Mr. Gormley stated, if Mr. Ostoich didn't exercise the CUP within six months, he would have to start the process all over again.

Mr. Webb clarified that only applied to when he took out a CUP on the site. He had an indefinite period of time in which to apply for a CUP as long as the zoning applied to the land. Once a

CUP was applied for to start mining, the Commission could approve the CUP with a list of conditions. If the applicant was active and pulled building permits or anything else at that time that would continue the life of the CUP. If the use was vacant or inactive for six months, or they failed to take action on the CUP, then it would expire. The Commission was not reviewing a CUP at this meeting; they were reviewing the ability to seek a CUP.

Mr. Gormley addressed Mr. Webb as your Lordship and stated he fought this situation for over five years. He felt small businesses didn't stand a chance and something needed to be done. He suggested the Commission give Mr. Ostoich a CUP forever.

Mr. Gormley expressed dismay at a situation he had with some of his own property and expressed his concern that the City was chasing away businesses with all their rules and regulations. He questioned whether the property shown with hatch marks was within the city limits.
Mr. Webb stated it wasn't.

Mr. Gormley questioned what the City was doing up there.

Mr. Webb stated the City was pre-zoning for future annexation.

Mr. Gormley stated his property was annexed, but that wasn't the word for it. If the Commission was interested in facts, letters and the six businesses that were put out of business, he would like to sit down and talk with them about it. He likened small business to being serfs and the City government being the landlord. Property owners were tenant farmers that weren't able to use their property for what they wanted.

Mr. Webb stated the Commission was there to discuss the issue before them not the issue Mr. Gormley was referring to.

Chairman Kurth stated he wasn't aware of the cases Mr. Gormley was referring to and was sure Mr. Gormley had some valid comments to look into however, the Commission was discussing a Resource Recovery Overlay.

Mr. Gormley stated the reason he was present was that most of his holdings were in south Victorville and he had seen what had happened in the past. He was afraid it would be the same in north Victorville. He complained that the City Council had only given him three minutes on his million dollar property.

Chairman Kurth questioned whether anyone else wished to address the Commission.

There being no further testimony, Chairman Kurth closed the public hearing.

Mr. Webb clarified the language for the second item under Open Space and permitted uses, should state, "and other uses as regulated through the overlay zone." The overlay zone would still require a Conditional Use Permit. This would address the applicants concern about not listing the permitted use in the underlying zone. In case he was incorrect, he wanted to make sure that their concern was addressed. He had never seen it done that way but he was far from perfect and perhaps in Mr. Ostoich's experience he had run into legal issues. He hoped that would take care of the first two issues expressed by the applicant.

Commissioner Wilson stated that there were the initial four changes, referring to Staff's memo dated September 8, 2010, as well as the additional changes discussed.

Mr. Webb stated the four items in the memo would include the new language stated by Mr. Ostoich in item one. Additionally, the description of Open Space where it stated the permitted uses such as a park, etc., would include the language other uses as regulated through the overlay zone.

Chairman Kurth questioned whether anyone had any questions or issues for discussion. There being no response, Chairman Kurth called for a decision.

A motion was made by Commissioner Porter and seconded by Commissioner Jones to approve the Negative Declaration for DEV10-00008 and Resolution P-10-037 with the amendments to section 4.1.8 of the Desert Gateway Specific Plan as noted in Staff's memo dated September 8, 2010 and adding the language "In the event that there is not an active mining operation at the time, statistics from other nearby, similar mining operations would be used to do the blasting study and noise study" to item 1 of Staff's memo and the language, "other uses are allowed as regulated through the Resource Recovery Overlay Zone," would be added to the permitted uses under Open Space. The motion carried by a vote of four Commissioners, Commissioner Huber being absent. The Resolution was entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VICTORVILLE RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF SPECIFIC PLAN AMENDMENT DEV10-00008, AN AMENDMENT TO THE DESERT GATEWAY SPECIFIC PLAN TO CREATE A RESOURCE RECOVERY OVERLAY ZONE"

MEMORANDUM

DATE: September 8, 2010

FROM: Bill Webb
Development Director

TO: Chairman and Planning Commissioners

SUBJECT: DEV10-00008, DESERT GATEWAY SPECIFIC PLAN AMENDMENT

AGENDA ITEM NO. 1

Staff has been working to alleviate concerns that James Hardie (mining company) has with the proposed amendment.

Based on their comments, Staff recommends the following changes for Section 4.1.8 :

1. Any developer/development within one-half mile of an existing mining claim shall be required to prepare a Noise Study to identify existing ambient noise levels within the Project Area, and to project future exterior noise levels for all outdoor areas and balconies. The Noise Study shall establish that the project design and/or the specific insulation identified in the building plans will mitigate exterior and interior noise levels consistent with the General Plan, the Noise Control provisions contained in Chapter 13.01 of the City of Victorville Municipal Code, or applicable standards of any other local agencies.
2. Any developer/development within one-half mile of an existing mining claim shall be required to prepare a Blasting Study. The purpose of the blasting study would be to establish acceptable setback or buffer requirements from adjacent land uses which present a risk of harm to human life or health.
3. If deemed appropriate by the Noise and/or Blasting studies, residential dwelling units must be located as far as practicable from the mining claims, and/or oriented in such a manner as to provide the greatest reduction in noise impacts from blasting activities.
4. Prospective residents must be made aware of the proximity of the Residential Development to the mining activities. The Project Developer(s) shall be required to prepare and record Noise Easements and/or Covenants, Conditions and Restrictions, identifying the Project and containing a disclosure provision regarding the mining operations, which shall include information regarding noise, fumes, vibration and particulates.

PLANNING COMMISSION STAFF REPORT

DATE: September 8, 2010 **AGENDA NO. 1**

CASES: DEV10-00008

SUBJECT: Amendment to the Desert Gateway Specific Plan (Northern Triangle)

APPLICANT: City of Victorville

LOCATION: Generally west of Interstate 15 Freeway, east of the Mojave River, and north of where they intersect.

I. STAFF RECOMMENDATION:

That the Planning Commission adopt Resolution No. P-10-037, recommending adoption of a Negative Declaration and approval of DEV10-00008 to the City Council.

II. SUMMARY:

The Desert Gateway Specific Plan was approved in 2009. While over 3,200 acres of the Specific Plan are currently within the city limits of Victorville, 4,850 are within the existing sphere and approximately 2,050 are adjacent to the sphere.

