

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #16-03

AGENDA ITEM: 4.3

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Jan. 6, 2016

PREPARED BY: Julie Nelson,
Associate Planner

SUBJECT: **Conditional Use Permit #1209**, initiated by MT2 Telecom, on behalf of SEW Enterprises, LLC, property owners. This application involves a request to construct an 85-foot-tall wireless communication tower in the form of a mono-pine tree to allow the relocation of the existing wireless communication towers currently located on top of the existing three-story buildings located at 625 and 645 West Olive Avenue. These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation.
PUBLIC HEARING

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #15-38 (Categorical Exemption)
- 2) Conditional Use Permit #1209

SUMMARY

The project site is located on the north side of Olive Avenue, west of M Street (625 and 645 West Olive Avenue) (Attachment A). There are two three-story buildings existing on the site (Attachment B). There are several wireless communication antennas mounted on the roof of both buildings. The property owner is requesting approval to construct a wireless stealth mono-pine cell tower near the northwest corner of the property (Attachment C) and relocate the existing antennas from the rooftops to the new mono-pine tower. The mono-pine tower would be located within an approximately 2,100-square-foot enclosed area along with the necessary equipment for each antenna/cell carrier (Attachment C). The proposed mono-pine stealth tower is designed to replicate a pine tree (Attachment D). The top of the mono-pole would be 80 feet with the branches of the mono-pine extending up to a height of 85 feet tall. The antennas on the pole would be mounted at a maximum height of 80 feet. Photo simulations showing the tree and the surrounding area are found at Attachment E.

The relocation of the towers would make way for the existing buildings to be demolished and a new development to be constructed.

Staff is recommending approval subject to conditions.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #15-38 (Categorical Exemption) and Conditional Use Permit #1209 (including the adoption of the Resolution at Attachment I), subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations), and Exhibit 3 (photo simulations), -- Attachments C, D, and E, except as modified by the conditions.
- *2) All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”) 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) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- *5) 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 (with counsel selected by the City), 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 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.
- *6) 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.
- *7) 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.

- *8) 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.
- *9) All landscaping shall comply with State Water Resources Control Board Resolution No. 2015-0032 "To Adopt an Emergency Regulation for Statewide Urban Water Conservation" or the most recent water regulations adopted by the State and City addressing water conservation measures. If turf is proposed to be installed in park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees or other landscaping shall be provided with a drip irrigation or micro-spray system.
- 10) The maximum overall height of the "Mono-Pine" stealth facility shall not exceed 85 feet. The maximum height of the mono-pole shall not exceed 80 feet. Antennas mounted to the stealth facility shall not be mounted higher than 80 feet in height.
- 11) The design of the mono-pine shall closely resemble the appearance of a real pine tree. At a minimum, the branch pattern on the "Mono-Pine" 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 feet above the ground.
- 12) The "Mono-Pine" stealth facility shall not have any form of steps, ladder, or pegs protruding from its side.
- 13) The color of the Mono-Pine shall match that of a real pine 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."
- 14) The Mono-Pine stealth facility shall be maintained at all times. At no time shall the Mono-Pine 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.
- 15) No signs, other than warning and safety signage, shall be located on a support tower or ancillary facility.
- 16) Other than lighting required by the FAA or other regulatory agency for the purpose of safety, lights are not permitted on the "Mono-Pine" 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.
- 17) 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).
- 18) All ancillary equipment shall be contained inside the area enclosed by a solid fence. All ancillary equipment shall be screened from view from the public right-of-way.

- 19) The proposed 8-foot-tall CMU wall proposed to enclose the cell facility and ancillary equipment is approved as proposed. The gate providing access to the facility shall be of solid material or other approved material that would screen the equipment inside the facility from public view. The CMU wall shall be integrated into the site with landscaping consistent with other landscaping on the site.
- 20) The site shall be provided with landscaping consistent with the other developments on the site. If the other developments on the site have not been landscaped at the time the cell facility is complete, landscaping for the cell facility may be deferred for a period not to exceed 6 months unless an extension of time is granted by the Development Services Director.
- 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.
- 23) In order to allow the existing buildings on the site to be demolished in a timely manner and make way for the remainder of the site to be developed, temporary cell towers (C.O.W. – cells on wheels) may be used for a period not to exceed 6 months. The C.O.W.'s shall be located on the project site. Every effort shall be made to locate them in an area that is not highly visible from Olive Avenue. The location of the C.O.W.'s shall be approved by the Planning staff prior to installation.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The proposed project is a request to construct a Mono-Pine stealth facility for wireless communication antennae and to relocate the existing wireless communication antennae from the roof of the existing three-story buildings (Attachment B). The proposed facility would include an 85-foot-tall Mono-Pine tower along with the necessary ancillary equipment for each carrier/antenna. Currently there are three carriers with antennae and room for a fourth carrier in the future. The facility is approximately 2,100 square feet and would be enclosed by an 8-foot-tall CMU wall that would be painted and textured to match the future buildings on the site.

The facility would be constructed near the northwest corner of the site near the western-most driveway entrance from Fairfield Drive. The Mono-Pine would be approximately 25 feet from Fairfield Drive and approximately 175 feet from Olive Avenue. Although the proposed Mono-Pine tower would be taller than the trees in the area, there are several real pine trees nearby.

