

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Planning And Community Development *af* BOARD AGENDA #: 9:05 a.m.

AGENDA DATE: March 1, 2016

SUBJECT:

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

BOARD ACTION AS FOLLOWS:

No. 2016-109

THE APPELLANT SUBMITTED A WRITTEN WITHDRAWAL OF THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF USE PERMIT APPLICATION NO. 2015-0023 - VERIZON WIRELESS, MOFFETT ROAD; AND, NO ACTION WAS TAKEN ON THIS MATTER.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM

DEPT: Planning And Community Development Af BOARD AGENDA #: 9:05 a.m.
Urgent Routine AGENDA DATE: March 1, 2016

CEO CONCURRENCE: _____ 4/5 Vote Required: Yes No

SUBJECT:

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

STAFF RECOMMENDATIONS:

1. Conduct a Public Hearing to Consider an appeal of the Planning Commission's approval of Use Permit Application No. 2015-0023 - Verizon Wireless – Moffett Road, a request to construct a new wireless communication facility that includes a 75-foot-high monopole with 12 mounted antennas, a 184 square foot equipment shelter, and supporting equipment within a 1,200 square foot leased area on a 30+/- acre parcel located within the A-2-10 (General Agriculture) zoning district, within the City of Ceres' Sphere of Influence.
2. Uphold the Planning Commission's decision to approve Use Permit Application No. 2015-0023 - Verizon Wireless – Moffett Road, subject to the following findings and actions:
 - A. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
 - B. Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
 - C. Find that:
 - (a) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;
 - (b) The parcel on which such use is requested is not located in one of the County's "most productive agricultural areas" as that term is used in the Agricultural element of the General Plan; or the character of the use that is requested is such that the land may reasonably be returned to agricultural use in the future; and

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

- (c) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

D. Approve Use Permit Application No. PLN2015-0023 – Verizon Wireless – Moffett Road, subject to the Conditions of Approval, as amended and approved, by the Stanislaus County Planning Commission on January 7, 2016.

DISCUSSION:

This item is an appeal of Stanislaus County Planning Commission's January 7, 2016, decision to approve Use Permit Application No. PLN2015-0023, Verizon Wireless – Moffett Road with the amended Condition of Approval No. 22 to read as follows:

"The cell tower at 4037 Moffett Road would remain up for a minimum of 10 years. The 10 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower/monopole. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA by the filing of a Notice of Preparation for annexation and EIR for the area. Verizon Wireless would only be obligated to remove or relocate the site monopole and all attached equipment following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower/monopole and all accessory structures of said tower. The City would make reasonable efforts to relocate the facility to a zoning designation that would support cell tower facilities."

The project is a request to construct a new wireless communication facility that includes a 75 foot high monopole with 12 mounted antennas, a 184 square foot equipment shelter, a 48KW generator, and supporting equipment within a 1,200 square foot leased area on a 30± acre parcel in the A-2-10 (General Agriculture) zoning district. The project site is located at 4037 Moffett Road, south of E. Service Road, north of E. Redwood Road, within the City of Ceres' Sphere of Influence.

In accordance with the County's General Plan Policy regarding discretionary development, other than agriculture and churches, within a cities Local Agency Formation Commission (LAFCO) adopted Sphere of Influence, a project shall not be approved by the County unless written communication is received from a city memorializing their approval.

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

The City of Ceres responded to the Early Consultation and Initial Study for this project and commented in opposition of the proposed communication tower. The City of Ceres stated that the proposed communication facility would not be consistent with the City's Zoning Code, which does not permit cell towers in residential areas; however, the City of Ceres has not established zoning for the project site to date.

