CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, June 5, 2013

Chairperson COLBY called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Dwight Amey, Nathan Mackin, Kimberly Madayag, Carole McCoy, Peter Padilla, Brandon Williams, and Chairperson Travis Colby

Commissioners Absent: None

Staff Present: Planning Manager Espinosa, Associate Planner Nelson, Deputy City Attorney Rozell, and Recording Secretary Lane

1. APPROVAL OF AGENDA

M/S MCCOY-PADILLA, and carried by unanimous voice vote, to approve the Agenda as submitted.

2. MINUTES

M/S WILLIAMS-MADAYAG, and carried by unanimous voice vote, to approve the Minutes of May 8, 2013, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

4.1 Conditional Use Permit #1182, initiated by Liz Johnson for AT&T, applicant for Simply Space, LLC, property owners. This application involves a request to allow a 75-foot tall stealth wireless communications tower in the form of a Eucalyptus tree at 1124 Yosemite Avenue, generally located at the southwest corner of Yosemite Avenue and R Street within Residential Planned Development (RP-D) #21.

Associate Planner NELSON reviewed the report on this item. For further information, refer to Staff Report #13-11.

Public testimony was opened at 7:11 p.m.

Speaker from the Audience in Favor:

LIZ JOHNSON, representing the applicant, Coarsegold

No one spoke in opposition to the project.

Public testimony was completed at 7:13 p.m.

The Commission discussed whether to amend Condition #12 only or also amend Condition #20 to help ensure that children would not be able to climb the "Mono-Eucalyptus" wireless communications tower.

M/S MCCOY-AMEY, to adopt a Categorical Exemption regarding Environmental Review #13-09, and approve Conditional Use Permit #1182, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #13-11, amending Conditions #12 and #20 as follows:

(Note: ~~Strikethrough~~ deleted language, underline added language.)

"12. The branch pattern on the "Mono-Eucalyptus" stealth facility shall have a maximum of 18 inches of height between each

other and the lowest branch on the 'tree' shall be a maximum of ~~20~~ 35 feet above the ground.

"20. ~~If~~ Fencing is ~~proposed~~ required around the site, the fencing shall be integrated into the landscape area. The material for any proposed fencing shall be of high quality and shall not include chain-link fencing. The use of barbed wire is prohibited."

AYES: Commissioners McCoy and Amey
NOES: Commissioners Padilla, Mackin, Williams, and Madayag
ABSENT: None
ABSTAIN: Chairperson Colby

The motion failed.

M/S MADAYAG-MACKIN, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #13-09, and approve Conditional Use Permit #1182, subject to the Findings and twenty-two (22) Conditions set forth in Staff Report #13-11, amending Condition #12 as follows (RESOLUTION #3020):

(Note: ~~Strikethrough~~ deleted language, underline added language.)

"12. The branch pattern on the "Mono-Eucalyptus" stealth facility shall have a maximum of 18 inches of height between each other and the lowest branch on the 'tree' shall be a maximum of ~~20~~ 35 feet above the ground."

AYES: Commissioners Amey, Padilla, Mackin, Williams, Madayag, and Chairperson Colby
NOES: Commissioner McCoy
ABSENT: None
ABSTAIN: None

4.2 Cancellation of June 19 and July 3, 2013, Planning Commission Meetings due to Lack of Items.

M/S PADILLA-MCCOY, and carried by unanimous voice vote, to cancel the Planning Commission meetings of June 19 and July 3, 2013.

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

Chairperson COLBY inquired about the status of the Halferty Development Company/BMC West Corporation project at the corner of W. 16th Street and Martin Luther King Jr. Way that was approved in December 2012 by the Planning Commission. Planning Manager ESPINOSA replied that construction of the project had not commenced and one tenant, 7-11, had pulled out of the project.

6. ADJOURNMENT

There being no further business, Chairperson COLBY adjourned the meeting at 7:30 p.m.

