

Mayor
Tom Buford
Mayor Pro Tem
John Murray
Councilmembers
John Grego
Ed Martin
John Plourde



**Community and
Economic
Development**

210 Fox Street
Lemoore CA 93245
Phone (559) 924-6740
FAX (559) 924-6743

Item No.
3D

To: Lemoore City Council
From: Joseph G. Mendiola, Assistant Planner
Date: May 25, 2006
Subject: Conditional Use Permit No. 2006-03 - Ubiquitel

BACKGROUND:

The Lemoore Planning Commission, on its meeting of May 22, 2006, considered a Conditional Use Permit application submitted by UbiquiTel proposing to increase the height of an existing 75' communications tower to 100' and to collocate three new antenna arrays.

The Planning Commission reviewed the staff report during its public hearing and has approved a Negative Declaration pursuant to the California Environmental Quality Act (CEQA) and the Conditional Use Permit with its conditions, which included the modification to the arrays to be located flush with the pole for anything above the 75' level.

Pursuant to the Lemoore Municipal Code (Sect: 9-15B-2G): "At the first regular City Council meeting held more than ten (10) days after a decision on a use permit application by the Planning Commission, the City Council shall review the decision. The City Council may affirm, reverse or modify a decision of the Planning Commission."

Attached is a draft resolution for Council's affirmation of the Planning Commission's decision to grant approval. A copy of the draft resolution along with the staff's report to the Planning Commission and any other pertinent information has been forwarded to Council for review.

Budget Impact:

None.

Recommendation:

Staff recommends that the Council approve the attached resolution affirming the Planning Commission's decision to approve Conditional Use Permit No. 2006-03 with conditions stated therein.

RESOLUTION NO. 2006-24

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE
APPROVING CONDITIONAL USE PERMIT NO. 2006-03
FOR UBIQUITEL**

At a Regular Meeting of the City Council of the City of Lemoore duly called and held on June 6, 2006, at 7:30 p.m. on said day, it was moved by Councilmember _____, seconded by Councilmember _____ and carried that the following Resolution be adopted:

WHEREAS, Ubiquitel has submitted an application for a Conditional Use Permit to collocate onto an existing communications tower facility, increase the height of the existing 75' monopole to a height of 100' and to add three new antenna arrays at the top of the pole; and

WHEREAS, the subject property is a 0.25 acre parcel located on the north side of "G" Street west of Hill Street and whose address is known as 541 "G" Street, described as Assessor Parcel No. 020-017-001; and

WHEREAS, the Lemoore Planning Commission held a duly noticed public hearing, as set forth in Section 9-15B-2C, at their May 22, 2006 meeting on the above-stated proposal as required by the City of Lemoore Municipal Code; and

WHEREAS, the Planning Commission reviewed the Environmental Impact Assessment pertinent to the proposal and determined that it will not have any significant effect on the environment and adopted a Negative Declaration pursuant to California Environmental Quality Act, as amended; and

WHEREAS, Section 9-15B-2G of the Lemoore Municipal Code requires the City Council to review the Planning Commission's decision of approval of the Conditional Use Permit proposal in a meeting held more than ten (10) days after the Planning Commission's decision; and

WHEREAS, on the basis of the application and the evidence submitted, the Planning commission made the following findings specified in Section 9-15B-2E of the Lemoore Municipal Code:

1. That there are circumstances or conditions applicable to the land, structure or use which makes the granting of a use permit necessary for the preservation and enjoyment of a substantial property right.
2. That the proposed location of the conditional use is in accordance with the objectives of this Title and the purposes of the district in which the site is located.
3. That the proposed use will comply with each of the applicable provisions of this Title. (Ord. 7901 2-6-79 as amended, 1-1986)

WHEREAS, the Planning Commission approved the Conditional Use permit with staff's recommended 11 conditions and added condition number 12 as it relates to the arrays mounted more than 75' off the ground.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lemoore does hereby affirm the Planning Commission's decision to adopt a Negative Declaration and approve Conditional Use Permit No. 2006-03 as applied for by UbiquiTel with the following conditions and such approval shall expire one (1) year from the date of City Council approval:

1. The project shall be developed in accordance to the plans as submitted except for any modifications needed to meet the conditions of approval.
2. UbiquiTel shall enter into an agreement with the City of Lemoore so that the digital communications facility shall provide for collocation of all types of wireless communications and that UbiquiTel will permit other companies offering wireless communication services in the area to utilize the tower and project area.
3. Three (3) sets of construction drawings and calculations, prepared by a licensed structural engineer, shall be submitted to the Building Department for review and approval by the City's representative.
4. UbiquiTel shall be responsible for weed abatement of the entire parcel site and shall conform to standards set by the Parks and Recreation Department of the City of Lemoore.
5. Plans of the proposed tower changes/additions shall meet the standards of the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) and proof of such shall be submitted to the Building and Planning Departments when submitting construction plans.
6. The existing twelve feet (12') wide driveway access from "G" Street, shall be maintained properly for its entire length.
7. The tower shall be painted light grey in color to blend well with the surroundings.
8. Landscape and irrigation plans shall be submitted to the Community Development Department for review and approval prior to submittal of the construction drawings. Trees shall be planted along the northern boundary line of the site. The trees shall be at least seven feet (7') tall upon planting. Vines shall be planted along a slatted chain link fence surrounding the tower facility to provide a visual barrier. Weed abatement and landscape maintenance shall be properly maintained.
9. Outdoor lighting shall be provided for safety and security reasons and the location and design of the lighting shall be such that it will not create glare and discomfort to people on adjoining properties per Building Department Standards. Any lighting requirements of the FAA shall also be met.
10. The applicant, at its cost, shall remove the tower and all related structure if facility has remained unused for a period in excess of one year.
11. In accordance with City Council Resolution 2005-24 adopted on June 7, 2005, the Council has authorized staff to prepare an updated impact fee study which is anticipated to be completed within one year. The project will have an impact on the need for new public facilities and improvements in the City. The costs associated with that impact and the connection between the need for new public facilities and the proposed project will be set forth in a new Resolution to be adopted by the City Council. As a result, the applicant shall be subject to and shall pay these impact fees when they are set forth; should construction commence prior to the completion of such fee schedule an interim assessment will have to be made. Development Impact Fees shall be collected upon issuance of building permits for the development at the rate in effect on the date of the building permit.

12. Arrays mounted above the 75' level shall be close mounted (i.e. 3' out from the pole rather than the proposed 12'), one single panel per sector to reduce the visual impact per the Community Development Department.

Passed and adopted at a Regular Meeting of the City Council of the City of Lemoore held on the 6th day of June, 2006, by the following vote:

AYES:
NOES:
ABSTAINING:
ABSENT:

APPROVED:

Thomas E. Buford, Mayor

ATTEST:

Nanci C.O. Lima, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, Nanci C.O. Lima, City Clerk of the City of Lemoore, do hereby certify the foregoing Resolution of the City Council of the City of Lemoore was duly passed and adopted at a Regular Meeting of the City Council held on June 6, 2006.

DATED: June 7, 2006

Nanci C.O. Lima, City Clerk