As part of the City's ongoing "Northern Sphere Expansion" and LAFCO Proposal 3082, it was discovered that a number of different mining interests are operating in the area to the north, around Quartzsite Mountain. In addition, several mining claims exist which encroach into the specific plan area. To address this issue, the amendment is proposed to add a "Resource Recovery Overlay" district as a Land Use Designation, which will allow mining operations with the issuance of a Conditional Use Permit.

III. STAFF ANALYSIS:

The Planning Division designated much of the proposed northern sphere area as "Open Space" in the 2008 General Plan update. This was done due to area being designated for protection of the Mojave Monkeyflower in the West Mojave Plan (habitat conservation plan), and also due to existing mining operations. At that time, our understanding was that the mining was related to cement manufacturing and consisted mostly of Cemex and Riverside TXI operations.

Through the LAFCO process, it has been discovered that numerous mining claims for a variety of minerals exist in and around the area, and that several companies beside Cemex and Riverside TXI have ongoing mining operations. It was also discovered that several of these mining claims encroach into the Desert Gateway Specific Plan area. While there is currently no development in the immediate vicinity, future development presents the risk for potential incompatible land uses and impacts due to the close proximity to mining operations.

At this time, James Hardie is the only company with ongoing mining and mining claims in the plan area which has come forward to voice their concerns with the sphere expansion plan moving forward.

Staff is proposing, in concurrence with LAFCO, that the Resource Recovery Overlay District be placed on the property, with a requirement for Conditional Use Permit approval prior to mining. During this process, conditions can be proposed to mitigate potential impacts from mining such as noise, dust, traffic routes, etc. The intent of the amendment, based on the Council's concerns and understanding of the importance of mining to the valley, is not to prevent mining but to ensure the ability to continue mining in a manner compatible with surrounding development.

The amendments would alter the Land Use map, by adding a Resource Recovery Overlay designation, and placing this designation on approximately 60 acres of land northwest of the golf course over Passive Open Space. Table 4.3 Land Use Designations would also be modified to add the Resource Recovery Overlay and provide a general description similar to the following:

> This overlay may be placed over any land use designation and any parcel with an existing mining claim. Approval of a conditional use permit is required prior to mining in these designated areas.

In addition, Section 4.1.8 will be added to promote compatibility of land uses around future mining areas. This section will add requirements for residential development and will require the following conditions, among others, of all projects:

1. The Developer(s) shall be required to prepare a Noise Study to identify existing ambient noise levels within the Project Area, and to project exterior noise levels for all outdoor areas and balconies. The Noise Study shall establish that the project design and/or the specific insulation identified in the building plans will mitigate exterior and interior noise levels consistent with the General Plan, the Noise Control provisions contained in Chapter 13.01 of the City of Victorville Municipal Code, or applicable standards of any other local agencies.

2. If deemed appropriate by the Noise Study, residential dwelling units must be located as far as practicable from the mining claims, and/or oriented in such a manner as to provide the greatest reduction in noise impacts from blasting activities.

3. Prospective residents must be made aware of the proximity of the Residential Development to the mining activities. The Project Developer(s) shall be required to prepare and record Noise Easements and/or Covenants, Conditions and Restrictions, identifying the Project and containing a disclosure provision regarding the mining operations, which shall include information regarding noise, fumes, vibration and particulates.

While other mining claims exist in the planning area, they may be mitigated by the Assembly Bill (McKeon) or by developers who purchase the property for development purposes. Briefly, the McKeon bill is an attempt to stop the mining in Santa Clarita canyon by purchasing the mining rights from Cemex, using money generated from disposal of Bureau of Land Management land in the Northern Triangle area.

IV. ENVIRONMENTAL ASSESSMENT:

While the original specific plan was approved and found consistent with the development density which was analyzed in the General Plan EIR, the ability to have mining in the area was never proposed or analyzed. The conditional use permit process allows the ability to impose measures which will ensure that impacts from mining operations remain less than significant. A negative declaration is recommended for adoption.

CB

THE STAFF RECOMMENDATION MAY BE ACCEPTED OR REJECTED BY THE PLANNING COMMISSION AFTER THEIR OWN ANALYSIS AND CONSIDERATION OF PUBLIC TESTIMONY PRESENTED AT THE HEARING. THE PLANNING COMMISSION ACTION IS A RECOMMENDATION TO THE CITY COUNCIL ONLY

