



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

June 24, 2019

Verizon Wireless
2785 Mitchell Drive
Walnut Creek CA 94598

Dear Applicant:

Subject: Resolution No. 12779 - Initial Study Application No. 7576 and Unclassified
Conditional Use Permit Application No. 3634

On June 6, 2019, the Fresno County Planning Commission approved your Unclassified Conditional Use Permit with Conditions. A copy of the Planning Commission Resolution is enclosed.

Since no appeal was filed with the Clerk to the Board of Supervisors within 15 days, the Planning Commission's decision is final.

The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Unclassified Conditional Use Permit.

As part of the conditions of approval for your project, an authorized representative of Verizon Wireless must sign a cell tower covenant agreement in the presence of a notary public. Once signed and notarized, please return the **original** document along with two checks/money orders. One check should be in the amount of \$243.50 to cover the current County Processing Fee. Please make this payment payable to "Fresno County Department of Public Works and Planning". The other check should be in the amount of \$34.00 to cover the current recording fee. Please address this check or money order to the "Fresno County Recorder". Additionally, a document demonstrating the signer's authorization to make agreements for the company must be provided with the signed covenant.

If you have any questions regarding the information in this letter please contact me at tkobayashi@fresnocountyca.gov or 559-600-4224.

Sincerely,

Thomas Kobayashi, Planner
Development Services and Capital Projects Division

TK:ksn
G:\4360Devs&Pin\PROJSEC\PROJDOCS\CUP\3600-3699\3634\RESOLUTION\CUP 3634 Reso Ltr.docx

Enclosure

1 RECORDING REQUESTED
2 BY AND TO BE RETURNED
3 TO: DEVELOPMENT
4 SERVICES DIVISION,
5 MAIL STOP 214
6 ATTN: THOMAS KOBAYASHI

7 Exempt from fees per
8 Government Code Section
9 27388.1(a)(2)(D)

THIS SPACE FOR RECORDER'S OFFICE USE ONLY

10 COVENANT RUNNING WITH THE LAND REGARDING
11 CELL TOWERS

12 THIS AGREEMENT made and entered into this ____ day of _____, by
13 Verizon Wireless, hereinafter referred to as the "Lease-Holder", and the County of
14 Fresno, a political subdivision of the State of California, hereinafter referred to as
15 "County".

16 WITNESSETH:

17 WHEREAS, the Lease-Holder is the sole Lease-Holder of a portion of real
18 property located in the County of Fresno, State of California, located on Assessor's
19 Parcel No. 027-180-46S more particularly described as:

20 ***"Exhibit A"***

21 WHEREAS, the Lease-Holder intends to construct a cellular communication
22 tower upon the premises described above, pursuant to the Policies of the Fresno
23 County General Plan and provisions of the Fresno County Zoning Ordinance;

24 NOW, THEREFORE, in consideration of the County's grant of Unclassified
25 Conditional Use Permit Application No. 3633 to construct said tower, the Lease-Holder
26 and the County do hereby mutually agree as follows:

27 1. Condition No. 2 of Unclassified Conditional Use Permit Application No.
28 3634 stipulates that in the event the use of the tower ceases for a period in excess of
two years, said permit shall expire and the tower and related facilities shall be removed

1 and the lease area shall be restored as nearly as practical to its original condition.

2 2. Lease-Holder agrees that the removal of the tower and restoration of the
3 site shall be completed within 120 days after receipt of written notice from the County.

4 3. Lease-Holder agrees to defend, indemnify, and hold harmless the County,
5 its officers, employees, and agents, from every expense, liability or payment by reasons
6 of injury, including death, to persons or damage to property suffered resulting from the
7 removal of improvements or construction as may be required herein.

8 4. If the Lease-Holder fails to remove the improvements and construction,
9 and restore the property as referenced above, the County reserves the right to seek and
10 obtain any and all remedies available, both legal and equitable.

11 5. In the event the County is required to commence a judicial proceeding
12 against the Lease-Holder to enforce this agreement, the Lease-Holder waives the right
13 to raise the vested rights doctrine, equitable estoppel, or any similar doctrine as a
14 defense in such proceeding.

15 6. In the event the County is required to commence a judicial proceeding
16 against the Lease-Holder to enforce this agreement, the Lease-Holder agrees to pay
17 County's court costs and attorney's fees incurred thereby.

18 7. It is understood that this covenant shall run with the land and shall be
19 binding upon the parties hereto, and their successor and assignees.