Respectfully submitted,

KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:

TRAVIS COLBY, Chairperson
Merced City Planning Commission

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CITY OF MERCED
Planning Commission

Resolution #3020

WHEREAS, the Merced City Planning Commission at its regular meeting of June 5, 2013, held a public hearing and considered **Conditional Use Permit #1182**, initiated by Liz Johnson for AT&T, applicant for Simply Space, LLC, property owners. This application involves a request to allow a 75-foot tall stealth wireless communications tower in the form of a Eucalyptus tree at 1124 Yosemite Avenue, generally located at the southwest corner of Yosemite Avenue and R Street within Residential Planned Development (RP-D) #21; also known as Assessor's Parcel No. 058-020-043; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #13-11; and,

NOW THEREFORE, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #13-09, and approve Conditional Use Permit #1182, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner Madayag, seconded by Commissioner Mackin, and carried by the following vote:

AYES: Commissioners Amey, Padilla, Mackin, Williams, Madayag, and Chairperson Colby
NOES: Commissioner McCoy
ABSENT: None
ABSTAIN: None

Adopted this 5th day of June 2013

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:
Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1182 AT&T/Simply Space Cell Tower

Conditions of Approval
Planning Commission Resolution #3020
Conditional Use Permit #1182

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (elevations) -- Attachments B and C of Staff Report #13-11, except as modified by the conditions.

2. All conditions contained in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superceded by Code) shall apply.

3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.

4. The Project shall comply with the conditions set forth in Resolution #2621 for Conditional Use Permit #968 previously approved for this project.

5. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.

6. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the

developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

7. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.

8. In coordination with the Police Department and Fire Department, a frequency/inter-modulation study shall be prepared. Service may not be initiated until these departments have reviewed and have found the study to be acceptable.

9. At the time of building permit submittal, the applicant shall provide certification by a Radio Frequency Engineer, stating the RFR measurements and that they meet FCC radio frequency radiation standards.

10. The maximum height of "Mono-Eucalyptus" stealth facility shall not exceed 75 feet and the maximum height of the antennas mounted to the stealth facility shall not exceed 71 feet in height.

11. The tower shall be located as close as possible to the northern end of the adjacent storage building.

12. The branch pattern on the "Mono-Eucalyptus" stealth facility shall have a maximum of 18 inches of height between each other and the lowest branch on the "tree" shall be a maximum of 35 feet above the ground.

13. The "Mono-Eucalyptus" stealth facility shall not have any form of steps, ladder, or pegs protruding from its side.

14. The color of the Mono-Eucalyptus shall match that of a Eucalyptus tree. These colors tend to be green (leaves) and brown (bark) and shall be consistently maintained. The antennas and any mounting equipment shall be painted to match the colors of the "tree."

15. The "Mono-Eucalyptus" stealth facility shall be maintained at all times. At no time shall the "Mono-Eucalyptus" be faded or worn down to a state that would be considered unacceptable to City standards for a Stealth Facility. Should the natural weather elements (wind, rain, etc.) deteriorate

any portion of the tree, new items of similar likeness shall be installed, replacing the deteriorated items.

16. No signs, other than warning and safety signage, shall be located on a support tower or ancillary facility.

17. Other than lighting required by the FAA or other regulatory agency for the purpose of safety, lights are not permitted on the "Mono-Eucalyptus" pole. Any lighting used on the equipment shelter shall be appropriately "down-shielded" to keep light within the boundaries of the site and not impact surrounding properties.

18. Projections or appendages of any sort are not permitted, except for those related to a common Stealth Telecommunications Tower. If there are antennas projecting outward, they shall be screened behind the branches and shall be painted a color similar to the branches (green).

19. All ancillary equipment shall be contained inside the existing storage building on the site. The equipment proposed on the exterior of the building (i.e., multi-meter rack, air conditioner condenser units, coax cable bridge) shall be screened on all sides using a four-foot wide dense landscape buffer to match the existing landscaping on the site in order to block the equipment from public view.

20. If fencing is proposed around the site, the fencing shall be integrated into the landscape area. The material for any proposed fencing shall be of high quality and shall not include chain-link fencing. The use of barbed wire is prohibited.

21. Any noise generated by the facility from the equipment or the tower shall be kept to a minimum so as not to cause a nuisance to the neighborhood.

22. All equipment, fencing, and other surfaces shall be maintained free of graffiti.

n:shared:planning:PC Resolutions:CUP#1182 Exhibit A