In order to allow construction of the other development on the site as soon as possible, the applicant is also requesting approval to use temporary cell towers for a short time. In order for the other development to take place, the existing buildings must be demolished. However, the demolition can't take place until the existing antennae are removed from the buildings. Therefore, the applicant is requesting to use temporary cell towers or a Cell on Wheels (C.O.W.'s) (Attachment G) while the permanent facility is under construction. Condition #23 limits the use of the C.O.W.'s for a period not to exceed 6 months and requires approval of the location by Planning staff prior to installation.

Surrounding Uses
Attachment A

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Regency Theater & Franciscan Convalescent Hospital (across Fairfield Drive)	P-D #1	Regional/Community Commercial (RC)/ Commercial Office (CO)
South	Offices (across Olive Avenue)	P-D #15	Commercial Office (CO)
East	El Pollo Loco Restaurant	P-D #1	Thoroughfare Commercial (CT)
West	Coldwell Banker - Gonella Realty	P-D #1	Regional/Community Commercial (RC)

BACKGROUND

The existing three-story buildings located on the project site were originally approved and constructed in the early 1960's. The site has historically been designated for office uses. However, in 1978, the Planning Commission approved a hair salon to locate within one of the buildings. In 1999, the General Plan designation was changed from Commercial Office (CO) to Regional/Community Commercial (RC) and the Site Utilization Plan designation was changed from "office" to "retail" for the first floor of the buildings only. The second and third floors remained designated for Commercial Office uses. Therefore, because the first floor of the site has a retail designation, the proposed retail uses are consistent with the General Plan and Site Utilization Plan designations.

In the late 1990's, approval was granted for wireless communication equipment to be installed on the rooftops of the two buildings. Since the original approval, additional equipment and antennae have been installed on the buildings.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Regional Community Commercial (RC) and the zoning designation of Planned Development (P-D) #1 if constructed and operated in compliance with the recommended conditions of approval.

Compliance with the Zoning Ordinance

- B) Merced Municipal Code Section 20.92.050 limits the location and type of telecommunication towers that can be located within sensitive land areas. Sensitive land areas are identified as: (a) within 300 feet of a scenic corridor; (b) under jurisdiction of the airport; (c) historic resources; and, (d) within 300 feet of a residentially-zoned property. None of these apply in this case.

This section also requires a Conditional Use Permit be approved for the installation of a telecommunications tower within 300 feet of a residential zone or designation as shown on the General Plan Land Use Map.

In addition to the requirements of Section 20.92.050, Section 20.92.070 sets forth the review procedures for telecommunications towers within each zoning district. In the case of a Planned Development, Conditional Use Permit approval is required.

Traffic/Circulation

- C) The installation of the telecommunications tower would not increase the traffic to the site or change the circulation on the site. Other than traffic during the construction/installation period, there would only be additional traffic to the site when maintenance is required.

Parking

- D) No additional parking spaces are required with this use. The installation of the telecommunications tower does not affect the existing parking on the site.

Tower Design

- E) The proposed tower would be constructed to look like a pine tree, which would be compatible with other trees in the surrounding area. The overall height of the “tree” would be 85 feet with the antennas being mounted no higher than 80 feet (Attachment D). The required mechanical equipment that’s necessary for the tower would be inside the area enclosed by the proposed 8-foot-tall CMU wall. Photo simulations showing the tower and the surrounding area are provided at Attachment E. The photo simulations show the existing conditions and the existing conditions with the tower from all four directions.

As proposed, the tree branches would start at a height of approximately 30 feet above the ground. In order to give the tree a more natural appearance, Condition #11 requires the lowest branches to be a maximum of 20 feet above the ground. In addition, this Condition requires the spacing of the branches be a maximum of 18-inches apart.

The tower is designed to accommodate up to four carriers (co-location). As proposed, each carrier’s antenna array would be mounted at a different height ranging from 48 feet to 78 feet high (Attachment D). Each array contains 12 antennas (Attachment F). Currently, there are 3 carriers identified for the facility with room to add one additional carrier in the future.

Site Design

- F) The cell facility would be located near the northwest corner of the site near the westernmost driveway entrance off of Fairfield Drive. The tower and all equipment would be located within an approximately 2,100-square-foot area enclosed by an 8-foot-tall CMU wall. Access to the facility would be through a 12-foot-wide gate on the south side of the facility. Landscaping would be provide around the perimeter of the site (Condition #20).

The tower would be approximately 25 feet from Fairfield Drive and approximately 175 feet from Olive Avenue. The site is designed for three carriers with space for an additional carrier in the future.

Landscaping

- G) The project site would be surrounded by landscaping along the perimeter of the CMU wall (Conditions #19 and #20). However, in order to allow the landscaping to be integrated with the remainder of the site and not be destroyed during construction of the other buildings on the site, Condition #20 allows the landscaping to be deferred until the CVS building is completed and landscaped. However, this condition limits the length of time for the deferral to no more than 6 months from the time a building permit is issued for the tower unless an extension is granted by the Development Services Director.

