



**PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT**

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**PLANNING COMMISSION AGENDA
REGULAR MEETING OF FEBRUARY 9, 2005, 9:00 A.M.
2222 "M" STREET, BOARD ROOM, THIRD FLOOR,
MERCED, CALIFORNIA**

I. CALL MEETING TO ORDER

II. ROLL CALL OF COMMISSIONERS

Jack Mobley; Steve Sloan, Chairman; Lynn Tanner; Gloria Bettencourt; Rudy Buendia

III. APPROVAL OF MINUTES

IV. CITIZEN COMMUNICATIONS

Public opportunity to address the Planning Commission on items of interest over which the Planning Commission has jurisdiction.

SPEAKERS

If you would like to address the Planning Commission on any item on the agenda, please pick up a 3" x 5" card in the foyer, fill it out with your name, address, and item you wish to speak on, and give it to someone at the staff table (to the left of the podium) prior to speaking.

V. PUBLIC HEARING

A. MINOR SUBDIVISION APPLICATION NO. 04076 – Jon Rankin - To divide a 142 acre parcel into 2 parcels and a remainder parcel: Parcel No. 1 = 20.0 acre, Parcel No. 2 = 20.0 acres and the Remainder Parcel = 101.9 acre. The project site is located on the south side of Mission Avenue, 3/4 mile east of Plainsburg Road in the Planada area on land designated as Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert**

B. ZONE VARIANCE APPLICATION No. 04010 AND MINOR SUBDIVISION APPLICATION No. 04060 - Kirsten Reinking - To vary from the minimum A - 1 zoned parcel size in order to allow the subdivision of an 18 acre parcel into two parcels; Parcel No. 1 = 4.8 acres and Parcel No. 2 = 13.2 acres. The property is located on the south side of Crane Avenue, 665 feet west of Tagnar Road in the Hilmar area on land designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Jeff Wilson**

- C. **CONDITIONAL USE PERMIT No. 04015 – Nextel Communications** – To allow construction of a telecommunications facility consisting of a 120 foot tall monopole, 12 panel antennas and support equipment, on a 77 acre parcel located on the west side of Lee Road, adjacent to its intersection with Turlock Road, in the Ballico area. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural) **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

VI. **CORRESPONDENCE**

VII. **GENERAL BUSINESS**

- A. **Appointment of Commissioners to the General Plan Review Steering Committee**

VIII. **DIRECTOR'S REPORT**

IX. **ADJOURNMENT**

APPEALS

Any person may appeal any action of the Planning Director or Planning Commission within five (5) calendar days after the day the action is made. [Within ten (10) calendar days of action on subdivisions]. The deadline for appeals of Planning Commission actions, excluding subdivisions, is 5:00 p.m. on the Monday following the Planning Commission meeting. Please note that appeals may not be submitted on days that the County is officially closed.

Appeals of Planning Director's actions may be filed with the Planning Department and appeals of Planning Commission actions may be filed with the Clerk of the Board of Supervisors. Appeals must state appellant's name, action appealed and reasons for appeal. A filing fee set by Resolution of the Board of Supervisors must be submitted with the written appeal.

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF FEBRUARY 9, 2005

A recording on tape and original minutes (for reference purposes only) of the Merced County Planning Commission meeting of February 9, 2005, are available in the Merced County Planning and Community Development Department, 2222 "M" Street, Second Floor, Merced, California.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:10 a.m., on February 9, 2005, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Jack Mobley
 Commissioner Steve Sloan-Chairman
 Commissioner Lynn Tanner
 Commissioner Gloria Bettencourt
 Commissioner Rudy Buendia

Staff Present: William Nicholson, Planning and Community Development
 Director
 Keith Woodcock, Assistant Director
 Kim Lewallen, Recording Secretary
 James Holland, Planner III
 Dave Gilbert, Planner III
 Jeff Wilson, Planner I

Legal Staff: Ruben Castillo, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

M/S MOBLEY - BETTENCOURT, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION APPROVED THE MINUTES OF JANUARY 12, 2005 AND JANUARY 26, 2005.

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. MINOR SUBDIVISION APPLICATION NO. 04076 – Jon Rankin - To divide a 142 acre parcel into 2 parcels and a remainder parcel: Parcel No. 1 = 20.0 acre, Parcel No. 2 = 20.0 acres and the Remainder Parcel = 101.9 acre. The project site is located on the south side of Mission Avenue, 3/4 mile east of Plainsburg Road in the Planada area on land designated as Agricultural land use in the General Plan and is zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Dave Gilbert**

Planner Dave Gilbert presented the Staff Report and Recommendation dated February 9, 2005.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 9, 2005

Page 2

The public hearing opened at 9:15 a.m.

