

MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF FEBRUARY 25, 2015

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of February 25, 2015 are available online at www.co.merced.ca.us/planning/plancomarchive.html.

I. CALL MEETING TO ORDER

The regularly scheduled meeting of the Merced County Planning Commission was called to order at 9:00 a.m., on February 25, 2015 in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present: Commissioner Jack Mobley – Acting Chairman
 Commissioner Robert Acheson
 Commissioner Mark Erreca
 Commissioner Rich Ford
 Commissioner Greg Thompson

Staff Present: Mark Hendrickson, Director
 Oksana Newmen, Deputy Director-Planning
 Ana Muniz-Laguna, Recording Secretary
 Jeff Wilson, Business Development Manager

Legal Staff: Richard Flores, County Counsel

Commissioners Absent: None

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. CONDITIONAL USE PERMIT NO. CUP14-009 -Verizon Wireless - To construct and operate a telecommunication facility consisting of a 103 foot monopole and an equipment building. The project is located at the south side of West Bell Drive, approximately 1,600 feet west of Lincoln Boulevard in the Livingston area. The project site is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **SS**

Recommendations: The actions requested are to:

- 1) Find the project exempt from CEQA review under Section 15303 "New Construction or Conversion of Small Structures" of the CEQA guidelines, and;
- 2) Approve Conditional Use Permit Application No. CUP14-009 based on the project findings and subject to the conditions of approval presented in the staff report.

MERCED COUNTY PLANNING COMMISSION
Minutes – February 25, 2015
Page 2

Ms. Oksana Newmen, Deputy Director, gave a PowerPoint presentation and summarized the Staff Report.

The public hearing opened at 9:09 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:10 a.m.

MOTION: M/S THOMPSON- ERRECA, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION FIND THE PROJECT EXEMPT FROM CEQA REVIEW UNDER SECTION 15303 “NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES” OF THE CEQA GUIDELINES; AND

MOTION: M/S THOMPSON- ERRECA, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION APPROVE CONDITIONAL USE PERMIT No. CUP14-009 BASED ON THE 9 PROJECT FINDINGS, AND THE 19 CONDITIONS OF APPROVAL PRESENTED IN THE STAFF REPORT.

Community and Economic Development Department

1. Conditional Use Permit No. CUP10-002 grants the construction and operation of a wireless telecommunication facility consisting of a monopole 103 feet in height, 12 panel antennas, and an approximated 194 square foot (11 foot 6 inches by 16 foot 10 ½ inches) equipment shelter in a 2,250 square foot area on an 18.7 acre parcel. The wireless telecommunication facility shall be developed and operated consistent with the approved plot plan, elevations, and operational statement. Minor Modifications to this approval may be reviewed and approved by the Director.
2. Applicant/property owner shall comply with all Federal, State, and Local agencies regulations.
3. For the purpose of condition monitoring, an inspection fee in the amount of **\$243** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant at the established hourly rate at the time of the inspection.
4. 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.
5. The applicant shall provide for the prompt removal of any graffiti that may be painted or otherwise marked on the equipment or structures approved by this permit.
6. The project site 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.

MERCED COUNTY PLANNING COMMISSION

Minutes – February 25, 2015

Page 3

7. Prior to issuance of a Building Permit, the applicant shall provide plans showing a warning light on top of the monopole in order to alert aircraft flying in the area.

8. Verizon Wireless c/o Complete Wireless Consulting Inc. must indemnify, defend and hold harmless, the County of Merced, its Board of Supervisors, commissions, officers, employees, agents and assigns (hereinafter “County”) from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney’s fees, expert witness and consultant fees and other costs and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the approval, modification, denial, or the exhaustion of administrative appeals associated with the Conditional Use Permit No. CUP14-009 (“project”) whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Verizon Wireless c/o Complete Wireless Consulting Inc. The liability of Verizon Wireless c/o Complete Wireless Inc. for indemnity under this term and condition shall apply, regardless of fault, to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of Verizon Wireless c/o Complete Wireless Inc., its employees, subcontractors, agents, and officers. The duty shall extend to any allegation or claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first notice of filing a lawsuit, claim, petition, or allegation of liability against County. Verizon Wireless c/o Complete Wireless Inc. will on request and at its expense, defend any action suit or proceeding arising hereunder. This term and condition shall not be limited to any claim, petition, demand, liability, judgment, award, interest, attorney’s fees, expert or consultant witness fees, legal research fees, staff and administrative costs, administrative record costs, materials, and costs and expenses of whatsoever kind or nature, that may arise at the time of project approval, modification, or denial, but shall also apply to all such claims and the like, after project approval, modification, denial, or the exercise or exhaustion of administrative appeals, including but not limited to actions arising from public interest, land use and environmental legal actions. Attorney’s fees shall include any and all attorney’s fees but not be limited to attorney’s fees and staff time incurred by the offices of County counsel. County shall have full discretion to select legal counsel of its own choosing to represent County, at a cost not exceeding the prevailing and reasonable rates for counsel practicing environmental and land use law in the State of California, or practicing any other area of law that the County determines the claim may reasonably require. This term and condition for indemnification shall be interpreted to the broadest extent permitted by law.