Development Standards

- H) Per Merced Municipal Code Section 20.92.060, all wireless communication facilities shall comply with the following development standards and requirements in addition to complying with all other applicable provisions of the Merced Municipal Code and the *Merced Vision 2030 General Plan*.

Color: Support towers shall be provided in a color that best allows it to blend into the surroundings. Antennas shall be placed and colored to blend into the architectural detail and coloring of the host structure.

Compliance with Standard: The color of the Mono-Pine tower will be compatible with the surrounding trees and landscaping. There are pine trees currently on the site and in the median along Olive Avenue. There are also pine trees on other sites in the area. The colors used for the Mono-Pine would be consistent with a real tree. Condition #13 requires the colors of the tower and antennae to match the colors of a real pine tree.

Display (Signs): No signs or display shall be located on a support tower or ancillary facilities except for warning and safety signage.

Compliance with Standard: The applicant has not proposed any signing to be attached to the tower. Condition #15 prohibits all signs other than warning and safety signing.

Equipment shelters: The following guidelines are to be used to ensure that equipment shelters are compatible with their surroundings: (1) equipment shelters located in underground vaults; or (2) equipment shelters designed consistent with the architectural features of the buildings immediately surrounding the site locations; or (3) equipment shelters camouflaged behind an effective year-round landscape buffer.

Compliance with Standard: All the equipment would be located within the fenced area and screened from public view by the 8-foot-tall wall and landscaping (Conditions #18 and #19).

Interference: Wireless communication facilities shall not cause interference with public communication equipment.

Compliance with Standard: Condition #7 requires the applicant to work with the Police and Fire Departments to prepare a frequency/inter-modulation study to ensure the proposed telecommunications facility does not interfere with the City's communication equipment.

Landscaping and fencing: The following guideline is to be used to ensure that wireless communications facilities are compatible with their surroundings: Installation of landscaping, served with an automatic underground irrigation system, that effectively screens the view of the tower site from adjacent properties. The standard buffer shall consist of a landscaped strip at least four (4) feet wide at the site perimeter, and fencing. Vines shall be used to cover the fence. Use of barbed wire is prohibited. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Compliance with Standard: The proposed project includes the construction of an 8-foot-tall CMU fence to surround the entire facility. The fence would be finished with texture and color to match the future buildings on the site. Landscaping would be provided around the perimeter of the fencing as required by Conditions #19 and #20.

Lighting: Except as specifically required by the Federal Aviation Administration (FAA) or other applicable authority, support towers shall not be artificially lighted. In order to reduce glare, such lighting shall be shielded from the community to the extent allowed by the FAA. Equipment shelters may use security lighting that is appropriately down-shielded to keep light within the boundaries of the site and not impact surrounding properties.

Compliance with Standard: All lighting shall be in compliance with FAA regulations. Any lighting for the equipment area shall be down-shielded to protect prevent light from spilling over onto the adjacent properties. Condition #16 addresses lighting on the site and requires compliance with this standard.

Radio frequency radiation (RFR): Upon request to construct a wireless communications facility or to mount wireless communication antennas to an existing wireless communication facility, the applicant shall provide certification by a Radio Frequency Engineer, stating the RFR measurements and that they meet FCC radio frequency radiation standards.

Compliance with Standard: Condition #8 requires this certification be submitted at time of building permit issuance.

Setbacks and siting:

1. All equipment shelters or other on-the-ground ancillary equipment shall meet the setback requirements of the zone in which they are located.
2. Antenna and antenna arrays are exempt from the setback standard of this section and from the setbacks for the zone in which they are located.
3. Support towers that do not exceed 125% of the height limit of the zone in which they are located need only meet the setback requirements for that zone.

4. Support towers that exceed 125% of the height limit of the zone in which they are located shall be set back from all property lines as required by that zone or one foot for every 10 feet of total tower height, whichever produces the greater setback.
5. To the greatest extent possible, support towers should be placed to the rear or side of buildings.

Compliance with Standard: The site is located within Planned Development (P-D) #1. This P-D does not specify specific setback requirements. However, through a discretionary review, specific setbacks may be required. Based on Standard #4 above, an 85-foot-tall tower would need to have a setback of at least 8 ½ feet. The tower is approximately 25 feet from Fairfield Drive and approximately 175 feet from Olive Avenue, which are both greater than the minimum setback required by this standard.

The tower is located near the northwest corner of the site. Because the site has roads on both the north and south sides and other buildings to the east and west, this location is the most appropriate for the site. The proposed location places the tower behind the future buildings on the site and away from Olive Avenue.

Heights: No support tower, other than a stealth facility, may exceed the following heights:

1. Within a Commercial Office (C-O) zone and a Neighborhood Commercial (C-N) zone: 70 feet; and,
2. Within a Central Commercial (C-C) zone, a Thoroughfare Commercial (C-T) zone, and a General Commercial (C-G) zone: 120 feet; and,
3. Within an Industrial zone: 150 feet, and,
4. Within a Planned Development: as permitted by the site utilization plan.