Robert & Teresa Trost, residents on Mission Avenue, questioned the access road and where would the access be to the 101 acre parcel.

Planner Dave Gilbert responded that the applicant would have to provide an easement through one of the 20 acre parcels to get to the 101 acre parcel.

Larry Bowers, of BCA and representing the applicants, stated that the access goes adjacent to Planada canal.

Commissioner Tanner asked which way does it irrigate? Mr. Bowers stated that it comes out of both Planada canal and Dibley lateral.

Jon Rankin, applicant, stated that the property is irrigated along Mission Avenue and along the eastern border of the property.

The public hearing closed at 9:20 a.m.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS MINOR SUBDIVISION APPLICATION NO. 04076, FROM CEQA.

MOTION: M/S TANNER - MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 9, 2005, AND MAKES THE 11 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 11 FINDINGS, APPROVES MINOR SUBDIVISION APPLICATION NO. 04076 SUBJECT TO THE 5 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. A parcel map, including all parcels involved, shall be recorded within two (2) years of the Planning Commission approval date as required by the Subdivision Map Act and Merced County Subdivision Code.
2. A Right-to-Farm Certificate shall be placed on the parcel map notifying the potential buyers of the resulting parcels that the subject property is in the vicinity of active farming operations and residents may be subject to inconveniences or discomforts resulting from the pursuit of agricultural operation.
3. The applicant shall not discharge any drainage water from the property into the Merced Irrigation District (MID) facilities.
4. Irrigation water delivery shall be ensured to all new parcels and an irrigation easement shall be provided from the existing irrigation delivery gate currently serving the whole property if there is not an irrigation delivery located within each parcel.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 9, 2005

Page 3

5. The property owner shall obtain an “ingress/Egress Easement” from MID including a “Crossing Agreement” incorporated into the language to hold MID harmless of any liability associated with the existing crossing and a declaration that the property owner shall be solely responsible for all maintenance, repair, and/or replacement of said crossing. Any future crossings over or under MID facilities shall also require the aforementioned easements ad/or agreements.

B. ZONE VARIANCE APPLICATION No. 04010 AND MINOR SUBDIVISION APPLICATION No. 04060 - Kirsten Reinking - To vary from the minimum A - 1 zoned parcel size in order to allow the subdivision of an 18 acre parcel into two parcels; Parcel No. 1 = 4.8 acres and Parcel No. 2 = 13.2 acres. The property is located on the south side of Crane Avenue, 665 feet west of Tegnar Road in the Hilmar area on land designated as Agricultural in the General Plan and zoned A-1 (General Agricultural). **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner Jeff Wilson**

Planner Jeff Wilson presented the Staff Report and Recommendation dated February 9, 2005.

The public hearing opened at 9:30 a.m.

Kirsten Reinking, applicant, stated that she inherited this property from her grandfather. She is going to rent the 4.8 acre parcel to her cousin and sell off the 13.2 acres. She doesn't want to develop the smaller parcel.

Planning Director Bill Nicholson asked Ms. Reinking if she has spoken with her neighbors to west or the south to possibly do a Property Line Adjustment. Ms. Reinking replied no, they are pursuing the zone variance first to make this property available to a larger community.

Arnie Anderson, a farmer in the area for a decade already, stated that many parties are interested in the 13 acres.

Larry Bowers, BCA, stated that State Law specifically states in reference to variances, that if you grant or reject a variance that it does not create precedence. The 13 acre parcel can have a house built on it at any time. Specific neighbors are interested in buying the 13 acres for the benefit of their children to have a place to build a home. The reason they want it as a separate parcel is so that if the child builds a house they gain wealth from the property.

The public hearing closed at 9:39 a.m.

Mr. Nicholson explained that two ways to construct a home within a 1,000 ft. dairy, if a dairy owner signs off on a waiver or approval by the Planning Commission, a waiver could be approved. If the neighbors sign the waiver, they could put a home in with a restriction on the home to have a right-to-farm statement. It doesn't change how a dairy is operated.

County Counsel Ruben Castillo stated that in order to approve this variance, the findings must be made and be supported.

Chairman Sloan stated that he could support a convey and combine for this application, but he is unable to make the findings and cannot support a Zone Variance.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 9, 2005

Page 4

MOTION: M/S TANNER - BETTENCOURT, CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION DENIES ZONE VARIANCE APPLICATION No. 04010 AND MINOR SUBDIVISION APPLICATION No. 04060 DUE TO THE INABILITY TO MAKE THE LISTED FINDINGS.

