

**CITY OF LOMPOC
PLANNING COMMISSION STAFF REPORT**



MEETING DATE: MAY 13, 2009
TO: MEMBERS OF THE PLANNING COMMISSION
FROM: KEITH C. NEUBERT, PRINCIPAL PLANNER
RE: CUP 08-07 – REVISION TO CONDITIONS OF APPROVAL

CONSENT CALENDAR:

(All items listed under Consent Calendar are considered to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless good cause is shown prior to the time the Commission votes on the motion to adopt).

CONSENT AGENDA ITEM NO. 2

A request by Jay Higgins, representing Metro PCS, for Planning Commission review and consideration of a revision to the conditions of approval for Conditional Use Permit CUP 08-07. The revision would modify condition of approval P13 to allow the previously approved wireless telecommunication facility on the site for a period of five (5) years prior to expiration, with the ability to obtain five (5) year extensions. The project is located at 1621 North H Street in the *Planned Commercial Development (PCD)* Zoning District (Assessor Parcel Number: 93-450-23). The request is Categorically Exempt pursuant to the provisions of the California Environmental Quality Act (CEQA).

SCOPE OF REVIEW:

The Planning Commission is being asked to consider:

- If the revision to the conditions of approval is appropriate and consistent with previous approvals;
- If the revision to the conditions of approval meets the intent of the Zoning Ordinance; and
- If the required Findings of Fact can be made.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution No. 650 (09) approving a revision to condition of approval P13, based upon the Findings of Fact in the Resolution and subject to the attached draft Conditions of Approval.

BACKGROUND:

February 11, 2009 The Planning Commission adopted Resolution 636 (09) approving a request by Jay Higgins, representing Metro PCS, for a Conditional Use Permit (CUP 08-07) to allow operation of an unmanned wireless telecommunication facility on the rooftop of an existing building (Quality Inn Hotel) located at 1621 North H Street.

April 8, 2009 The Planning Commission approved two Conditional Use Permits for Metro PCS allowing the wireless telecommunication facilities each for a period of five (5) years prior to expiration, with the ability to obtain five (5) year extensions and agreed to review a revision to allow the same timeframe for CUP 08-07 approved in February 2009.

DISCUSSION:

At the April 8, 2009 public hearing, there was discussion that the term of Conditional Use Permits CUP 09-01 and CUP 09-02 should be consistent with the term of the lease for each location. The Planning Commission directed staff to return with a revision to the conditions of approval for CUP 08-07 for consistency purposes.

NOTICING:

On May 1, 2008:

- 1) Notice of the Public Hearing was published in the Lompoc Record;
- 2) Notices were mailed to property owners within 300 feet by US mail; and
- 3) The project site was posted by City staff.

ATTACHMENTS:

- 1) [Draft Resolution No. 650 \(09\)](#) and [Conditions of Approval](#)

Staff Report has been reviewed and approved for submission to the Planning Commission			
Arleen T. Pelster, AICP Community Development Director	Date	Lucille T. Breese, AICP Planning Manager	Date

RESOLUTION NO. 650 (09)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMPOC APPROVING A REVISION TO THE CONDITIONS OF APPROVAL FOR CUP 08-07

WHEREAS, a request was submitted by Jay Higgins, representing Metro PCS, for Planning Commission review and consideration of a revision to the conditions of approval for Conditional Use Permit CUP 08-07. The revision would modify condition of approval P13 to allow the previously approved wireless telecommunication facility on the site for a period of five (5) years prior to expiration, with the ability to obtain five (5) year extensions. The project is located at 1621 North H Street in the *Planned Commercial Development (PCD)* Zoning District (Assessor Parcel Number: 93-450-23); and

WHEREAS, the request was considered by the Planning Commission at a duly-noticed public meeting on May 13, 2009; and

WHEREAS, at the meeting of May 13, 2009, _____, was present to answer Planning Commissioners' questions and address their concerns; and

WHEREAS, at the meeting of May 13, 2009, _____ spoke in favor of, and _____ spoke in opposition to, the project; and

WHEREAS, the time extension is categorically exempt pursuant to the provisions of the California Environmental Quality Act (CEQA).