Compliance with Standard: The proposed tower would be 85-feet tall and is considered a stealth facility with its pine tree design. Therefore, with Conditional Use Permit approval, the tower could exceed the above height limits. Planned Development (P-D) #1 does not specify any height limits. Therefore the height is subject to approval by the Planning Commission. The existing buildings on the site are approximately 30 feet tall. There is a pine tree on the site in front of the buildings that is approximately 55-60 feet tall. The cell tower located behind In-Shape on G Street is 85 feet tall, so the proposed height of this tower is consistent with that approval (which is also in a Planned Development).

Neighborhood Impact/Interface

- I) The project site is located on the north side of Olive Avenue, just west of M Street. The site is surrounded by commercial uses other than the Franciscan Convalescent Facility located to the northeast across Fairfield Drive (Attachment A). This facility would be approximately 175 feet from the tower facility. The Franciscan is enclosed by a 6-foot-tall fence on the south side of the property, but it appears that the side of the property facing the proposed tower is used for storage and maintenance, not for patient rooms.

The use of a stealth facility decreases the impact on the surrounding area by helping to integrate the tower with the surrounding natural landscape. The requirement to provide a landscaping combined with the conditions of approval addressing lighting, noise, etc. reduces the impacts to the area.

Public hearing notices were sent to all property owners within 300 feet of the site. To date, staff has not received any contact from the any property owners in the area regarding this proposal.

Environmental Clearance

- J) The Planning staff has conducted an environmental review (# 15-38) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption is being recommended (Attachment H).

Attachments:

- A) Location Map
- B) Existing Buildings
- C) Site Plan
- D) Elevations
- E) Photo Sims
- F) Antenna Design
- G) C.O.W. (Cell On Wheels)
- H) Categorical Exemption
- I) Draft Planning Commission Resolution



