

**MERCED COUNTY PLANNING COMMISSION**  
**MINUTES FOR MEETING OF AUGUST 26, 2015**

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The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of August 26, 2015, are available online at [www.co.merced.ca.us/planning/plancomarchive.html](http://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 August 26, 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 Greg Thompson  
  Commissioner Mark Erreca  
  Commissioner Rich Ford  
  Commissioner Robert Acheson

Staff Present:                       Mark Hendrickson, Director  
  Oksana Newmen, Deputy Director Planning  
  Ana Muniz-Laguna, Recording Secretary  
  Brian Guerrero, Planner III  
  Sandy Saechao, Planner I  
  Pam Navares, Planner I

Legal Staff:                         Michael Linden, Deputy County Counsel

**III. APPROVAL OF MINUTES**

None

**IV. CITIZEN COMMUNICATIONS**

None

**V. PUBLIC HEARINGS**

**A.     ADMINISTRATIVE APPLICATION No. AA15-033 – Eliseo Jarillo** - To operate a Semi-Mobile Food Vendor on property located at the southwest corner of I-5 and South Mercey Springs Road in the Los Banos area. The property is designated Commercial land use in the General Plan and zoned H-I-C (Highway Interchange Center) in the Zoning Code. **BG**

**Recommendations: The actions requested are to:**

- 1) Determine that Administrative Application No. AA15-033 is exempt from CEQA Review under Section 15061(b)(3) of the CEQA Guidelines, and;
- 2) Approve Administrative Application No. AA15-033 based on the project findings and subject to the recommended conditions of approval listed in the Staff Report

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated August 26, 2015.

The public hearing opened at 9:04 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:05 a.m.

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**MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS ADMINISTRATIVE APPLICATION No. AA15-033 FROM CEQA.**

**MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 26, 2015, AND MAKES THE 10 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES ADMINISTRATIVE APPLICATION No. AA15-033 SUBJECT TO THE 16 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Community and Economic Development Department

1. Administrative Permit No. AA15-033 is granted to establish a semi-mobile food vendor with outdoor seating in the parking lot of an existing convenience store and gas station located on a 1.1 acre parcel located at 24729 Interstate 5 in the Los Banos area, in accordance with the approved Plot Plan and Operational Statement.
2. The project shall operate in a manner that is consistent with the approved Plot Plan and applicant's Operational Statement. Minor Modifications may be approved by the Community and Economic Development Director upon submittal of an acceptable application.
3. If the Administrative Permit is not implemented within one year, it shall expire and become null and void. The Planning Commission may extend the Permit if a request is filed by the applicant prior to its expiration.
4. The applicant shall comply with the Merced County Zoning Code Development Standards required for semi-mobile food vendors (Section 18.47.79.D) including, but not limited to the following:
  - a. The operating hours shall be from 10:00 am to 5:00 pm, Monday through Friday.
  - b. There shall be adequate trash receptacles adjacent to the semi-mobile food vendor.
  - c. The site shall be kept clean and free of litter at all times. Trash and garbage shall be removed from the site at the end of each day.
  - d. Waste water generated by this use shall not be released on-site or into any storm drainage or irrigation system.
  - e. Grease shall be disposed per requirement of the Division of Environmental Health.
  - f. No additional advertising sign except a sign attached to the semi-mobile food vendor shall be reviewed and approved by the Community and Economic Development Director.
  - g. A copy of the administrative permit shall be kept with the operator at all times and shall not be transferable to another operator.
5. If the applicant/owner does not currently have a Business License Permit, they shall obtain one from the Community and Economic Development Department. The property owner/applicant shall pay all required fees for the Business license. The property owner/applicant shall annually renew the Business License and pay all required fees.

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6. For the purpose of conditions monitoring, an inspection fee in the amount of **\$162.00** 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.

### County Counsel

7. INDEMNITY AND HOLD HARMLESS AGREEMENT:

ELISEO JARILLO has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, 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 ELISEO JARILLO.