20 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be
21 executed as of the day and year first above written.

22 ///

23 COUNTY OF FRESNO

24 STEVEN E. WHITE, DIRECTOR
25 Department of Public Works and Planning

26

27 BY: _____ DATED: _____
28 William M. Kettler, Division Manager
 Development Services and Capital Projects Division

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THE SIGNATURE OF THE UNDERSIGNED INDICATES THAT EACH AND EVERY PARAGRAPH OF THIS AGREEMENT, INCLUDING THE PREAMBLE, WAS READ AND IS UNDERSTOOD.

BY: _____ DATED: _____
Verizon Wireless
Authorized Representative

G:\4360Devs&PIn\PROJSEC\PROJDOCS\CUP\3600-3699\3634\APPL\CUP 3634 Cell Covenant.doc

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

SECTION 34, TOWNSHIP 15 SOUTH, RANGE 13 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF;

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SECTION, SAID POINT BEARS NORTH 1° 32' 56" EAST 10.63 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION SAID SOUTHWEST CORNER BEING AT COORDINATES Y-455 761.76 FEET AND X-1 544 892.87 FEET; THENCE (1) ALONG SAID WEST LINE NORTH 1° 32' 56" EAST 2,109.98 FEET; THENCE (2) AT RIGHT ANGLES SOUTH 88° 27' 04" EAST 60.02 FEET; THENCE (3) SOUTH 0 41' 40" EAST 755.79 FEET; THENCE (4) ALONG A LINE PARALLEL WITH AND 204 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF THE DEPARTMENT OF PUBLIC WORKS SURVEY FROM KINGS COUNTY LINE TO MERCED COUNTY LINE, ROAD VI-FRE-238-8 (NOW 06-FRE-5)

SOUTH 45° 58' 00" EAST 1,997.60 FEET TO THE SOUTH LINE OF SAID SECTION; THENCE (5) ALONG SAID LINE NORTH 89° 02' 50" WEST 597.34 FEET; THENCE (6) ALONG A LINE PARALLEL WITH AND 204 FEET SOUTHWESTERLY, MEASURED AT RIGHT ANGLES FROM SAID CENTERLINE, NORTH 45° 58' 00" WEST 1,266.78 FEET; THENCE (7) SOUTH 0° 52' 26" EAST 680.38 FEET; THENCE (8) ALONG THE EAST LINE OF THE WEST 60 FEET OF SAID SECTION SOUTH 1° 32' 56" WEST 175.23 FEET; THENCE (9) AT RIGHT ANGLES NORTH 88° 27' 04" WEST 60.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATE THEREIN AND THEREUNDER, TOGETHER WITH ALL EASEMENTS AND RIGHTS NECESSARY OR CONVENIENT FOR THE PRODUCTION, STORAGE AND TRANSPORTATION THEREOF AND THE EXPLORATION AND TESTING OF THE SAID REAL PROPERTY, AND ALSO THE RIGHT TO DRILL FOR, PRODUCE AND USE WATER FROM THE SAID REAL PROPERTY IN CONNECTION WITH DRILLING OR MINING OPERATIONS THEREON, AND ALSO TOGETHER WITH ALL HYDROCARBONS AND MINERALS OWNED BY GRANTORS AND SITUATE IN AND UNDER LAND ADJACENT TO THE ABOVE DESCRIBED REAL PROPERTY AND FOR THE EXPLORATION AND TESTING OF SAID ADJACENT REAL PROPERTY, SAID RIGHTS EXCEPTED AND RESERVED HEREIN TO BE HELD BY GRANTORS IN THE SAME PERCENTAGE UNDIVIDED INTERESTS AS THE ABOVE DESCRIBED REAL PROPERTY IS PRESENTLY VESTED IN SAID GRANTORS, AS RESERVED IN THE DEED RECORDED JULY 15, 1976 IN BOOK 6626 PAGE 445, AS DOCUMENT NO. 60783 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL RIGHTS TO OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES AND GEOTHERMAL RIGHTS LYING IN AND UNDER SAID LAND, AS PER THAT CERTAIN DEED RECORDED AUGUST 24, 2006 AS DOCUMENT NO. 2006-0177135, OFFICIAL RECORDS.



