

**CITY OF MERCED
Planning Commission**

MINUTES

Merced City Council Chambers
Wednesday, October 8, 2014

Chairperson WILLIAMS 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: Kurt Smoot, Kevin Smith, Travis Colby, and Chairperson Brandon Williams

Commissioners Absent: Carole McCoy (unexcused) and Peter Padilla (excused) (one vacancy)

Staff Present: Principal Planner King, Planner Mendoza-Gonzalez, Senior Deputy City Attorney Rozell, and Recording Secretary Lane

1. **APPROVAL OF AGENDA**

M/S SMITH-COLBY, and carried by unanimous voice vote (two absent, one vacancy), to approve the Agenda as submitted.

2. **MINUTES**

M/S SMITH-COLBY, and carried by unanimous voice vote (two absent, one vacancy) to approve the Minutes of September 17, 2014, as submitted.

3. **COMMUNICATIONS**

None.

4. **ITEMS**

- 4.1 Modification of Conditional Use Permit #1014, initiated by SBA Communications, applicant for Gary S. Smith and James M. Hagerman, property owners. This application involves a request to modify Conditional Use Permit #1014 to replace the top portion of an existing “Flagpole” stealth cell tower with a monopole cell tower that consists of “T-Arm” antennas and hybrid cables (the height of structure will remain the same at 95-feet) at 1125 West 14th Street, generally located approximately 300 feet west of the northwest corner of R Street and West 14th Street within a General Commercial (C-G) zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. He noted a memo from staff modifying Condition #2 which was provided to the Commission prior to the meeting. For further information, refer to Staff Report #14-15.

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

Speaker from the Audience in Favor:

PATRICK EVANS, McMinnville, OR, SBA Communications, representing the applicant

No one spoke in opposition to the project.

Public testimony was completed at 7:21p.m.

M/S WILLIAMS-MCCOY, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #14-22, and approve the Modification of Conditional Use Permit #1014, subject to the Findings and twelve (12) Conditions set forth in Staff Report #14-15, amending Condition #2 as follows (RESOLUTION #3035):

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

- “2. The permitted dimensions and characteristics of the monopole are as follows:
- “a. The maximum height of the monopole shall not exceed 95 feet;
 - “b. The width of the pole at the base and top shall not exceed that required by engineering specifications. The pole shall taper so the width of the pole at the top is less than that at the base (details to be worked out with staff);
 - “c. The pole shall not have any form of steps, ladders, or pegs protruding from its side, except when located fifteen feet or higher above ground level; and,
 - “d. The color of the new monopole tower/antennas shall match that of the existing pole.”

AYES: Commissioners Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioners McCoy and Padilla (one vacancy)

ABSTAIN: None

4.2 Briefing regarding Massage Establishments

Principal Planner KING reviewed the memorandum on this item followed by a brief discussion by the Commission. For further information, refer to the memorandum dated October 8, 2014, regarding Agenda Item 4.2. The Commission thanked staff for the work they are doing on this issue.

5. INFORMATION ITEMS

5.1 Calendar of Meetings/Events

There was no discussion regarding the calendar of meetings/events.

6. **ADJOURNMENT**

There being no further business, Chairperson WILLIAMS adjourned the meeting at 7:32 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



FOR
BRANDON WILLIAMS, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3035

WHEREAS, the Merced City Planning Commission at its regular meeting of October 8, 2014, held a public hearing and considered the **Modification of Conditional Use Permit #1014**, initiated by SBA Communications, applicant for Gary S. Smith and James M. Hagerman, property owners. This application involves a request to modify Conditional Use Permit #1014 to replace the top portion of an existing “Flagpole” stealth cell tower with a monopole cell tower that consists of “T-Arm” antennas and hybrid cables (the height of structure will remain the same at 95-feet) at 1125 West 14th Street, generally located approximately 300 feet west of the northwest corner of R Street and West 14th Street within a General Commercial (C-G) zone; also known as Assessor’s Parcel No. 031-201-003; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #14-15; 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 #14-22, and approve the Modification to Conditional Use Permit #1014, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Chairperson Williams, seconded by Commissioner Colby, and carried by the following vote:

AYES: Commissioners Smoot, Smith, Colby, and Chairperson Williams

NOES: None

ABSENT: Commissioners McCoy and Padilla

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3035

Page 2

October 8, 2014

Adopted this 8th day of October 2014



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

**Conditions of Approval
Planning Commission Resolution #3035
Modification to Conditional Use Permit #1014**

1. Except as may be changed by project conditions herein, the proposed project shall be constructed/designed generally as shown on Exhibit 1 (site plan) - Attachment B of Staff Report #14-15 and Exhibit 2 (side elevation) – Attachment C of Staff Report #14-15.
2. The permitted dimensions and characteristics of the monopole are as follows:
 - a. The maximum height of the monopole shall not exceed 95 feet;
 - b. The width of the pole at the base and top shall not exceed that required by engineering specifications. The pole shall taper so the width of the pole at the top is less than that at the base (details to be worked out with staff);
 - c. The pole shall not have any form of steps, ladders, or pegs protruding from its side, except when located fifteen feet or higher above ground level; and,
 - d. The color of the new monopole tower/antennas shall match that of the existing pole.
3. The design of the equipment area shall be as follows:
 - a. Barbed wire is not allowed;
 - b. The enclosure shall be fully screened with slats in the existing chain-link fence;
 - c. No signs, other than warning and safety signage, shall be located on a support tower or ancillary facility; and,
 - d. No lights are permitted on the tower, except as required by the FAA. The equipment area may use security lighting, provided that it is appropriately shielded and/or directed to keep glare from the surrounding area, and the lights shall have low foot-candles.

4. 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.
5. 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.
6. Due to the proposed height of the antenna, the applicant shall submit FAA Form 7460-1 to the FAA for approval and submit the approved form at time of building permit application.
7. The project shall be designed and operated consistent with the following:
 - a. In coordination with the Police Department and Fire Department, a frequency/intermodulation study shall be prepared. Service may not be initiated until these Departments have reviewed and have found the study to be acceptable.

- b. Prior to initiation of service, the applicant shall provide the City certification by an RF engineer, stating the RFR measurements, and that they meet FCC Radiofrequency (RF) Radiation Standards.
 - c. The radio frequencies to be used by this project shall not interfere with the existing communications equipment at the City's sanitary sewer pump station.
- 8. A building permit shall be required prior to installation of the wireless communication facility or any other element of the project.
 - 9. All exterior tower surfaces and mechanical equipment shall be regularly maintained, and any damage caused by weathering, vandalism, or other factors shall be repaired.
 - 10. All conditions contained in Resolution #1249 ("Standard Conditional Use Permit Conditions") shall apply as well as all requirements/standards in the City's Wireless Communications Ordinance.
 - 11. City approval will be required for all modifications/additions/co-locations on this cell tower. The installation of any antenna on the monopole shall be reviewed and approved by the Director of Development Services or by the Site Plan Review Committee, as deemed necessary by the Director of Development Services.
 - 12. Planning Commission Resolution #3035 supersedes the previous Planning Commission Resolution #2697 adopted on August 7, 2002.

n:shared:planning:PC Resolutions:Mod to CUP#1014 Exhibit A