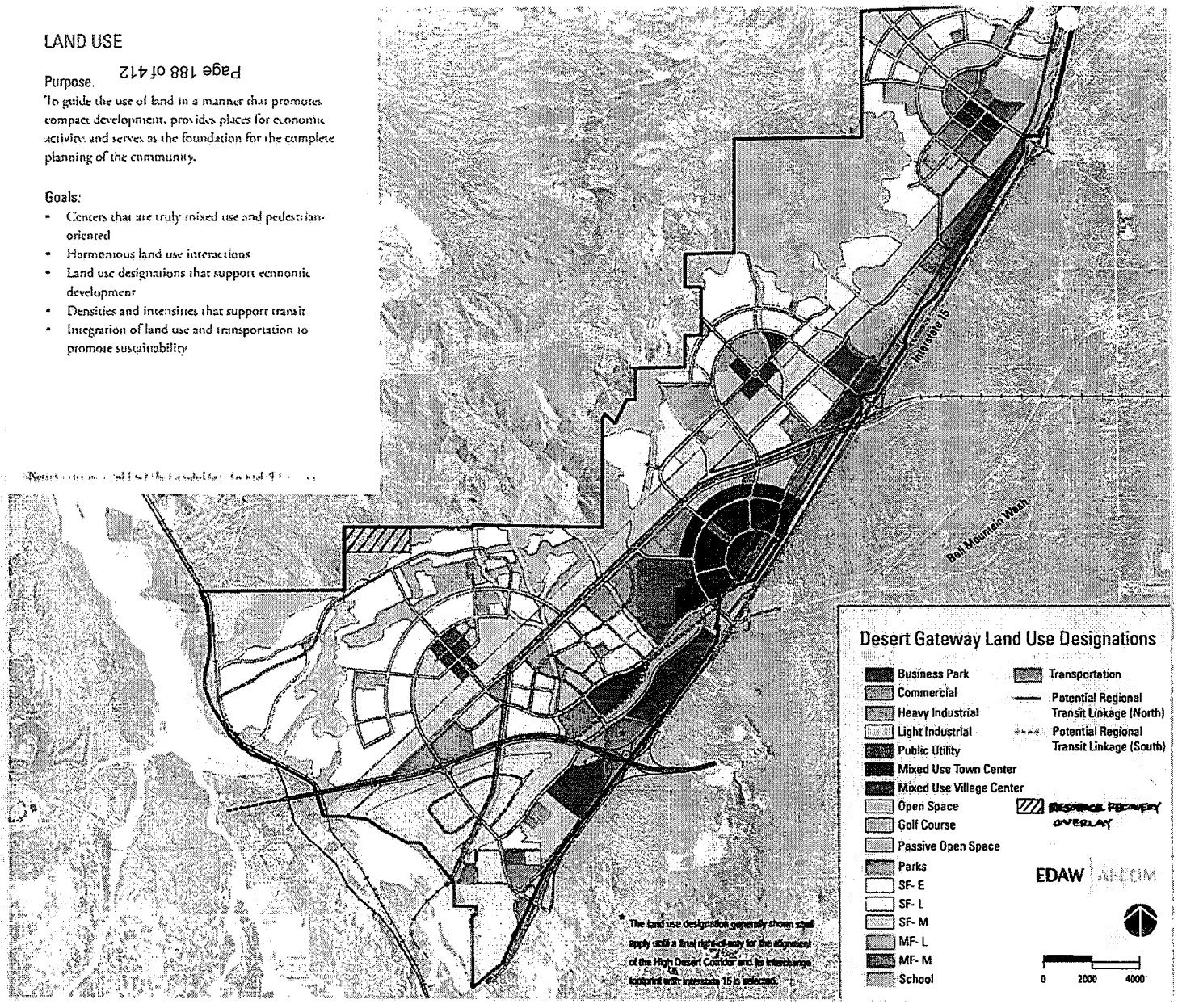
LAND USE

Purpose.

To guide the use of land in a manner that promotes compact development, provides places for economic activity and serves as the foundation for the complete planning of the community.

Goals:

- Centers that are truly mixed use and pedestrian-oriented
- Harmonious land use interactions
- Land use designations that support economic development
- Densities and intensities that support transit
- Integration of land use and transportation to promote sustainability



CHAPTER 4:
LAND USE

INTRODUCTION

The land use plan is the blueprint for the development and use of land in Desert Gateway. The plan sets the elements for the community. Desert Gateway will be transit and pedestrian-friendly and support sustainable practices through compact development. The land use plan is guided by the transportation network. The necessary functionality of the transportation network is directly sustained by maximum adherence to the common-sense principles of the Specific Plan.

The structure principles are:

- A community of distinct villages and districts oriented to mixed use centers
- Nesting within the framework created by natural topography and open space
- Land use guided by transportation planning

DEV10-00008

Mojave River

Site

SCLA

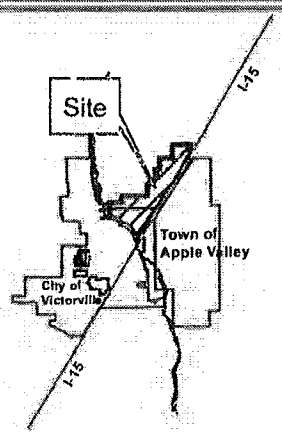
I-15 Freeway

Northern City Boundary

Apple Valley

City of Victorville

VICINITY MAP



PROPERTY LOCATION MAP

Zoning: SP	Area: ± .8,050 acres

Assessor Parcel Number: 0472-061-65 et. al.

Location: West of Interstate 15, east of Mojave River and north of the intersectin of the two

Case Number: DEV10-00008 Specific Plan Amendment

Drawn by: JR	Checked by: CB	Date:08/23/10

Graphics are diagramatic only - Not to scale

Prepared by: City of Victorville Development Department - Planning Division

RESOLUTION NO. P-10-037

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VICTORVILLE RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF SPECIFIC PLAN AMENDMENT DEV10-00008, AN AMENDMENT TO THE DESERT GATEWAY SPECIFIC PLAN TO CREATE A RESOURCE RECOVERY OVERLAY ZONE

WHEREAS, the City of Victorville has initiated an amendment to the Desert Gateway to create a Resource Recover Overlay Zone which can be placed on properties to require the approval of a Conditional Use Permit to continue mining claims on property generally encompassed by the eastern bank of the Mojave River, the I-15 Freeway and the existing specific plan boundary (commonly referred to as the Northern Triangle), in the City of Victorville, County of San Bernardino, State of California.

WHEREAS, a public hearing was held on the 8th day of September, 2010, pursuant to Title 7, Division I, Chapter 3 of the Government Code of the State of California, to hear arguments for and against the issue; and

WHEREAS, the Planning Commission finds that the existing Specific Plan needs modification to help provide compatibility between development and future mining interests; and

WHEREAS, a Negative Declaration for the proposed specific plan amendment has been presented to the Planning Commission, and after review and consideration of the environmental information the Planning Commission found that the proposed specific plan amendment will not have a significant effect on the environment and therefore recommended to the City Council adoption of the Negative Declaration; and

WHEREAS, the Planning Commission finds that said modifications will provide for a more orderly and superior development plan; NOW,

THEREFORE, BE IT RESOLVED by the Planning Commission, pursuant to Chapter 18.47 of the Victorville Municipal Code, that it recommends to the City Council that DEV10-00008, an amendment to the Desert Gateway Specific Plan be approved.

CITY OF VICTORVILLE PLANNING DEPARTMENT
14343 Civic Drive, Victorville, California 92392
(760) 955-5135 FAX (760) 269-0070

DRAFT NEGATIVE DECLARATION

Preparation Date: August 17, 2010

Name or Title of Project: Specific Plan Amendment DEV10-00008 (Desert Gateway).

Location: Generally east of the Mojave River and west of Interstate 15 Freeway, north of the intersection of the two and south of the mountains.

Entity or Person Undertaking Project: City of Victorville
14343 Civic Drive
Victorville, California 92392

Description of Project: A request to amend the Desert Gateway Specific Plan to provide a Resource Recovery Overlay to be placed on properties with existing mining claims. This overlay will require the approval of a Conditional Use Permit in order for the mining to occur and will offer the ability to condition the project to provide compatibility between mining and the surrounding community.

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

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

Further, pursuant to Fish and Game Code Section 711.4, a "No Effect Determination" is hereby made based upon the fact that future projects will require a conditional use permit and will undergo environmental assessment at that time.

Public Review Period: August 20, 2010 to September 8, 2010

Public Hearing Date: Planning Commission on September 8, 2010, City Council in October 2010.

Adopted by the City Council on _____.