Public Works/Roads Division

9. The applicant shall construct an agricultural paved driveway approach to reduce deterioration of edge pavement on Bell Drive. An Encroachment Permit shall be obtained from the Merced County Department of Public Works prior to any construction.

Public Works/Building & Safety Division

10. Prior to the start of any construction, a California licensed engineer shall submit two (2) sets of plans and two (2) sets of calculations with one (1) set of all plans and calculations in an electronic format (either on CD/Disk, flash drive, or e-mail) to the Building & Safety Division for the wireless telecommunication facility.
11. Prior to issuance of any building permit, the applicant property owner shall submit a soils report. That report shall be completed by a California licensed geotechnical engineer.
12. The report must be reviewed by the design engineer to incorporate any mitigating measures into the design drawings. Two (2) copies of the report must also be submitted with the plans when applying for a permit.

Merced County Fire Department

13. Construction plans shall be submitted to the Merced County Fire Department for review. Once the construction plans have been reviewed the Fire Department shall provide the applicant a letter outlining specific requirements.
14. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of 0.5 inch (CFC Sec. 505.1).
15. All driveways accessing the parcel shall be surfaced with an approved all weather driving surfacing material. Shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all weather driving capabilities (CFC Sec. 503).
16. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches (CFC Sec. 503.2.1).
17. Emergency and Standby generators shall be installed in accordance with NFPA 110 and NFPA 11, Standby generators shall be listed in accordance with UL2200.
18. All construction shall be completed in a professional manner and in compliance with all provisions of the current California Building Standards Codes and all reference documents contained within. The Code Sections cited above are specific to your project and provided to assist you, they are not intended to be all-inclusive.

Merced County Division of Environmental Health

19. The applicant shall maintain an accurate hazardous material business plan with Merced County Division of Environmental Health and maintain compliance with all applicable hazardous material regulations

- B. MINOR SUBDIVISION APPLICATION NO. MS07-027 AND ADMINISTRATIVE PERMIT NO. AA08-033 – George Simmons and Don Chapin Company, Inc. -** Minor Subdivision No. MS07-027 proposes to subdivide 26.9 acres into four parcels: Parcel 1 = 15.0 acres, Parcel 2 = 3.46 acres, Parcel 3 acres = 3.46 acres and Parcel 4 = 5.0 acres. Administrative Permit No. AA08-033 proposes to construct a concrete batch plant on a 4.03 acre portion of proposed Parcel 1 (15.0 acres). The project site is located at the southeast corner of Henry Miller Avenue and Volta Road in the Volta area. The property is designated 'Industrial' and 'Neighborhood Commercial' in the Volta Rural Center and is zoned M-1 (Light Industrial) and C-1 (Neighborhood Commercial). **JW**

Recommendations: The actions requested are to:

- 1) Certify the Environmental Impact Report and adopt the Environmental Findings of Fact, and;
- 2) Approve Minor Subdivision No. MS07-027 and Administrative Permit No. AA08-033 based on the findings and subject to the conditions of approval and mitigation measures presented in the Staff Report and approve the Mitigation Monitoring and Reporting Program.

Mr. Jeff Wilson, Business Development Manager, gave a PowerPoint presentation and summarized the Staff Report. Mr. Wilson stated that Jana Waligorski with First Carbon Solutions, who prepared the Environmental Report and Dave Mitchell, Air Quality Specialist along with applicants Bob Simmons and Don Chapin are in the room and available to answer any questions.

Commissioner Thompson inquired if there was any discharge from the basin and Mr. Wilson clarified that any discharge is all contained on site.

The public hearing opened at 9:27 a.m.

Mr. Don Chapin, applicant, and Mr. David Sweigert, applicant's attorney, addressed the Commission and thanked the Commission and Staff that worked on the project. They stated they were available for any questions.

The public hearing closed at 9:29 a.m.

MOTION: M/S ERRECA- FORD, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION CERTIFY THE ENVIRONMENTAL IMPACT REPORT AND ADOPT THE ENVIRONMENTAL FINDINGS OF FACT; AND

MOTION: M/S ERRECA- FORD, AND CARRIED BY A VOTE OF 5-0, THE PLANNING COMMISSION APPROVE MINOR SUBDIVISION No. MS07-027 AND ADMINISTRATIVE PERMIT No. AA08-033 BASED ON THE 10 PROJECT FINDINGS, AND SUBJECT TO THE 18 CONDITIONS OF APPROVAL AND MITIGATION MEASURES PRESENTED IN THE STAFF REPORT AND APPROVE THE MITIGATION MONITORING AND REPORTING PROGRAM.

VI. COMMISSION ACTION ITEM (S)

None

VII. DIRECTOR'S REPORT

None

VIII. COMMISSIONERS COMMENTS

None

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 9:31 a.m.