

CITY OF CERES  
PLANNING COMMISSION  
MINUTES

November 17, 2008

**MEETING CALLED TO ORDER:** 6:01 p.m.

**ROLL CALL:**

**PRESENT:** Del Nero, Kachel, Kline, Smith, Williams

**ABSENT:** None

**ALSO PRESENT:** Planning Manager Barry Siebe, City Attorney Mike Lyons, Senior Planner Tom Westbrook, Administrative Secretary Linda Ryno

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Chairperson Del Nero.

**APPROVAL OF MINUTES:**

1. October 6, 2008.

It was moved by Commissioner Smith, seconded by Commissioner Kachel, to approve the minutes as presented. Carried 4/0/1, Chairperson Del Nero abstained.

**CONFLICT OF INTEREST DECLARATION:**

None

**CITIZEN COMMUNICATION:**

None

**APPROVAL OF AGENDA AS POSTED (OR AMENDED) AND CERTIFICATION OF POSTING:**

It was moved by Commissioner Kachel, seconded by Commissioner Kline, to approve the agenda as posted. Carried 5/0.

**CONSENT CALENDAR:**

None

**NEW BUSINESS:**

None

**PUBLIC HEARINGS:**

2. 08-14 CUP; Public hearing for a proposal for a conditional use permit to authorize an existing non-conforming use (existing wireless tower) and add a back-up generator at Smyrna Park.

Senior Planner Westbrook gave a report.

Commissioner Kline asked for clarification on:

- Whether other cell phone companies have generators in the park;
- Reference on page 5 of retroactivity.

Senior Planner Westbrook replied that they didn't have generators and then explained that Verizon had signed the original lease approximately seven years ago, but did not get a conditional use permit; tonight's approval would validate that action.

Vice Chairperson Williams asked if the other two cell tower providers can request a generator, and that she was concerned that the park remains a park.

Planning Manager Siebe responded that they could. He also said that placing a generator at the site will not aesthetically alter the site as the generator will be placed partially sub surface, to not rise above the existing fence line.

The public hearing was opened at 6:11 p.m.

Regina Ivestor, Epic Wireless Group, 381 S. Lexington Drive, Folsom, informed the Commission that in 2001, Verizon Wireless received a letter from the City, that indicated a conditional use permit was not required.

Vice Chairperson Williams asked if the Commission could see the letter.

Planning Manager Siebe responded that there is a letter, but the Director who sent the letter did not have the authority to do so; it's in the Municipal Code that a conditional use permit is required.

The public hearing was closed at 6:14 p.m.

Commissioner Kachel asked if Verizon was the first company to locate a tower at Smyrna Park.

Senior Planner Westbrook responded that A T & T was the first company, and that was in 1997. Their tower is located adjacent to the parking lot.

It was moved by Commissioner Kline, seconded by Commissioner Williams, to adopt PC Resolution 08-32 approving 08-14 CUP. Carried 5/0.

3. 08-23 CUP; Public hearing for a proposal for a conditional use permit to establish a scrap metal recycling facility within an existing 9,750 square foot building at 1015 Montclair Avenue.

Senior Planner Westbrook gave a report.

The public hearing was opened at 6:20 p.m.

Matt Leo, 1442 Angie Avenue, Modesto, representing the applicant, asked the Commission to reconsider the following items:

- Condition 4, page 14. Change hours of operation from 8-5, Monday through Saturday to 8-4, with one hour lunch, Monday through Saturday, and 9-3 on Sundays.
- Condition 9, page 15. The condition listed is for an initial period of two years. Their lease agreement is for three years with a possibility to extend for two more years, so they would like the condition changed to three years.

Planning Manager Siebe responded that staff is fine with the requested change in conditions 4 and 9, and that the operating time on Sundays does not violate the City Noise Ordinance.

Chairperson Del Nero commented that he recalled an issue of odors emitting from their previous location.

Mr. Leo responded that a dairy was bringing stainless steel vats for recycling, but Mid Valley Iron began requiring them to pressure wash the vats before they brought them in.

Senior Planner Westbrook advised the Commission that south of the proposed site is a 200 acre dairy.

Commissioner Kline expressed his concern that the applicant has taken so long to comply with staff's request and has in fact, appeared to be uncooperative.

Planning Manager Siebe responded that while it appears to have taken a long time for the applicant to comply, staff's intent was to work with the applicant to keep the business open.

The public hearing was closed at 6:32 p.m.