_____
RUDY CABRIALES, MAYOR
VICTORVILLE CITY COUNCIL

_____
BILL WEBB
DIRECTOR OF DEVELOPMENT

cb

INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM

1. **Project title:** Desert Gateway Specific Plan Amendment DEV10-00008.

2. **Lead agency name and address:** City of Victorville, 14343 Civic Drive, Victorville, CA 92393-5001.

3. **Contact person and phone number:** Chris Borchert, Development Department (760) 955-5146.

4. **Project location:** The City of Victorville is located in southwestern San Bernardino County, in the geographic subregion of the southwestern Mojave Desert known as the Victor Valley. The Victor Valley is separated from other urbanized areas in Southern California by the San Bernardino and San Gabriel mountains. The City's regional location is shown in Figure 1, *Victorville General Plan Regional Location Map.* The Desert Gateway Specific Plan area is in the northernmost and easternmost area of the city. It covers most of the the area which is west of Interstate 15 freeway, east of the Mojave River, and north of the intersection of the two.

5. **Project sponsor's name and address:** City of Victorville, Planning Division, 14343 Civic Drive, Victorville, CA 92393-5001.

6. **General Plan designation:** Specific Plan.

7. **Zoning:** Specific Plan.

8. **Description of project:**
An amendment to the Desert Gateway Specific Plan to provide a Resource Recovery Overlay to be placed on properties which may have existing mining claims. This overlay will require the approval of a Conditional Use Permit in order for the mining to occur and may offer a way to potentially mitigate the impacts of mining within the specific plan area. During development of the specific plan, it was unknown that mining claims were present within the area, and it was also assumed that the developers would be buying the land to build on.

   The project site encompasses approximately 10,100 total acres and almost 16 square miles, the Desert Gateway Specific Plan is currently 3,200 acres within City limits, 4,850 acres within the existing Sphere of Influence, and 2,050 acres which are proposed to be added to the sphere and eventually annexed into the City.

   The specific plan proposes industrial, commercial, mixed use, open space, single family and multi-family residential, and institutional uses as well. Somewhat central to the plan is the Mixed Use Town Center which would revolve around the development of the train station or another regional draw such as a mall or entertainment venue.

9. **Surrounding land uses and setting:** On the western edge is the Mojave River floodplain. Dry for most of the year, water generally only flows along this stretch during heavier rain events. The major land use across the river is the Cemex cement plant. On the eastern boundary is the Interstate 15 freeway which consists of three travel lanes on both sides and a right-of-way width of which varies from 215 to 280+ feet. Across the freeway from the site is mostly vacant land, split between the County to the north and Apple Valley sphere/city to the south and a portion at the southern end is within Victorville city limits. Most of the site slopes up from the south to north and from east to west as foothills until it reaches rocky outcroppings close to the peaks of the adjacent hills. This line of rock was deemed to be the extent of development and therefore makes up most of the northern boundary. Further north is very hilly area with the only land use being mining operations.

10. **Other public agency whose approval is required** None for the specific plan amendment approval. San Bernardino County LAFCO approval is necessary for annexation of the areas currently outside of the city limits and sphere of influence.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTS:

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

☐ Land Use and Planning	☐ Transportation/Circulation	☐ Public Services
☐ Population and Housing	☐ Biological Resources	☐ Utilities and Service Systems
☐ Geological Problems	☐ Energy and Mineral Resources	☐ Aesthetics
☐ Water	☐ Hazards	☐ Cultural Resources
☐ Air Quality	☐ Noise	☐ Recreation
	☐ Mandatory Findings of Significance	

DETERMINATION:

On the basis of this initial evaluation:

X I find that the proposed project COULD NOT have significant effect on the environment, and a NEGATIVE DECLARATION will be prepared. (De Minimis)

__ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.

__ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

__ I find that the proposed project MAY have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or "potentially significant unless mitigated". An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

__ I find that the proposed project WILL NOT have a significant effect on the environment, because no new potentially significant effects have been identified beyond those previously analyzed adequately in an earlier EIR (Final Program Environmental Impact Report for the City's Comprehensive General Plan Update, State Clearinghouse No. 2008021086 adopted in October 2008), pursuant to applicable standards, and no additional mitigation measures beyond those imposed as part of that previous EIR are necessary to be imposed upon the proposed project to reduce mitigable impacts to a insignificant level. Therefore, no additional environmental documentation is necessary.

Signature: Chris Borchert Date: August 19, 2010

Chris Borchert
Assistant Director Of Planning For: Victorville Planning Department

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is provided for all answers except "No Impact" answers that are adequately supported by the information sources the lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer is explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) "Potentially Significant Impact" is noted if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Significant Impact". The lead agency describe the mitigation measures, and briefly explains how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses", may be cross-referenced).

5) Earlier analyses may be referenced where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). Earlier analyses are discussed in Section XVII at the end of the checklist.

6) The lead agency incorporates into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document, where appropriate, includes a reference to the page or pages where the statement is substantiated. See the sample question below. A source list is attached, and other sources used or individuals contacted are cited in the discussion.

ENVIRONMENTAL IMPACTS:

I. **LAND USE AND PLANNING.** *Would the proposal*	*Potentially Significant Impact*	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
a) Conflict with general plan designation or zoning? (1, Figure 3 and 2, Sheet 1)			X	
b) Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project? (3, 1)				X
c) Be incompatible with existing land use in the vicinity? (4)			X	
d) Affect agricultural resources or operations (e.g., impacts to soils or farmlands, or impacts from incompatible land uses)? (5)				X
e) Disrupt or divide the physical arrangement of an established community (including a low-income or minority community)? (4)				X

Comments: The General Plan Land Use Designation for the project site was changed to Specific Plan during the development of the specific plan. While care was taken to leave mountainous areas designated as Open Space in the plan, it was recently learned that several mining claims exist on land which comes close to, and/or encroaches into the Specific Plan area. The City understands the importance of mining to the area and the region and does not desire to prevent mining operations. However, mining operations often include the use of explosives to loosen up the dirt, in addition to large and noisy equipment. The placement of the Resource Recovery Overlay on properties which may be mined in the future could help to continue mining operations while also ensuring compatibility with the developing community around it. This will be done by requiring the mining company to gain approval of a Conditional Use Permit by the City prior to mining within the specific plan. At that time, appropriate

mitigation measures can be conditioned to ensure compatibility with the surroundings. It is also assumed that another option when development begins in these areas, is for the developers to purchase the land and mining claims in order to develop the property. With this change to the specific plan, no further mitigation is necessary at this time.

