MERCED COUNTY PLANNING COMMISSION
MINUTES FOR MEETING OF JULY 28, 2010

The agenda, original minutes, video, and all supporting documentation (for reference purposes only) of the Merced County Planning Commission meeting of July 28, 2010, 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 9:05 a.m., on July 28, 2010, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

II. ROLL CALL OF COMMISSIONERS

Commissioners Present:	Commissioner Lynn Tanner - Chairman Commissioner Jack Mobley - Vice Chairman Commissioner Cindy Lashbrook Commissioner Greg Thompson
Staff Present:	Robert Lewis, Development Services Director William Nicholson, Assistant Development Services Director Kim Anderson, Recording Secretary
Legal Staff:	Marianne Greene, Deputy County Counsel
Commissioners Absent:	Commissioner Mark Erreca

III. APPROVAL OF MINUTES

None

IV. CITIZEN COMMUNICATIONS

None

V. PUBLIC HEARINGS

A. ZONE VARIANCE APPLICATION No. ZV10-001 - "In N' Out Burger" - To allow one additional freestanding sign and vary from the 20 foot height limit to a maximum height of 75 feet and vary from the 100 square feet display area limit to a maximum limit of 232.50 square feet. The project site is located at the northeast corner of Henry Miller Road and Highway 33 in the Santa Nella area. The property is designated Santa Nella General Commercial and zoned C-2 (General Commercial). **Continued from the June 23, 2010 hearing. BG**

Recommendation: The actions requested are to:

1) Determine that the project is categorically exempt from CEQA review under Section 15303(e) of the CEQA Guidelines, and;
2) Approve Zone Variance Application No. ZV10-001 based on the project findings, and subject to the conditions of approval presented in the Staff Report.

Planner David Gilbert submitted a memo from the applicant requesting this application be continued to the August 25, 2010 Planning Commission meeting.

MOTION: M/S MOBLEY - THOMPSON, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION APPROVES TO CONTINUE ZONE VARIANCE APPLICATION No. ZV10-001 TO THE AUGUST 25, 2010 MEETING.

B. **CONDITIONAL USE PERMIT No. CUP10-002 - Verizon Wireless -** To construct a wireless communication facility consisting of a 150 foot tall monopole with 12 branch panel antennas, and a 240 square foot (12' x 20') equipment building on a 1.0 acre parcel. The project is located at the northwest corner of Railroad Avenue and Le Grand Road in the Le Grand area. The property is designated Le Grand SUDP - Industrial land use in the General Plan and is zoned M-1 (Light Manufacturing). **DG**

Recommendation: The actions requested are to:

1) Make the determination that the project is categorically exempt from CEQA review under Section 15303(d) of the CEQA Guidelines, and;
2) Approve Conditional Use Permit No. CUP10-002 based on the project findings and subject to the conditions of approval presented in the Staff Report.

Planner David Gilbert presented the Staff Report and recommendations of approval dated July 28, 2010.

Commissioner Lashbrook asked how many acres are in the light manufacturing zone.

Planner David Gilbert responded and said the project site is one acre.

Commissioner Lashbrook asked how much out of that entire area is light manufacturing zone.

Planner David Gilbert said the lease area is much smaller than the parcel. The parcel is one acre. The surrounding area is also zoned light manufacturing as well as the public properties along the railroad. The residential uses to the southwest, properties along the railroad, are zoned light manufacturing.

Commissioner Lashbrook said there are no landscaping standards, is that a gap in the code? There is only a cyclone fence and prefabricated building.

Planner David Gilbert said you can add a condition to add some landscaping along the fence, maybe vines would work. It is up to the Commissioners to add a condition.

Commissioner Lashbrook asked where the pole would sit and is thinking of the neighbors concern regarding his view.

Planner David Gilbert showed a photo on the presentation of the largest tree in the background. There are other trees in the area that are about the same height.

Commissioner Lashbrook asked who determines the financial security amount.

Planner David Gilbert said that is determined by the Code and the Planning Department collects that. The Public Works Department would be responsible for removing that.

Chairman Tanner asked if the diesel generator is just back up. Planner David Gilbert said yes.

Commissioner Thompson said the west view showed a cyclone fence, is that existing already?

Planner David Gilbert said yes.

Commissioner Thompson said there is a difference between the monopole designs versus the lattice, this has no supporting wires?

Planner David Gilbert said that is correct and the Code prohibits guy wires.

Commissioner Lashbrook asked if the cyclone fence would be along the roadway or up against the fence.

Planner David Gilbert said the plot plan shows a cyclone fence around the facility itself and then there is the existing fence that surrounds the one acre parcel. He doubts the applicant

would be able to landscape in this area, so if you do condition this to landscaping it would only be within the leasing area.

Commissioner Lashbrook asked if it is along the Railroad Avenue?

Planner David Gilbert said that only trucks go down that road from the processing plant.

The public hearing opened at 9:25 a.m.

No one spoke in favor or opposition to this application.

The public hearing closed at 9:26 a.m.

MOTION: M/S MOBLEY - LASHBROOK, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION EXEMPTS CONDITIONAL USE PERMIT No. CUP10-002, FROM CEQA.

MOTION: M/S MOBLEY – LASHBROOK, AND CARRIED BY A VOTE OF 4 - 0, THE PLANNING COMMISSION CONCURS WITH THE STAFF REPORT AND RECOMMENDATIONS DATED JULY 28, 2010, AND MAKES THE 10 FINDINGS SET FORTH IN THE STAFF REPORT AND, BASED ON THOSE 10 FINDINGS, APPROVES CONDITIONAL USE PERMIT No. CUP10-002 SUBJECT TO THE 13 CONDITIONS SET FORTH IN THE STAFF REPORT AS FOLLOWS:

Conditions:

Planning and Community Development Department

1. Conditional Use Permit No. CUP10-002 grants the construction and operation of a wireless telecommunication facility consisting of a monopole 150 feet in height, 12 panel antennas, and a 240 square foot (12' x 20') equipment shelter on a 1.0 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 Development Service 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. 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 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, modification, denial, or the exhaustion of administrative appeals associated with the Conditional Use Permit No. CUP10-002 ("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 of 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 and 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.

<u>Fire Department</u>

9. 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. The plan review fee is $182 with a final inspection fee of $85.

10. All construction shall be completed in a professional manner and in compliance with all provisions of the current California Building Standards.

11. All security gates shall be approved and shall be installed with a Merced County coded "Knox" key switch or "Knox" padlock, whichever is most appropriate in relation to you needs (CFC Section 506).

Public Works/Building & Safety Division

12. Prior to the start of any construction, a California licensed engineer shall submit four (4) sets of plans and three (3) sets of calculations to the Building & Safety Division for the wireless telecommunication facility.

13. 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 soils engineer. The engineer shall review the report before designing the foundation to ensure that all requirements from the soils engineer are met.

VI. COMMISSION ACTION ITEM(S)

None

VII. DIRECTOR'S REPORT

A. PLANNING COMMISSION TRAINING PROGRAM – Regional Planning and Climate Change, Understanding SB 375. Planner Robert King gave the presentation to the Planning Commissioners.

VIII. COMMISSIONERS COMMENTS

Commissioner Lashbrook asked if the tentative dates have been set for the next session of Focus Groups for the General Plan Update process.

Robert Lewis, Development Services Director, said he has a conference call with the Consultants for the General Plan update this Friday July 30, 2010 to work out the dates for the Focus Groups meetings.

IX. ADJOURNMENT

There being no further business, the meeting adjourned at 10:01 a.m.