UA Theater

Franciscan Convalescent Hospital

FAIRFIELD

M

Gonella Realty

Subject Site

El Pollo Loco

OLIVE

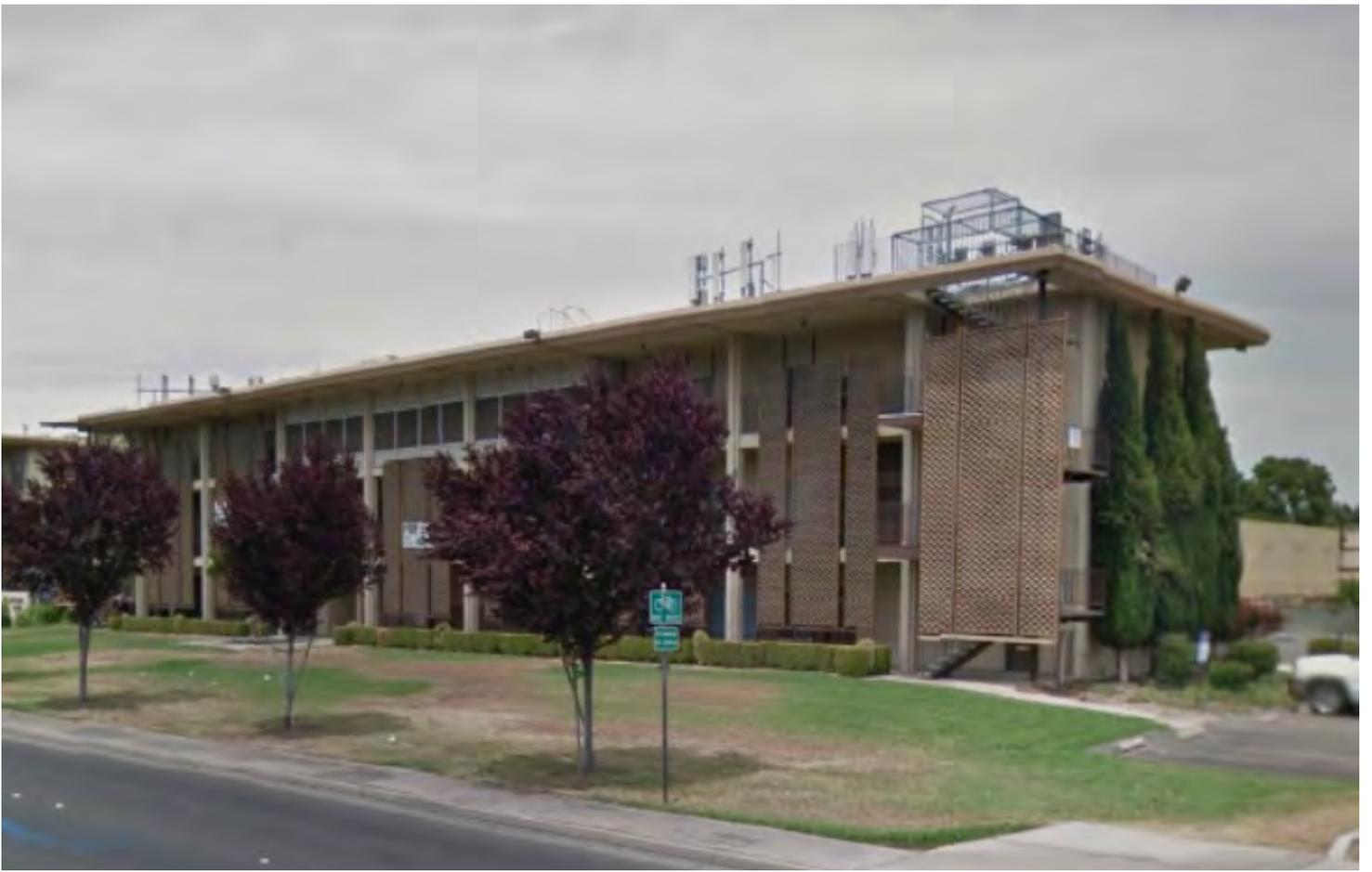
Offices

Social Security Administration

OLIVEWOOD



ATTACHMENT A



ATTACHMENT B



MERCED MALL RELO
 645 OLIVE AVE
 MERCED, CA 95348

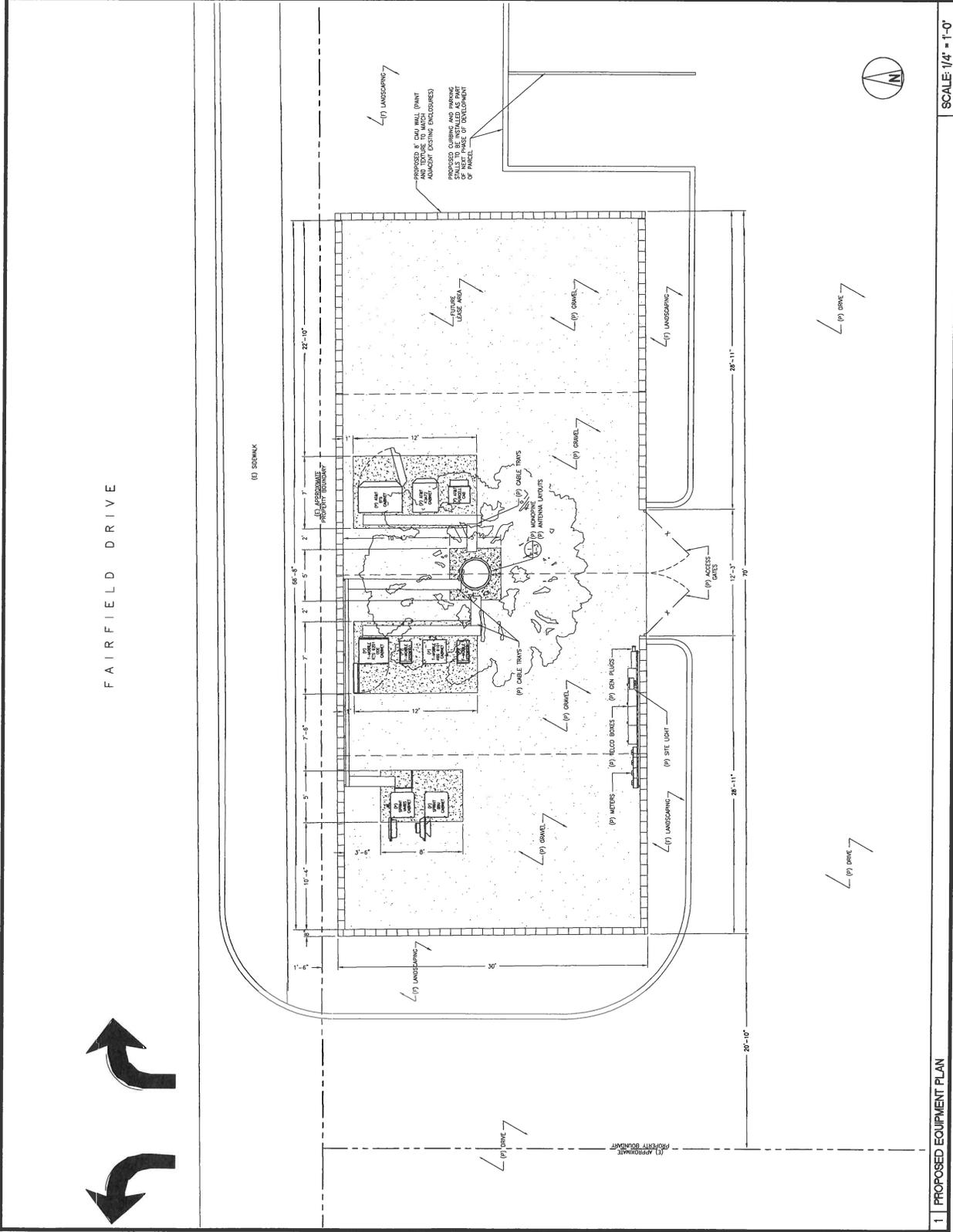
STAMP:

DRAWN BY: R. MONTANEZ			
CHECKED BY: C. NELSON			
NO.	DATE	ISSUE	INITIALS
1	10.20.15	90% ZD	RM/CH
2	11.09.15	100% ZD	RM/CH
3	12.08.15	100% ZD P.L.N.	SN/RM