II. POPULATION AND HOUSING. *Would the proposal*:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
a) Cumulatively exceed official regional or local population projections? (6, 4)				X
b) Induce substantial growth in an area either directly or indirectly (e.g., through projects in an undeveloped area or extension of major infrastructure)? (4)				X
c) Displace existing housing, especially affordable housing? (4)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. No changes to housing densities or infrastructure requirements is caused by this change. No additional mitigation necessary.

III. GEOLOGIC PROBLEMS. *Would the proposal result in or expose people to potential impacts involving*:

a) Fault rupture? (8, Figure 1)				X
b) Seismic ground shaking? (8, Table 2)			X	
c) Seismic ground failure, including liquefaction? (5) and 8, 4 and Table 2)				X
d) Seiche, tsunami, or volcanic hazard? (8, Table 2)				X
e) Landslides or mudflows? (8, 7 and Figure 3)				X
f) Erosion, changes in topography or unstable soil conditions from excavation, grading, or fill? (8, Figure 3)				X
g) Subsidence of land? (3, Figure 8)				X
h) Expansive soils? (5)				X
i) Unique geologic or physical features? (5)				X

Comments: There are no known or suspected fault traces located within the Victorville Planning Area. Additionally, the City Planning Area is not subject to the provisions of Alquist-Priolo Special Studies Zones. The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. . No additional mitigation necessary.

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
IV. WATER. *Would the proposal result in:*				
a) Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff? (11, graphic)			X	
b) Exposure of people or property to water related hazards such as flooding? (10, Panel 5795)				X
c) Discharge into surface waters or other alteration of surface water quality (e.g., temperature, dissolved oxygen or turbidity? (4)				X
d) Changes in the amount of surface water in any water body? (4)				X
e) Changes in currents, or the course or direction of water movements? (4)				X
f) Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability? (11)				X
g) Altered direction or rate of flow of groundwater? (4)				X
h) Impacts to groundwater quality? (4)			X	
i) Substantial reduction in the amount of groundwater otherwise available for public water supplies? (11)				X

Comments: While mining could change drainage patterns and/or impact groundwater quality, the specific plan proposes drainage areas as open space and allows adequate area to meet water flow requirements. The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. At that time, appropriate mitigation measures can be conditioned to ensure changes to drainage and groundwater are mitigated. Future projects, subdivisions and potentially even mining could be required to submit hydrology studies to determine the amount of improvements needed to control flow. In addition, the City routinely conditions projects in accordance with National Pollutant Discharge Elimination System (NPDES).

No additional mitigation is necessary.

V. AIR QUALITY. *Would the proposal:*				
a) Violate any air quality standard or contribute to an existing or projected air quality violation? (13, 1)				X
b) Expose sensitive receptors to pollutants? (4)			X	
c) Alter air movement, moisture, or temperature, or cause any changes in climate? (13, 1)				X

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
d) Create objectionable odors? (11)			X	

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. The overlay is only proposed over approximately 60 acres at this time, on a mining claim which is currently being mined to the north. The requirement for a conditional use permit could result in the ability to obtain better air quality restrictions than are occurring currently with existing mining operations. No additional mitigation necessary.

VI. TRANSPORTATION/CIRCULATION. *Would the proposal result in*:

a) Increased vehicle trips or traffic congestion? (11, graphic)			X	
b) Hazards to safety from design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (11, graphic)				X
c) Inadequate emergency access or access to nearby uses? (4)				X
d) Insufficient parking capacity on-site or off-site? (11, graphic)				X
e) Hazards or barriers for pedestrians or bicyclists? (11, graphic)				X
f) Conflicts with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (11, graphic)				X
g) Rail, waterborne or air traffic impacts? (11, graphic)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. While existing haul routes and mining roads were accommodated with the plan, the conditional use process will add another method for mitigating future issues with regard to mining and impacts to streets or circulation. No additional mitigation necessary.

VII. BIOLOGICAL RESOURCES. *Would the proposal result in impacts to*:

a) Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals, and birds)? (15)				X
b) Locally designated species (e.g., heritage trees)? (15)				X
c) Locally designated natural communities (e.g., oak forest, coastal habitat, etc.)? (4)				X
d) Wetland habitat (e.g., marsh, riparian, and vernal pool)? (4)				X
e) Wildlife dispersal or migration corridors? (15)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. While an area with a mining claim has been designated, no mining is currently taking place and it is unknown when in the future it would begin. An initial study could be done with the conditional use permit process. At that time, appropriate mitigation measures can be conditioned to ensure biological resources are not impacted. No additional mitigation necessary.

VIII. ENERGY AND MINERAL RESOURCES. *Would the proposal*:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
a) Conflict with adopted energy conservation plans? (6, 36)				X
b) Use nonrenewable resources in a wasteful and inefficient manner? (11, graphic)				X
c) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State? (3, 10)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine in areas with existing mining claims. If appropriate, this will help to ensure the ability to utilize mineral resources which are valuable to the region. The specific plan also has policies and goals similar to the General Plan of conserving energy through design. No additional mitigation necessary.

IX. HAZARDS. *Would the proposal*:

a) A risk of accidental explosion or release of hazardous substances (including, but not limited to, oil, pesticides, chemicals, or radiation)? (11)				X
b) Possible interference with an emergency response plan or emergency evacuation plan? (8, Figure 5)				X
c) The creation of any health hazard or potential health hazard? (11)			X	
d) Exposure of people to existing sources of potential health hazards? (4)			X	
e) Increased fire hazard in areas with flammable brush, grass, or trees? (11)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine in areas with existing mining claims. Potential mining in the specific plan area could increase the creation of or exposure to hazardous conditions, however, the conditional use permit process can be used to provide conditions which will help to ensure that hazardous situations are mitigated. No additional mitigation necessary.

X. NOISE. *Would the proposal result in*:

a) Increases in existing noise levels? (11)			X	

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b) Exposure of people to severe noise levels? (11)			X	

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. The potential for mining companies to operate within the specific plan could increase the noise levels, however, the conditional use permit process is being required in order to provide a method of mitigating issues like noise in the future. No additional mitigation is necessary.

XI. PUBLIC SERVICES. *Would the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:*

a) Fire protection? (11)				X
b) Police protection? (11)				X
c) Schools? (11)				X
d) Maintenance of public facilities, including roads? (11)				X
e) Other government services? (11)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine for mineral resources. The amendment will not affect public services and the specific plan reserves areas for fire and police stations, parks, schools and libraries. Goals and policies address when these services need to be provided and to what extent. Five mitigation measures from the General Plan EIR will help to mitigate impacts. No additional mitigation necessary.