NOW, THEREFORE, THE LOMPOC PLANNING COMMISSION RESOLVES AS FOLLOWS:

SECTION 1: The revision to condition of approval P13 to allow the previously approved wireless telecommunication facility on the site for a period of five (5) years prior to expiration, with the ability to obtain five (5) year extensions meets the intent of applicable City standards, therefore it can be found that:

Granting the revision to condition of approval P13 is consistent with the intent of applicable policies and development standards set forth in *Chapter 17 Wireless Communications Facilities* of the Lompoc City Code.

The foregoing resolution, on motion by Commissioner _____, seconded by Commissioner _____, was adopted at the regular Planning Commission meeting of May 13, 2009 by the following vote:

AYES:

NOES:

Arleen T. Pelster, AICP, Secretary

Jack Rodenhi, Chair

CONDITIONS OF APPROVAL
CUP 08-07 – REVISION TO CONDITIONS OF APPROVAL
1621 NORTH H STREET – APN: 93-450-23

The following Conditions of Approval apply to the revision to conditions of approval for CUP 08-07, requested by Jay Higgins, representing Metro PCS, reviewed by the Planning Commission on May 13, 2009.

I. PLANNING

Planning - General Conditions

- P1. All applicable provisions of the Lompoc City Code are made a part of these conditions of approval in their entirety, as if fully contained herein.
- P2. In conformity with Sections 17.140.010, 17.152.010, and 17.152.020 of the Lompoc City Zoning Ordinance, the violation of any condition listed herein shall constitute a nuisance and a violation of the Lompoc City Zoning Ordinance and the Lompoc City Code. In conformity with Section 1.24.010 of the Lompoc City Code, a violation of the Lompoc City Code and the Lompoc City Zoning Ordinance is a misdemeanor and shall be punishable as provided by law. In addition to criminal penalties, the City may seek injunctive relief. The applicant agrees to pay for all attorney's fees and costs, including, but not limited to, staff time incurred by the City in obtaining injunctive relief against the applicant as a result of a failure of the applicant to fully perform and adhere to all of the Conditions of Approval.
- P3. Owner agrees to and shall indemnify, defend, protect, and hold harmless City, its officers, employees, agents and representatives, from and against any and all claims, losses, proceedings, damages, causes of action, liabilities, costs and expenses, including reasonable attorney's fees, arising from or in connection with, or caused by (i) any act, omission or negligence of Owner, or their respective contractors, licensees, invitees, agents, sublessees, servants or employees, wherever on or adjacent to the Property the same may occur; (ii) any use of the Property, or any accident, injury, death or damage to any person or property occurring in, or on or about the Property, or any part thereof, or from the conduct of Owner's business or from any activity, work or thing done, permitted or suffered by Owner or its sublessees, contractors, employees, or invitees, in or about the Property, other than to the extent arising as a result of City's sole active negligence or to the extent of any willful misconduct of the City; and (iii) any default in the performance of any obligations of Owner's part to be performed under the terms of this Agreement, or arising from any negligence of Owner, or any such claim or any action or proceeding brought thereon; and in case any action or proceedings be brought against the City, its officers, employees, agents and representatives, by reason of any such claim, Owner, upon notice from City, shall defend the same at its expense by counsel reasonably satisfactory to City.

Owner further agrees to and shall indemnify, defend, protect, and hold harmless the City, its officers, employees, agents and representatives, from and against any and all actions brought by any third party to challenge the Project or its approval by the City, including environmental determinations. Such indemnification shall include any costs and expenses incurred by Agency and City in such action(s), including reasonable attorney's fees.

- P4. The conditions hereby imposed are in addition to the conditions imposed by PC Resolution No. 636 (09). In the case of any conflicts, the conditions listed herein shall prevail.
- P5. Conditional Use Permit CUP 08-07 shall be valid for five (5) years from the date of approval and will expire on February 11, 2014. The Conditional Use Permit may be extended at the request of the applicant for additional five-year increments at the discretion of the Planning Manager. Applications for renewal shall be submitted to the Planning Division not later than 30 days prior to expiration of the five-year approval period.

I, Jay Higgins, project representative for Metro PCS, LLC, do hereby declare under penalty of perjury that I accept all conditions imposed by the Planning Commission in their approval of the revisions to the conditions of approval for CUP 08-07. As the project representative, I agree to comply with these conditions and all other applicable laws and regulations at all times.

Name

Date