SHEET TITLE
**PROPOSED
 SITE PLAN**

SHEET NUMBER
A-2

JOB # WD



1 PROPOSED EQUIPMENT PLAN

MT2
TELECOM, LP
 1015-B AIRBORNE ROAD
 RFO VISTA, CA 94571
 PHONE: (707) 374-5075
 FAX: (707) 374-6134

MERCED MALL RELO
 645 OLIVE AVE
 MERCED, CA 95348

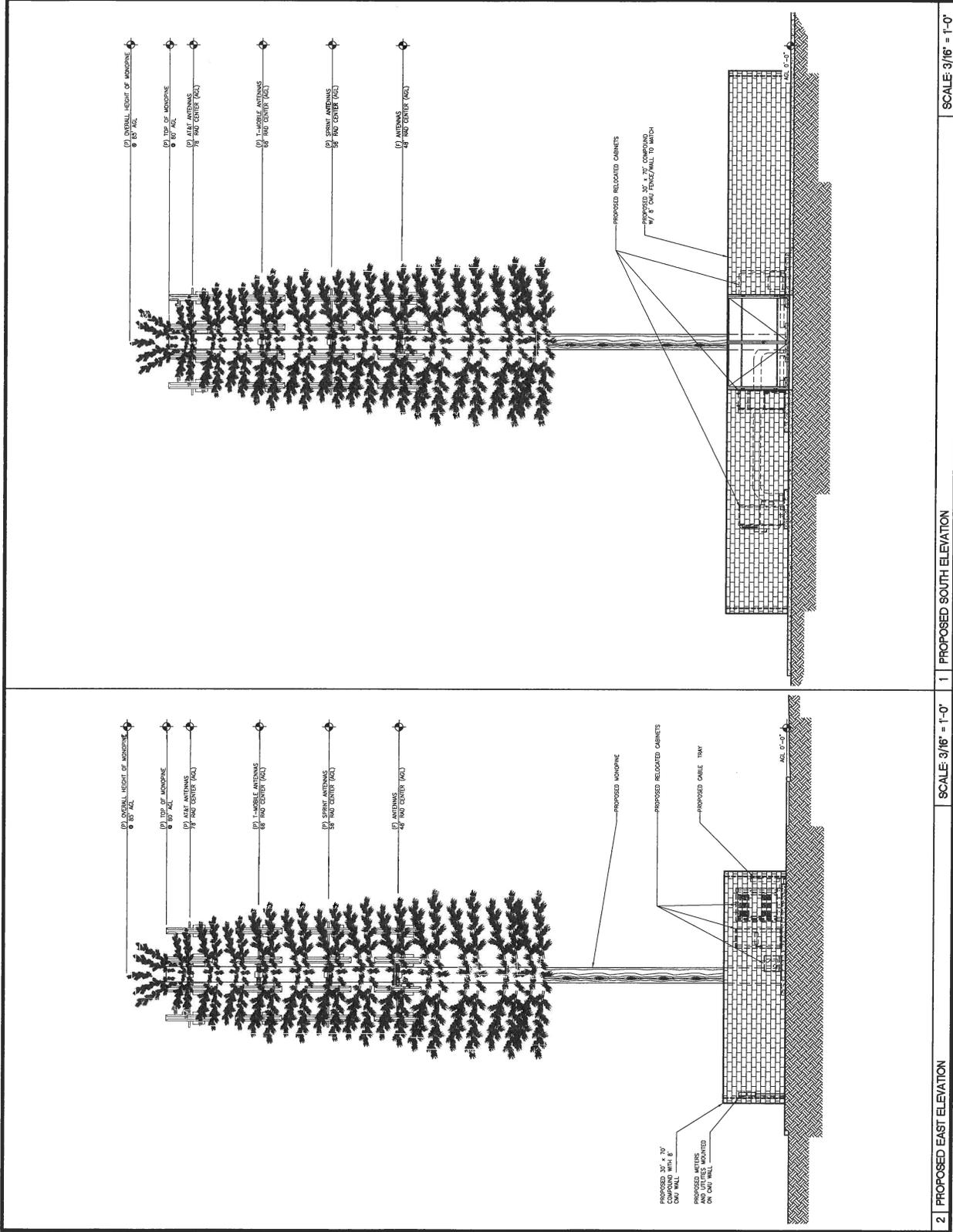
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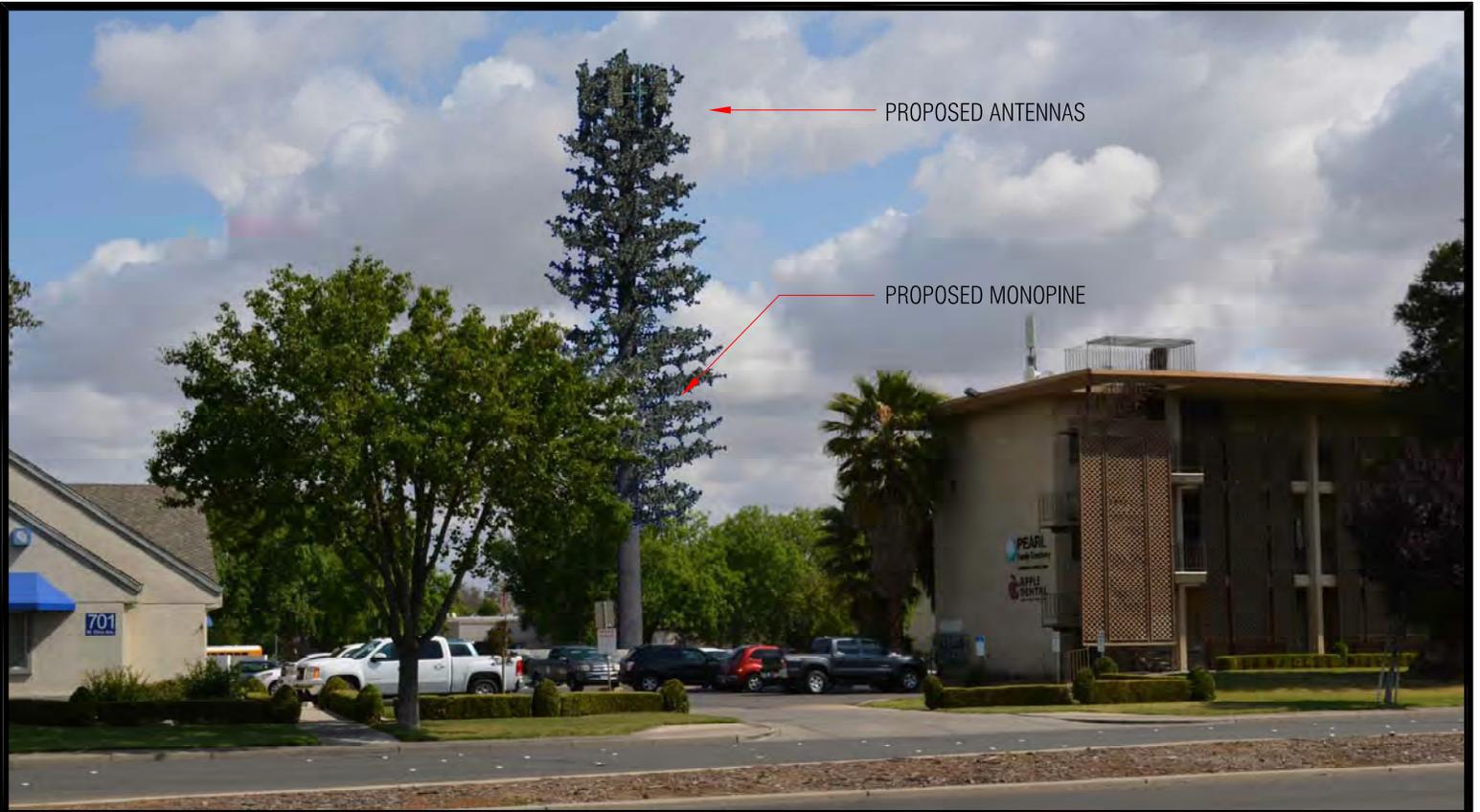
DRAWN BY: R. MONTAÑEZ			
CHECKED BY: C. NELSON			
NO.	DATE	ISSUE	INITIALS
1	10.20.15	90% ZD	RM/CN
2	11.09.15	100% ZD	RM/CN
3	12.08.15	100% ZD PLN	SM/RM