XII. UTILITIES AND SERVICE SYSTEMS. *Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:*

a) Power or natural gas? (11)				X
b) Communications systems? (11)				X
c) Local or regional water treatment or distribution facilities? (11)				X
d) Sewer or septic tanks? (11)				X
e) Storm water drainage? (11)				X
f) Solid waste disposal? (11)				X
g) Local or regional water supplies? (11)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. The amendment will not affect utilities or service systems in the specific plan area. No additional mitigation necessary.

XIII. AESTHETICS. *Would the proposal:*

a) Affect a scenic vista or scenic highway? (11)			X	

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporated	Less than Significant Impact	No Impact
b) Have a demonstrable negative aesthetic effect? (11)				X
c) Create light or glare? (11)			X	

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. Mining in the area could change the look of the hillside, affecting views, however, if this is a concern, the conditional use permit process can be used to condition measures which mitigate this issue. Additionally, General Plan EIR mitigation measures address open space, hillside development and parking lot lighting to further lessen impacts. No additional mitigation necessary.

XIV. CULTURAL RESOURCES. *Would the proposal:*

a) Disturb paleontological resources? (4)				X
b) Disturb archaeological resources? (4)				X
c) Have the potential to cause a physical change which would affect unique ethnic cultural values? (4)				X
d) Restrict existing religious or sacred uses within the potential impact area? (4)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. Standard conditions of approval include requirements for archaeological and paleontological resources. No additional mitigation necessary.

XV. RECREATION. *Would the proposal:*

a) Increase the demand for neighborhood or regional parks or other recreational facilities? (11)				X
b) Affect existing recreational opportunities? (11)				X

Comments: The proposed amendment establishes an overlay district which will require the approval of a conditional use permit in order to mine. The amendment will have no impact on recreation. No mitigation necessary.

MANDATORY FINDINGS OF SIGNIFICANCE.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporated*	*Less than Significant Impact*	*No Impact*
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
b) Does the project have the potential to achieve short-term, to the disadvantage or long-term, environmental goals?				X
c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			X	
d) Does the project have environmental effects which will cause substantial adverse affects on human beings, either directly or indirectly?				X

Comments: a) The project does not have the ability to impact these areas due to the idea that they will merely be required to apply for a conditional use permit in order to mine the existing claim. This is a similar requirement to the current jurisdiction of the County of San Bernardino, with the requirement for reclamation upon completion. b, c) There are currently no short term issues involved, as the mining claims have existed for decades and do not appear to be approaching useful production within the next decade or so. Considerable mining is taking place to the north and west of the specific plan area. mining within the plan area would merely be a continuation of the existing mining.

XVII. EARLIER ANALYSES.

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

a) **Earlier analyses used.** Earlier analyses are identified and stated where they are available for review.

b) **Impacts adequately addressed.** Effects from the above checklist that were identified to be within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards are noted with a statement whether such effects were addressed by mitigation measures based on the earlier analysis.

c) **Mitigation measures.** For effects that are "Less than Significant with Mitigation Incorporated", describe the mitigation measures which are incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project are described.

Authority: Public Resources Code Sections 21083 and 21087.
Reference: Public Resources Code Sections 21080(c), 21080.1, 21083, 21083.3, 21093, 21094, 21151; *Sundstrum v. County of Mendocino,* 202 CalApp 3d 296 (1988); *Leonoff v. Monterey Board of Supervisors,* 222 CalApp 3d 1337 (1990.

REFERENCES

1. 2008 City of Victorville General Plan Land Use Element.
2. City of Victorville Official Zoning Map.
3. 2008 City of Victorville General Plan Resource Element.
4. Aerial photos of the City of Victorville.
5. United States Soil Conservation Service *Soil Survey of San Bernardino County, California.*
6. 2008 City of Victorville General Plan Housing Element.
7. California Department of Finance Demographic Research Unit Report E-5, January 1, 1999.
8. 2008 City of Victorville General Plan Safety Element.
9. Latest adopted version of the Uniform Building Code.
10. *Deleted*
11. Desert Gateway Specific Plan.
12. 1991 Uniform Fire Code.
13. 2008 City of Victorville General Plan Circulation Element.
14. United States Bureau of Land Management California Desert Conservation Area, 1988.
15. Chapter 13.33 of the Victorville Municipal Code.
16. 2008 City of Victorville General Plan Noise Element.
17. Victorville Municipal Code Buildings, and Construction Ordinance, Chapter 15.04.
18. Victorville Municipal Code Zoning Ordinance, Chapter 18.16.
19. Victorville Municipal Code, Chapter 6.30.

CITY OF
VICTORVILLE

DEVELOPMENT DEPARTMENT
Planning • Building • Code Enforcement
14343 Civic Drive
P.O. Box 5001
Victorville, CA 92395-5001

(760) 955-5135
Fax (760) 269-0070

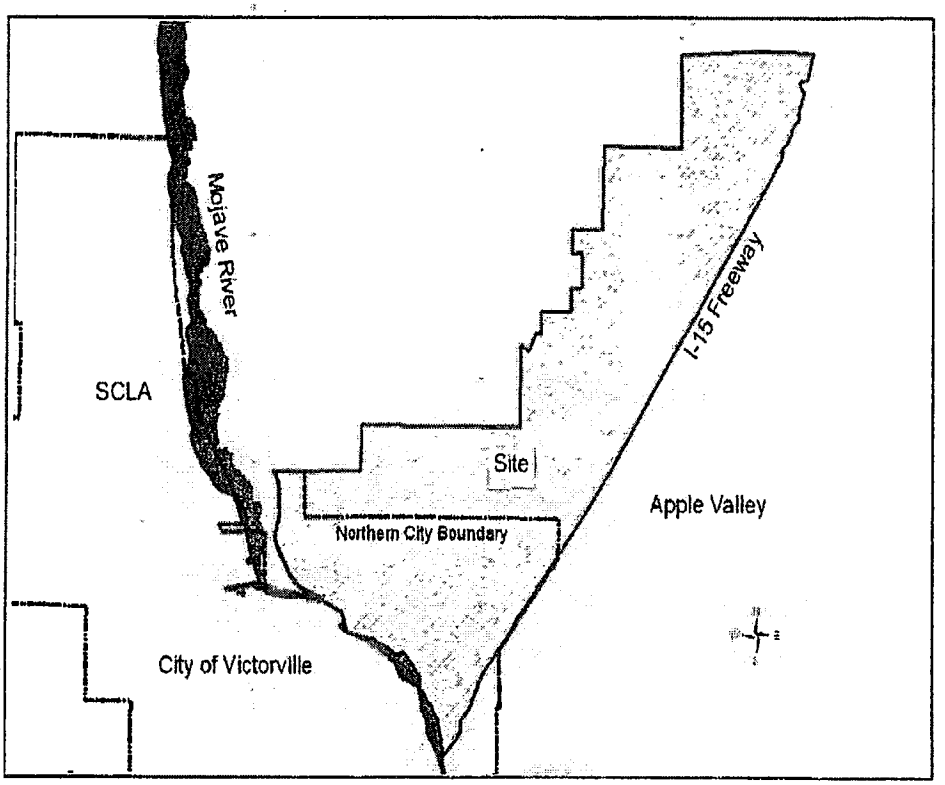
RECEIVED
AUG 31 2010
DEVELOPMENT DEPT.