ELISEO JARILLOS's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of ELISEO JARILLO, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, 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 claim, petition, or allegation of liability against County. ELISEO JARILLO will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following ADMINISTRATIVE PERMIT NO. AA15-033 approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

### Department of Public Health/ Environmental Health Division

8. The semi-mobile food operator shall obtain and maintain a current stationary mobile food facility permit issued by MCDEH.
9. The semi-mobile food vehicle must be parked within 200 feet travel distance of an MCDEH approved toilet and permanent hand washing station. The food vehicle staff shall have access to this restroom at all times the vehicle is parked on-site. If the restrooms are locked, the food vehicles staff must have a key in their possession.
10. The mobile food facility operator shall provide to MCDEH food program staff a current, valid document from the restroom owner indicating the days and times the restrooms are available and granting permission for the mobile food vendor staff to use the restrooms. A copy of the permission document shall be kept on the mobile food facility.
11. The mobile food facility shall not obtain any water from the premises, nor shall any wastewater from the food facility be drained to any on-site septic system, on-site community sewer connection, or to the ground surface. No solid waste (trash, etc.) from the mobile food facility shall be disposed on the parcel.

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12. The mobile food facility shall immediately cease operating if the water supply to the restroom fails or the on-site septic system fails.
13. The mobile food facility must report to its approved commissary at least once every day for cleaning, discharge of waste water and food, and all other required functions.

Department of Public Works/Buildings Division

14. Restrooms must be made available to employees of the taco truck at all times and within a reasonable proximity to the truck parking location.
15. Show how power, if needed, will be supplied to the truck. Installation of any new electrical supplies will require a permit from the Building & Safety Division office. If an extension cord is to be used it must meet the following requirements:
  - a. The cord must be one continuous cord from the truck to its termination point.
  - b. The cord would have to be rated for outdoor use.
  - c. If crossing any areas that may have vehicle traffic, it must be rated for use in a vehicular path.

Merced County Fire Department

16. Maintain 30-foot clearance of all dry vegetation around the vehicle while cooking.

**B. MAJOR MODIFICATION NO. 15-005 TO CONDITIONAL USE PERMIT NO. CUP1079 – Longview Mennonite School** - To add a 2-story 11,200 square foot building with a kitchen, gymnasium, restrooms and storage space to an existing parochial school. The property is located on the south side of West Longview Avenue, 0.25 miles east of North Lincoln Boulevard in the Livingston area. The property is designated Agricultural land use in the General Plan and zoned A-1 (General Agricultural). **BG**

**Recommendations: The actions requested are to:**

- 1) Adopt the Initial Study/Negative Declaration based upon the CEQA findings listed in the Staff Report, and;
- 2) Approve Major Modification No. MM15-005 to Conditional Use Permit No. CUP1079 based on the findings and subject to the conditions of approval listed in the Staff Report.

Planner Brian Guerrero presented the Staff Report and recommendations of approval dated August 26, 2015.

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

No one spoke in favor or opposition to this application.

The public hearing closed at 9:11 a.m.

**MOTION: M/S ERRECA - ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION ADOPTS THE INITIAL STUDY/NEGATIVE DECLARATION BASED UPON CEQA FINDINGS FOR MAJOR MODIFICATION NO. 15-005 TO CONDITIONAL USE PERMIT NO. CUP1079 FROM CEQA.**

**MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 26, 2015, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES MAJOR MODIFICATION NO. 15-005 TO CONDITIONAL USE PERMIT NO. CUP1079 SUBJECT TO THE 18 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

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### Community and Economic Development Department

1. Major Modification No. MM15-005 to CUP1079 is approved to construct a two story, 11,200 square foot multi-purpose room at the existing school facility located on a four acre parcel. All conditions of approval placed on the previous land use entitlements shall remain in effect.
2. The project shall operate in a manner that is consistent with the approved Plot Plan and the applicant's Operational Statement. Minor Modifications may be approved by the Director upon submittal of an acceptable application.
3. The applicant shall comply with all of the applicable standard conditions of approval listed in the Planning Commission Resolution No 97-1.
4. For the purpose of conditions monitoring, an inspection fee in the amount of **\$162.00** 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.
5. The project is subject to all applicable Local, State and Federal regulations.

### Fire Department

#### 6. **Automatic Fire Sprinkler System**

An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115m<sup>2</sup>).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.
4. *The structure exceeds 12,000 square feet (1155 m<sup>2</sup>), contains more than one fire area containing exhibition and display rooms, and is separated into two or more buildings by fire walls of less than 4-hour fire-resistance rating without openings.* (CFC 903.2.1.3)

#### 7. **FIRE DEPARTMENT ACCESS:**

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)**

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 503.2.1)**

If Security gates are installed they shall be approved by this office. As required, including the installation of a Merced County coded "Knox" key switch or "Knox" padlock, whichever is most appropriate in relation to your needs. **(CFC Sec. 506)**

#### 8. **Fire Alarm**

An automatic fire alarm system shall be provided in new buildings of private schools.