SHEET TITLE
PROPOSED SOUTH AND EAST ELEVATIONS

SHEET NUMBER
A-4

JOB # W/D





2 | PROPOSED SOUTH ELEVATION



1 | EXISTING SOUTH ELEVATION



1015B AIRPORT RD
RIO VISTA, CA 95691

MERCED MALL RELO
645 OLIVE AVE
MERCED, CA 95348

DONE BY:
CNELSON

DATE:
11.10.15

REVISION:
0

ATTACHMENT E



2 | PROPOSED WEST ELEVATION



1 | EXISTING WEST ELEVATION



1015B AIRPORT RD
RIO VISTA, CA 95691

MERCED MALL RELO
645 OLIVE AVE
MERCED, CA 95348

DONE BY:
CNELSON

DATE:
11.10.15

REVISION:
0

PROPOSED PANEL ANTENNAS

PROPOSED CMU
EQUIPMENT COMPOUND

2 | PROPOSED NORTH ELEVATION

1 | EXISTING NORTH ELEVATION



1015B AIRPORT RD
RIO VISTA, CA 95691

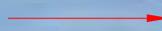
MERCED MALL RELO
645 OLIVE AVE
MERCED, CA 95348

DONE BY:
CNELSON

DATE:
11.10.15

REVISION:
0

PROPOSED PANEL ANTENNAS



PROPOSED CMU
EQUIPMENT COMPOUND



2 | PROPOSED EAST ELEVATION



1 | EXISTING EAST ELEVATION



1015B AIRPORT RD
RIO VISTA, CA 95691

MERCED MALL RELO
645 OLIVE AVE
MERCED, CA 95348

DONE BY:
CNELSON

DATE:
11.10.15

REVISION:
0



ATTACHMENT G

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: Conditional Use Permit #1209 (Environmental Review #15-38)

Project Applicant: MT2 Telecom, on behalf of SEW Enterprises, LLC, property owners

Project Location (Specific): 625 and 645 W. Olive Ave. **APN:** 236-220-019 & -020

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project:

The project involves the installation of an 85-foot tall stealth (mono-Pine) wireless communications tower and related equipment.