Date: August 26, 2010

NOTIFICATION OF PLANNING COMMISSION ACTION

Case: DEV10-00008

Dear Property Owner:



The City of Victorville is proposing an amendment to the Desert Gateway Specific Plan to create a Resource Recovery overlay Zone which can be placed on properties to require the approval of a Conditional Use Permit to continue mining claims on property generally encompassed by the eastern bank of the Mojave River, the I-15 Freeway and the existing City boundary (commonly referred to as Northern Triangle property).

Inasmuch as your property is located either within the project area or within a 300-foot radius of property for the project, and pursuant to State Planning Law and/or Local Ordinance, you are being notified of the Public Hearing on this proposed project. For more details regarding this project, please call Chris Borchert, Assistant Director of Planning, at (760) 955-5135. The Public Hearing will be held before the Planning Commission on September 8, 2010, City Hall Council Chambers, 14343 Civic Drive, Victorville, California at 5:00 P.M.

If you do not plan to attend the Public Hearing and wish to have your comments made part of the written record, please provide any comments and/or recommendations regarding the proposed project in the space below and return prior to September 8, 2010. All comments and/or recommendations will become public information and be provided to the Planning Commission in its deliberations on this proposal. PLEASE RESPOND IN BLACK INK SO IT CAN BE REPRODUCED.

Opinions and/or recommendations: ABSOLUTELY NO!!!
YOU PEOPLE CAN'T TAKE CARE OF WHAT WE HAVE

Signature: [illegible] Assessor's Parcel No. 047207203 0000

Address: (Please Print) PO BOX 1485 ~~[illegible]~~ 17162 DANTE VV

YOU CAN'T UTILIZE SOUTH VICTORVILLES POTENTIAL

CITY OF
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Item #1

RECEIVED
SEP - 7 2010
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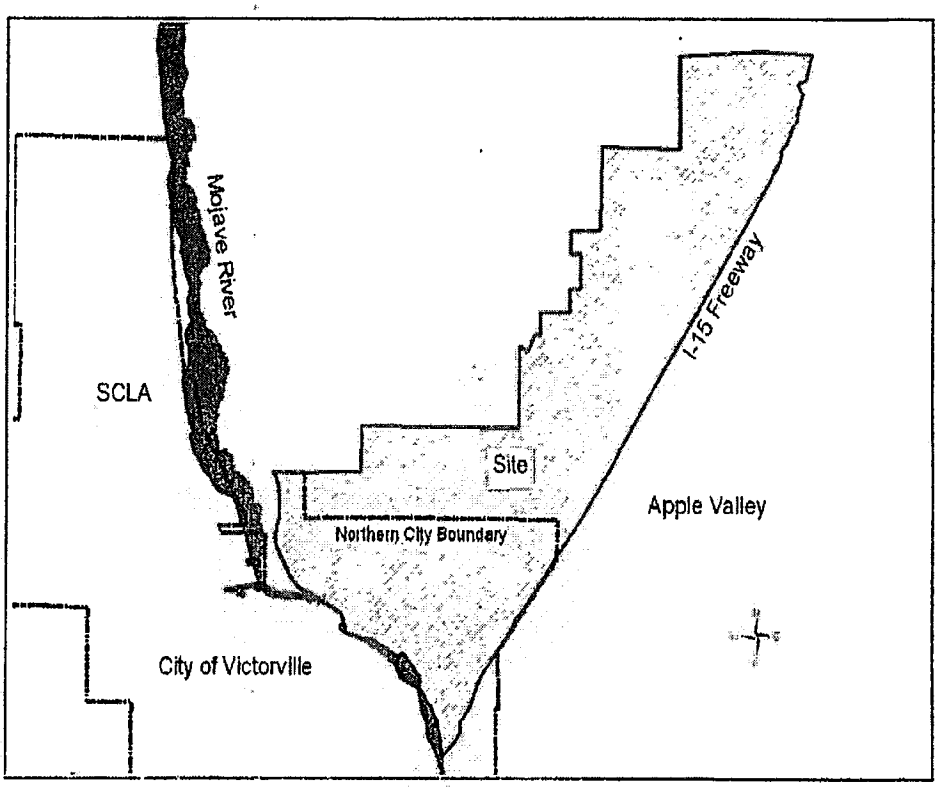

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Opinions and/or recommendations: I LICKE & SUPORT The project on My Deser Build The BEATIFUL CITY With MODERN AN FUNCIONAL TEGNOLOGIC