Inter Office Memo

DATE: June 6, 2019

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12779 - INITIAL STUDY APPLICATION NO. 7576 and UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3634

APPLICANT: Verizon Wireless

OWNER: Wind Fall Farms I

REQUEST: Allow an unmanned telecommunications facility consisting of a 155-foot lattice tower with nine 8-foot antennas and one microwave dish, with related ground equipment including a backup generator within a 1,360 square-foot lease area on a 613.32-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the southeast corner of the South Hudson Avenue and West Dinuba Avenue alignments and is adjacent to Interstate 5 on the southwest property line, approximately 10.56 miles southwest of the nearest city limits of the City of Mendota (Sup. Dist. 1) (APN 027-180-46S).

PLANNING COMMISSION ACTION:

At its hearing of June 6, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Burgess and seconded by Commissioner Ede to adopt the Mitigated Negative Declaration prepared for the project, adopt the required Findings of Fact for approval of a Conditional Use Permit, and approve Unclassified Conditional Use Permit No. 3634, subject to the Conditions listed in Exhibit B.

EXHIBIT A

Initial Study Application No. 7576
Unclassified Conditional Use Permit Application No. 3634

- Staff: The Fresno County Planning Commission considered the Staff Report dated June 6, 2019, and heard a summary presentation by staff.
- Applicant: The Applicant's representative concurred with the Staff Report and the recommended Conditions. He did not offer any additional information in support of the project.
- Others: No other individuals presented information in support of or in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

TK:ksn
G:\4360Devs&Pin\PROJSEC\PROJDOCS\CUP\3600-3699\3634\RESOLUTION\CUP 3634 Reso.docx

EXHIBIT B

Mitigation Monitoring and Reporting Program
Initial Study Application No. 7576
Unclassified Conditional Use Permit Application No. 3634
(Including Conditions of Approval and Project Notes)

Mitigation Measures						
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span	
1.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine on adjacent properties or public right-of-way.	Applicant	Applicant/Department of Public Works and Planning (PW&P)	Ongoing	
2.	Cultural Resources/ Tribal Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities	
3.	Energy	The idling of onsite vehicles and equipment will be avoided to the most possible extent to avoid wasteful or inefficient energy consumption during the construction of the project.	Applicant	Applicant/PW&P	During construction	
4.	Tribal Cultural Resources	Forty-eight (48) hours prior to any ground-disturbing activities within the Area of Potential Effect (APE), such as digging, trenching, or grading, the Applicant shall notify all tribes that participated in consultation of the opportunity to have a certified Native American Monitor during ground-disturbing activities both during construction and decommissioning. Notification shall be by email to the following person: Shana Powers, Santa Rosa Rancheria Tachi Yokut Tribe, at spowers@tachi-yoku-rnsn.gov .	Applicant	Applicant/PW&P	During construction and decommissioning	

Conditions of Approval

1. Development of the property shall be in accordance with the Site Plan, Floor Plan, Elevations, and Operational Statement approved by the Commission.
2. The approval shall expire in the event that use of the tower ceases for a period in excess of two years. At such time, the tower and related facilities shall be removed and the lease area shall be restored as nearly as practical to its original condition. This stipulation shall be recorded as a Covenant running with the land.

Note: This Department will prepare the Covenant upon receipt of the standard processing fee, which is currently \$243.50.
3. The maximum number of antennas allowed on the tower shall be determined according to wind load calculations as approved by the Fresno County Department of Public Works and Planning.

*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

Notes

The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.

1. All proposed improvements including fences/gate entrances exceeding 7 feet in height within the lease area will require building plans, permits, and inspections.
2. Westlands Water District has underground facilities located on and/or near the subject parcels. Prior to construction, contact Underground Service Alert.
3. A grading permit is required.
4. If moving more than 1,000 cubic yards of dirt or making significant changes in a State Responsibility Area, an Engineered Grading and Drainage Plan may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties.
5. Facilities proposing to use and/or store hazardous materials and/or hazardous waste shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan pursuant to HSC, Division 20, Chapter 6.95.
6. All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage, and handling of hazardous waste.
7. The project shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) conditions of approval for the project, the Applicant must submit construction plans to the County of Fresno Department of Public Works and Planning for review. It is the Applicant's responsibility to deliver a minimum of three sets of plans to FCFPD. Projects/Developments including Single-Family Residential (SFR) property of three or more lots, Multi-Family Residential (MFR) property, Commercial property, Industrial property, and/or Office property shall annex into Community Facilities District No. 2010-01 of FCFPD.

Notes

8. Projects/Developments will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

TK:ksn
G:\4360Devs&Pin\PROJSEC\PROJDOCS\CUP\3600-3699\3634\RESOLUTION\CUP 3634 MMRP (Ex B).docx