Name of Public Agency Approving Project: City of Merced

Name of Person or Agency Carrying Out Project: Sal Martinez for MT2 Telecom

Exempt Status: (check one)

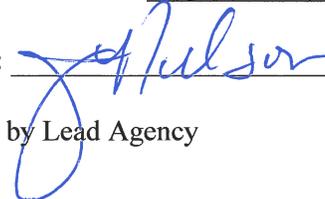
- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. Section Number: Section 153032 (in-fill Development Projects)
- Statutory Exemptions. State Code Number: _____.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: Project is considered an in-fill development project. The project location is within the City limits on a 2.2 acre parcel surrounded by urban uses. The site can be served by all required utilities and public services, and the project site has no value as habitat for endangered, rare or threatened species. No significant effects resulting from traffic, noise, air quality, or water quality will result from the subdivision of the lots. The project is consistent with the City of Merced General Plan and Zoning regulations.

Lead Agency: City of Merced

Contact Person: Julie Nelson, Planner

Area Code/Telephone: (209) 385-6858

Signature:  **Date:** 12-10-15 **Title:** Associate Planner

X Signed by Lead Agency **Date Received for Filing at OPR:** _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

CITY OF MERCED
Planning Commission

Resolution #_____

WHEREAS, the Merced City Planning Commission at its regular meeting of January 6, 2016, held a public hearing and considered **Conditional Use Permit #1209** initiated by MT2 Telecom, on behalf of SEW Enterprises, LLC, property owners. This application involves a request to construct an 85-foot-tall wireless communication tower in the form of a mono-pine tree to allow the relocation of the existing wireless communication towers currently located on top of the existing three-story buildings located at 625 and 645 West Olive Avenue. These parcels are located within Planned Development (P-D) #1 and have a Regional/Community Commercial (RC) General Plan designation; also known as Assessor's Parcel No. 236-220-019 and -020; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through J of Staff Report #16-03; 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 #15-38, and approve Conditional Use Permit #1209, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

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

AYES: Commissioners

NOES: Commissioners

ABSENT:

ABSTAIN:

ATTACHMENT I

Adopted this 6th day of January 2016

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # _____
Conditional Use Permit #1209

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Exhibit 2 (elevations), and Exhibit 3 (photo simulations), - - Attachments C, D, and E of Staff Report #16-03, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”) 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. All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
5. 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 (with counsel selected by the City), 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 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.

6. 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.
7. 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.
8. 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.
9. All landscaping shall comply with State Water Resources Control Board Resolution No. 2015-0032 “To Adopt an Emergency Regulation for Statewide Urban Water Conservation” or the most recent water regulations adopted by the State and City addressing water conservation measures. If turf is proposed to be installed in park strips, high quality artificial turf (approved by the City Engineer and Development Services Director) shall be installed. All irrigation provided to street trees or other landscaping shall be provided with a drip irrigation or micro-spray system.
10. The maximum overall height of the “Mono-Pine” stealth facility shall not exceed 85 feet. The maximum height of the mono-pole shall not exceed 80 feet. Antennas mounted to the stealth facility shall not be mounted higher than 80 feet in height.
11. The design of the mono-pine shall closely resemble the appearance of a real pine tree. At a minimum, the branch pattern on the “Mono-Pine” 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 feet above the ground.
12. The “Mono-Pine” stealth facility shall not have any form of steps, ladder, or pegs protruding from its side.

13. The color of the Mono-Pine shall match that of a real pine 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.”
14. The Mono-Pine stealth facility shall be maintained at all times. At no time shall the Mono-Pine 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.
15. No signs, other than warning and safety signage, shall be located on a support tower or ancillary facility.
16. Other than lighting required by the FAA or other regulatory agency for the purpose of safety, lights are not permitted on the “Mono-Pine” 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.
17. 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).
18. All ancillary equipment shall be contained inside the area enclosed by a solid fence. All ancillary equipment shall be screened from view from the public right-of-way.
19. The proposed 8-foot-tall CMU wall proposed to enclose the cell facility and ancillary equipment is approved as proposed. The gate providing access to the facility shall be of solid material or other approved material that would screen the equipment inside the facility from public view. The CMU wall shall be integrated into the site with landscaping consistent with other landscaping on the site.
20. The site shall be provided with landscaping consistent with the other developments on the site. If the other developments on the site have not been landscaped at the time the cell facility is complete, landscaping for the cell facility may be deferred for a period not to exceed 6 months unless an extension of time is granted by the Development Services Director.

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.
23. In order to allow the existing buildings on the site to be demolished in a timely manner and make way for the remainder of the site to be developed, temporary cell towers (C.O.W. – cells on wheels) may be used for a period not to exceed 6 months. The C.O.W.'s shall be located on the project site. Every effort shall be made to locate them in an area that is not highly visible from Olive Avenue. The location of the C.O.W.'s shall be approved by the Planning staff prior to installation.

n:shared:planning:PC Resolutions: CUP#1209 Exhibit A