It was moved by Commissioner Williams, seconded by Commissioner Smith, to approve PC Resolution 08-33 with the following modifications:

- Condition 4, page 14.  
“The hours of operation shall be limited to 8 am to 4 pm Monday through Saturday and 9-3 on Sunday”.
- Condition 9, page 15:  
“This Conditional Use Permit (CUP) and the rights contained herein, shall be valid for an initial period of three years. Prior to the expiration of the permit on November 17, 2011, the applicant may submit a completed application for extension of the permit for a period to be determined by the Planning Commission at the time of consideration. Upon reconsideration of the CUP, the City may review the rights granted with this permit to determine if they are consistent with the laws, needs and/or values of community at that time. If a permit extension is not granted, the applicant shall remove the use and all its associated facilities and structures from the premises and dispose of them in a legal manner within 120 days from the date of expiration of this CUP. Any application made after the expiration date shall require that a new application be made, if so permitted by the laws governing at the time of application.”

Carried 5/0.

4. 08-15 ANNX; Public hearing for a proposal to annex and prezone two parcels that total 57.43+/- acres at 3831 and 3967 Hatch Road. Dirk Wyatt, applicant.

Senior Planner Westbrook gave a report.

Commissioner Kachel asked why a development plan isn't included with the annexation application and what is the benefit of annexing.

Senior Planner Westbrook responded that the City Council had waived the requirement per an agreement with the applicant for a Development Plan prior to any proposed subdivision of the land and that annexation is just a process that has to happen.

Commissioner Kline asked for clarification on the prezone and why it didn't reference VLDR, instead of Planned Community.

Senior Planner Westbrook responded that Planned Community is a zoning designation; that the General Plan designation of Very Low Density Residential (VLDR) will remain the same. If the applicant wished to develop other than a residential project, they would have to request a General Plan Amendment before the Planning Commission and the City Council.

Planning Manager Siebe further commented that state law requires the City to wait two years after annexation before authorizing a change unless specific findings are made.

Commissioner Kline asked if the property was currently zoned Agriculture in Stanislaus County, why would it have a City General Plan designation.

Planning Manager Siebe explained the General Plan Sphere of Influence.

The public hearing was opened at 6:51 p.m.

Dirk Wyatt, 3525 Mitchell Road, thanked staff for their favorable staff report and recommendation. Mr. Wyatt also commented that he doesn't know if the property will be developed in the future as commercial or residential.

The public hearing was closed at 6:52 p.m.

Commissioner Kline again asked for clarification on Planned Community.

Senior Planner Westbrook explained that Planned Community zoning designation follows the underlying General Plan designation. Once the applicant has decided what they want to develop their property as, they are required to bring a Master Plan application back to the Planning Commission.

Commissioner Kachel commented that the General Plan designation is Very Low Density Residential.

Planning Manager Siebe explained the Sphere of Influence that was adopted by the City and that this property is at the edge of the SOI which terminates at the eastern edge of Faith Home Road.

Commissioner Kline also expressed concern that the property sits under a fly zone for the Modesto City-County Airport.

Senior Planner Westbrook replied that the Airport Land Use Commission is requiring a disclosure statement be provided to future residential owners.

The public hearing was re-opened at 7:00 p.m.

Dirk Wyatt, re-approached the podium and advised the Commission that he had started the process 4-5 years ago by meeting with the Airport Commission. At that time, he thought he would be developing a residential project, but now he isn't sure if he wants residential.

The public hearing was closed at 7:02 p.m.

It was moved by Commissioner Williams, seconded by Commissioner Smith, to adopt PC Resolution 08-28. Carried 4/1. Commissioner Kline voting no.

It was moved by Commissioner Williams, seconded by Commissioner Smith, to adopt PC Resolution 08-30. Carried 5/0.

It was moved by Commissioner Williams, seconded by Commissioner Kachel, to adopt PC Resolution 08-31. Carried 5/0.

**PUBLIC MEETINGS:**

None

**UNFINISHED BUSINESS:**

None

**MATTERS INITIATED BY PLANNING COMMISSION AND STAFF:**

5. 32<sup>nd</sup> Annual Stanislaus County Planning Commissioners' Workshop, January 24, 2009.

Planning Manager Siebe told the Commission that the workshop appears to be very promising and encouraged them to attend.

**REPORTS/COMMUNICATION:**

Commissioners Del Nero and Kachel asked when the applications for their Planning Commission seats would be made available as they both are interested in re-applying.

Planning Manager Siebe advised that he would check and let them know.

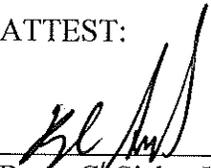
**ADJOURNMENT:**

The Commission adjourned at 7:08 p.m. to the next regularly scheduled Planning Commission meeting of December 15, 2008.

APPROVED:

  
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Gary Del Nero, Chairperson

ATTEST:

  
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Barry C. Siebe, Interim Secretary