Signature: Manuel Herrera Assessor's Parcel No. DEV 10-00006

Address: (Please Print) P.O. box 243 ORO GRAnde cal 92368

CITY OF
VICTORVILLE

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Item #1

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DEVELOPMENT

Date: August 26, 2010

NOTIFICATION OF PLANNING COMMISSION ACTION

Case: DEV10-00008

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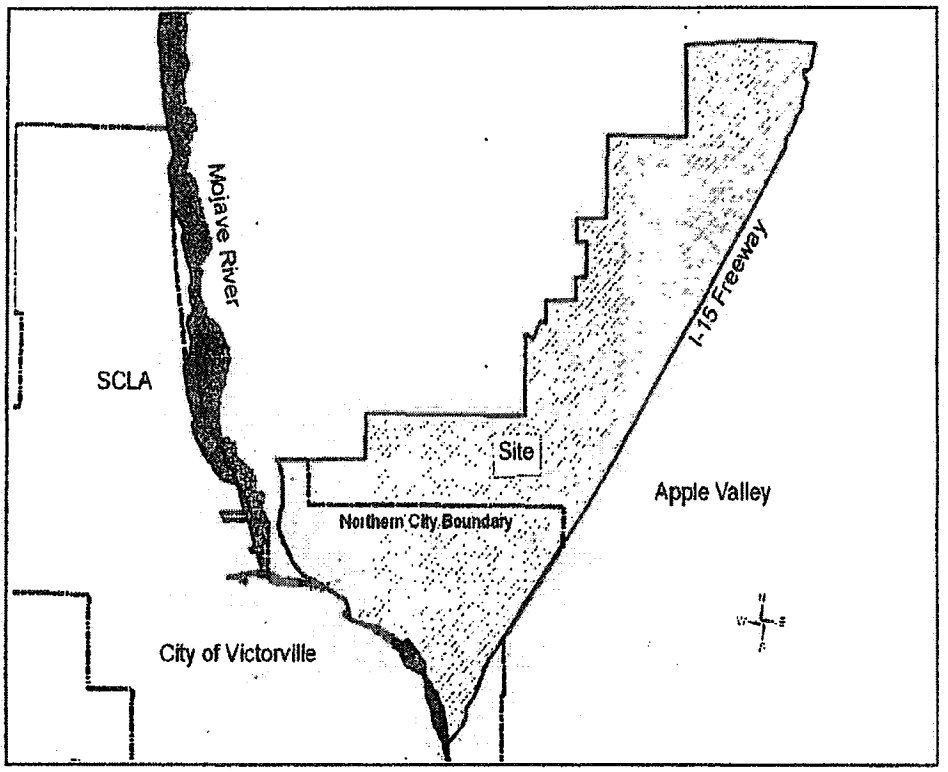

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Opinions and/or recommendations: We agree this plans, We do not want to Continue or expend Mining or Cement plants in this area for →

Signature: Don Lee Assessor's Parcel No. 047204104

Address: (Please Print) 2529 N Falconer Way Orange, CA 92867

→ Development this Section's site and protection of Envilomental problem

Department of Water and Power the City of Los Angeles

ITEM #1

ANTONIO R. VILLARAIGOSA
Mayor

Commission
LEE KANON ALPERT, *President*
THOMAS S. SAYLES, *Vice-President*
ERIC HOLOMAN
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

AUSTIN BEUTNER
General Manager
RAMAN RAJ
Chief Operating Officer

September 7, 20010

RECEIVED
SEP - 8 2010
DEVELOPMENT DEPT.

City of Victorville
Development Department
Planning, Building, Code Enforcement
14343 Civic Drive
P.O. Box 5001
Victorville, CA 92395-5001

To whom it may Concern

Subject: DWP File P-84724
Notification of Planning Commission Action, Case DEV10-00008
LADWP Transmission Line Right of Ways
IPA Transmission Line Right of Ways

This is in reply to a letter dated August 26, 2010 requesting comments on the amendment to the Desert Gateway Specific Plan to require the approval of Conditional Use Permit to continue mining claims in subject Assessor Parcel Numbers in the specified areas.

This letter is on behalf of the Los Angeles Department of Water and Power (LADWP) and the Intermountain Power Agency (IPA). It appears that each notification letter requires individual signatures and a method should be devised to address all the Assessor Parcel Numbers.

Following are comments on behalf of LADWP and IPA:

1) The power transmission line rights of way are an integral component of the transmission line system, which provides electric power to the City of Los Angeles and other local communities. Their use is under the jurisdiction of the Federal North American Electric Reliability Council (NERC). Safety and protection of critical facilities are the primary factors used to evaluate secondary land use proposals. The rights of way serve as platforms for access, construction, maintenance, facility expansion and emergency operations. Therefore, the proposed use may from time to time be subject to temporary disruption caused by such operations.

2) Provide plans that illustrate the IPA and LADWP Right of Way boundaries within the proposed Crescent Dunes Solar Energy Project improvements. Include towers and clearances from proposed improvements.

3) Conductor Clearances will be subject to the review and approval of the Transmission Engineering Group. The LADWP may need a copy of the conductor survey illustrating the cross sections showing our existing conductors and proposed improvements. See attached Department Conductor Survey Instructions. The Transmission Engineering Group will use the data to calculate and confirm that conductor clearances meet G.O. 95, Rule 61.6-B.

4) All construction activities shall adhere to the LADWP's Standard Conditions for Construction. See attached.

5) Provide cross sections of existing and proposed improvements within & adjacent to the IPA & LADWP Right of Ways.

NOTE: Cut & fill slopes inside the IPA & LADWP Transmission Line Right of Ways steeper than 2 horizontal to 1 vertical require retaining structures or geotechnical report approval.

6) Provide the location and elevations (heights) of all above and below ground structures. All ground elevations are to remain unchanged from existing conditions after proposed improvements associated with the Crescent Dunes Solar Energy Project are completed.

NOTE: Grading activity resulting in a vertical clearance between the ground and the transmission line conductor elevation less than thirty-five (35) feet within the IPA & LADWP Transmission Line Right of Ways are unacceptable. Ground cover for all below ground utilities shall not be less than four (4) feet.

7) When grading activity affects the Transmission Line Access Roads, the developer shall replace the affected access roads using the LADWP's Access Road Design Criteria. See attached.

8) Cathodic protection system, if any, shall have a design that does not cause corrosion to the IPA & LADWP facilities. A detailed design of the cathodic protection system shall be submitted for approval to the LADWP.

9) No grading shall be conducted within the IPA & LADWP Right of Ways without prior written approval of LADWP.

10) No structures shall be constructed within the IPA & LADWP Right of Ways without prior written approval of LADWP.

11) The LADWP prohibits drainage structures or the discharging of drainage onto the Transmission Line Right of Ways. Concentrated runoff can cause erosion especially to the transmission line tower footings.

12) The developer shall compact all fill slopes within the IPA & LADWP Right of Ways. The compaction shall comply with applicable Building Code requirements.

13) An area at least 50 feet around the base of each tower must remain open and unobstructed for necessary maintenance, including periodic washing of insulators by high pressure water spray.

14) No grading is allowed below the top of tower footing within the transmission line right of ways, in the immediate vicinity of the towers.

15) Additional conditions may be required following review of detailed site plans, grading/drainage plans, etc.

16) This reply shall in no way be construed as an approval of any project.

If you have questions or concerns regarding this matter, please contact me at (213) 367-0208.

Sincerely,

Casey Woo
Senior Real Estate Officer
CW:dc