- C. CONDITIONAL USE PERMIT No. 04015 – Nextel Communications** – To allow construction of a telecommunications facility consisting of a 120 foot tall monopole, 12 panel antennas and support equipment, on a 77 acre parcel located on the west side of Lee Road, adjacent to its intersection with Turlock Road, in the Ballico area. The property is designated Agricultural in the General Plan and zoned A-1 (General Agricultural) **TO APPROVE, DISAPPROVE OR MODIFY THE APPLICATION. Project Planner James Holland**

Planner James Holland presented the Staff Report and Recommendation dated February 9, 2005.

The public hearing opened at 9:58 a.m.

Stephanie Crosby, a representative for Nextel, accepts the conditions in the staff report. She wanted to discuss the paved access. She understands that the minimum width is 18 feet, so she wants to confirm that what the County wants to do is pave the edge of the roadway.

Steve Hamilton, Public Works/Road Division, confirmed that the access entrance will be paved from the edge of the pavement to the right of way line, so there is no requirement for the applicant to pave it's entire length.

The public hearing closed at 10:00 a.m.

MOTION: M/S TANNER - MOBLEY, CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. 04015, FROM CEQA.

MOTION: M/S TANNER – MOBLEY, AND CARRIED BY A VOTE OF 5 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATION DATED FEBRUARY 9, 2005, AND MAKES THE 13 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 13 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. 04015 SUBJECT TO THE 12 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

1. Conditional Use Permit Application No. 04015 is to allow Nextel Communications to construct and operate a wireless telecommunication facility, consisting of a 120 foot tall monopole, 12 panel antennas and support equipment, on a 77 acre parcel located on the west side of Lee Road, adjacent to its intersection with Turlock Road, in the Ballico area.
2. The applicants shall comply with all applicable regulations administered by the County. These regulations shall include, but not be limited to standards administered by the County Fire, Health, Planning and Public Works Departments.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 9, 2005

Page 5

3. The applicant shall obtain an Encroachment Permit from the Department of Public Works/Road Division, pay the required permit fees, and construct a rural “agricultural” type paved driveway approach at the access point onto Lee Road. The minimum width of the approach shall be 18 feet while the maximum width shall be 35 feet. All work shall be in accordance to the Merced County Public Works Improvement Standards and Specifications. This work shall be accomplished within six months from approval of this application.
4. The applicant shall submit plans for proposed access road design and surfacing materials for review and approval by the Public Works Road Division prior to building permit issuance.
5. In the event that any hazardous materials are to be stored at the project site in amounts exceeding 55 gallons, 500 pounds or 200 cubic feet of gas, the applicant shall prepare and submit a Hazardous Materials Business Plan to the Merced County Department of Public Health, Environmental Health Division
6. Nextel Communications shall provide the County with a signed agreement providing for the availability of the wireless monopole for collocation by other wireless service providers.
7. The applicants shall provide for tower lighting consistent with the requirements of subsection 18.47.24.C.1 of the Zoning Code.
8. Any signs proposed for the project site shall conform to the standards provided in subsection 18.47.24.C.3 of the Zoning Code.
9. The applicant shall post an acceptable type of financial security with the County to ensure proper maintenance of the facility and pay for its removal if it is abandoned, or the permit expires. This security shall be for not less than one and a half times the cost of facility removal.
10. If any work associated with the project is to be performed in a State right-of-way, the applicant shall obtain an Encroachment Permit from the State of California Department of Transportation (CalTrans). Any Encroachment Permit application must include (at a minimum) documentation of cultural, biological and hazardous waste studies within the CalTrans right-of-way.
11. The Nextel Communications lease area shall be maintained in a condition that will not be dangerous or injurious to neighboring property. Weeds, rubbish and other dangerous or injurious materials are a public nuisance and are required to be abated under MCC Section 9.25.
12. A mitigation-monitoring fee of **\$184.00** shall be paid prior to the issuance of final approval for this proposal. Should additional staff time be required for review of development plans or condition monitoring, the applicant shall reimburse the County for staff time at the established hourly rate at the time of plan review or inspection.

VI. CORRESPONDENCE

None

VII. GENERAL BUSINESS

Chairman Steven Sloan and Commissioner Lynn Tanner were appointed Commissioners for the General Plan Review Steering Committee by a vote of 5 – 0 Motion: Mobley – Buendia.

The Amarant Propane application revoked by the Planning Commission has been appealed and is going before the Board of Supervisors at the February 22, 2005 meeting.

VIII. DIRECTOR'S REPORT

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:15 a.m.