**Exception:** Automatic detection devices are not required where an approved automatic sprinkler system is installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate on Sprinkler water flow and manual

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activation is provided from a normally occupied location. **(CFC 907.2.3.7)**

### 9. FIRE FLOW REQUIREMENTS:

All projects shall meet the fire flow requirements as per California Fire Code. In addition, all options shall be approved by this office.

***Required water supply.*** *An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. (CFC 507.1)*

### Building Department

10. You must hire an architect or engineer licensed in the state of California to draw the plans for the building and detail all of the modifications that will be required. The plans must be submitted to the Building department for approval and a permit before any construction can begin. We require submittals to consist of:

1. 2 sets of plans and 2 sets of calculations on paper
2. 1 set of all plans and calculations in an electronic format (either on CD/Disk, flash drive, or e-mail).

11. California requires that all proposed commercial structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigating measures into the design drawings. Two copies of the report must also be submitted with the plans when applying for a permit.

### County Counsel

### 12. INDEMNITY AND HOLD HARMLESS AGREEMENT:

Longview Mennonite School, has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, 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 Longview Mennonite School.

Longview Mennonite School's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of Longview Mennonite School, their agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, 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 claim, petition, or allegation of liability against County. Longview Mennonite School, will on request and at their expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following MAJOR MODIFICATION NO. MM15-005 TO CONDITIONAL USE PERMIT NO. CUP1079,

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approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Division of Environmental Health

13. The kitchen shall be operated under a food facility permit issued by Merced County Division of Environmental Health (MCDEH).
14. All septic tanks shall be protected against flooding. All septic tanks, sumps, risers, and lids shall be rated for truck traffic unless protected from traffic. The leach field associated with this application shall be unpaved, contain no structures, and be protected from flooding and compaction (vehicular traffic, parking, etc.).
15. The leach field replacement areas (300% of required leach) shall remain unpaved, contain no structure, and not be under a permanent drive or parking area.
16. The facility shall submit with the application for any building permit associated with this land use permit, a plot plan indicating all paved areas, the location of all existing and proposed structures, driveway and parking areas, wells, septic tanks, leach fields, and replacement leach field areas (300% for non-residential systems). A copy of the plot plan shall be provided directly to MCDEH at the time the building permit application is submitted.

Merced Irrigation District (MID)

17. If storm drainage is to be directed to any MID facility, owner/applicant must enter into a "Storm Drainage Agreement" with the Merced Irrigation Drainage Improvement District No. 1 (MIDDID No. 1), paying all applicable fees. MID will not guarantee available drainage capacity within said laterals. Any facility upgrades needed to accommodate storm drainage from subject parcel will be at the owner's expense.

San Joaquin Valley Air Pollution Control District

18. The proposed project may be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). The above list of rules is neither exhaustive or exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District Rules can be found online at [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm)

- C. CONDITIONAL USE PERMIT No. CUP15-011 – Hilltop Ranch** - To construct and operate a 111.6 foot point-to-point communication tower. The project is located on the south side of Turlock Road, approximately 875 feet west of Looney Road in the Ballico area. The property is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive 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. CUP15-011 based on the project findings and subject to the conditions of approval presented in the staff report.

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Planner Sandy Saechao presented the Staff Report and recommendations of approval dated August 26, 2015.

The public hearing opened at 9:14 a.m.

No one spoke in favor or opposition to this application.

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

**MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP15-011 FROM CEQA.**

**MOTION: M/S ERRECA - ACHESON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 26, 2015, AND MAKES THE 9 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES CONDITIONAL USE PERMIT No. CUP15-011 SUBJECT TO THE 11 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

### Community and Economic Development Department

1. Conditional Use Permit No. CUP15-011 grants the construction and operation of a 111.6 foot point-to-point communication tower on a 59.19 acre parcel. The communication tower shall be developed and operated consistently 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 provide for the prompt removal of any graffiti that may be painted or otherwise marked on the equipment or structures approved by this permit.
5. The radio tower is for private use only.
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.
7. Hilltop Ranch c/o Simon Marta 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. CUP15-011 ("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 Hilltop Ranch c/o Simon Marta. The liability of Hilltop Ranch c/o Simon Marta 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



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part of Hilltop Ranch c/o Simon Marta, 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. Hilltop Ranch c/o Simon Marta 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/Building & Safety Division

8. A hired architect or engineer licensed in the state of California must draw the plans and provide any structural calculations for the proposed tower facility. The plans must be submitted to the Building Division for approval and a permit before any construction can begin. Required submittals must consist of:
  - a. Two sets of plans and two sets of calculations/reports on paper.
  - b. One set of all plans and calculations/reports in an electronic format (either on CD/Disk, flash drive, or e-mail).
9. All proposed non-residential structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigating measures into the design drawings.

### Merced County Fire Department

10. If security gates are installed, they shall be approved by the Fire Department. As required, the applicant shall install and maintain a Merced County Coded "Knox" key switch or "Knox" padlock, whichever is most appropriate in relation to your needs.
11. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications.

- D. CONDITIONAL USE PERMIT No. CUP15-008 - Verizon Wireless/Sac Wireless - To construct and operate a telecommunication facility consisting of a 105 foot monopole and equipment building. The property is located on the south side of Turlock Road, 0.5 miles west of Dry Creek Road in the Snelling area. The property is designated Agricultural land use in the General Plan and zoned A-2 (Exclusive Agricultural). PN**

### **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. CUP15-008 based on the project findings and subject to the conditions of approval presented in the staff report.

Planner Pam Navares presented the Staff Report and recommendations of approval dated August 26, 2015.

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The public hearing opened at 9:23 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:24 a.m.

**MOTION: M/S ERRECA - THOMPSON, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP15-008 FROM CEQA.**

**MOTION: M/S ERRECA - FORD, AND UNANIMOUSLY CARRIED, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED AUGUST 26, 2015, AND MAKES THE 8 PROJECT FINDINGS SET FORTH IN THE STAFF REPORT AND, APPROVES CONDITIONAL USE PERMIT No. CUP15-008 SUBJECT TO THE 15 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:**

**Conditions:**

Community and Economic Development Department

1. Conditional Use Permit No. CUP15-008 grants the construction and operation of a wireless telecommunication facility consisting of a stealth monopole 105 feet in height with 12 panel antennas, two microwave antennas, and outdoor equipment within a 1,600 square foot area, on a 17 acre parcel. The wireless telecommunication facility shall be developed and operated consistently 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.
7. The monopole shall allow co-location to other service providers upon request.
8. 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.
9. Verizon Wireless c/o SAC Wireless 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,

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modification, denial, or the exhaustion of administrative appeals associated with the Conditional Use Permit No. CUP15-008 (“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 SAC Wireless. The liability of Verizon Wireless c/o SAC Wireless 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 SAC Wireless, 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 SAC Wireless 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

10. The applicant shall construct a driveway approach on Turlock Road to access the project site. An Encroachment Permit shall be obtained from the Department of Public Works before any construction starts.

### Public Works/Building & Safety Division

11. A hired architect or engineer licensed in the state of California must draw the plans and provide any structural calculations for the proposed tower facility. The plans must be submitted to the Building Division for approval and a permit before any construction can begin. Required submittals must consist of:
  - a. Two (2) sets of plans and two (2) sets of calculations/reports on paper.
  - b. One set of all plans and calculations/reports in an electronic format (either on CD/Disk, flash drive, or e-mail).
12. All proposed non-residential structures must first obtain a soils report completed by a licensed geotechnical engineer. That report must be reviewed by the design engineer to incorporate any mitigating measures into the design drawings.

### Merced County Fire Department

13. If security gates are installed, they shall be approved by the Fire Department. As required, the applicant shall install and maintain a Merced County Coded “Knox” key switch or “Knox” padlock, whichever is most appropriate in relation to your needs.

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14. The applicant shall install Reflective Building Identification that meets Fire Department Design Specifications.

Merced County Division of Environmental Health

15. 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.

**VI. COMMISSION ACTION ITEM (S)**

None

**VII. DIRECTOR'S REPORT**

Mark Hendrickson introduced new Planner Jennifer Borobia.

**VIII. COMMISSIONERS COMMENTS**

None

**IX. ADJOURNMENT**

There being no further business, the meeting adjourned at 9:25 a.m.