The November 19, 2015, Staff Report included a recommendation of approval for the project, see Attachment A. Notwithstanding comment letters from the City of Ceres, Federal Law [the Telecommunications Act of 1996 (47 U.S.C. Sections 332 (c)(7)(B)(iii)] supersedes the County's General Plan land use policy relating to development and approval criteria as it relates to requests to place, construct or modify wireless service facilities in unincorporated areas of the County. Prior to the meeting of November 19, 2015, staff added a late Condition of Approval, to compromise between the City of Ceres and the applicant. Condition of Approval No. 22 stated:

"The monopole, and all attached equipment, shall be removed within six (6) months of the subject parcel being annexed into the city, unless an extension is approved by the city."

This condition was not acceptable to the applicant and the agenda item was continued to January 7, 2016, to allow time for the City of Ceres and the applicant to identify a mutually agreeable time period for the communication facility to remain and operate on site. Verizon Wireless and the City of Ceres were not able to come to a mutual agreement during the continuance period.

On December 18, 2015, Tom Westbrook, the City of Ceres Planning Director of Community Development, submitted a letter stating that the City was originally not supportive of the application, but worked with the applicant to allow the cell tower to remain in place for a minimum of **10 years**, and would give two years notice of annexation into the City, see Attachment B.

On December 18, 2015, Paul Albritton, Mackenzie & Albritton LLP, representing Verizon Wireless, submitted a letter requesting the communication facility to remain in place for a minimum of **20 years**, and would give two years notice of annexation into the City, see Attachment C.

At its regularly scheduled Planning Commission meeting of January 7, 2016, staff recommended approval of the project subject to the Conditions of Approvals, including the amendment to Condition of Approval No. 22 currently being appealed.

Joey Acquistapce, Epic Wireless, representing Verizon Wireless spoke in favor of the project. Mr. Acquistapce, asked the Planning Commission to meet both parties half way and approve the communication facility for a minimum of 15 years. Tom Westbrook, City of Ceres Planning Director spoke in favor of the project, with the Condition of Approval for a minimum of 10 years. The Planning Commission on a vote of 9-0 (Peterson/Yamamoto) approved the staff recommendation with amendment to Condition of Approval No. 22 as presented by staff, see Attachment D.

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

On January 15, 2016, Paul Albritton, Mackenzie & Albritton, LLP, representing Verizon Wireless, submitted an appeal letter, contesting the Planning Commission's action. In the letter, Verizon has challenged the length of time the proposed communication facility can remain, and operate on site, see Attachment E.

On February 18, 2016, Tom Hallinan, City of Ceres Attorney, submitted a response to Verizon Wireless' appeal of the Planning Commission action, included as Attachment F. In this letter, Mr. Hallinan reiterates that the City of Ceres has compromised its position, and is agreeable to permitting communication facility for a minimum of 10 years. The City of Ceres has requested that the Board of Supervisors uphold the Planning Commission approval of the project, and deny the appeal.

POLICY ISSUE:

The Board's review in this case will consider if the Sphere of Influence Policy as outlined in the Land Use Element of the Stanislaus County General Plan is being fulfilled without compromising the development rights prescribed under Federal Law for the placement and development of a communications facility. In this case, the applicant is being permitted to construct and operate a communications facility within the City's Sphere of Influence. Both the City and the applicant's interests are being considered as part of staff's recommendation. The distinguishing factor between both parties is the length of time for the operation of the communication facility.

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD OF SUPERVISORS' PRIORITY:

Approval of the Use Permit will further the Board efforts in meeting its adopted priorities of: A Safe Community, A Strong Local Economy, Effective Partnerships, and A Well-Planned Infrastructure System.

STAFFING IMPACT:

There are no staffing impacts associated with item.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director
Phone: (209) 525-6330

Public Hearing to Consider an Appeal of Planning Commission's Approval of Use Permit Application No. 2015-0023, Verizon Wireless - Moffett Road, a Request to Construct a New Wireless Communication Facility on a 30+/- Acre Parcel Located Within the A-2-10 (General Agriculture) Zoning District, Within the City of Ceres' Sphere of Influence

ATTACHMENT(S):

- A. Memo to Planning Commission dated January 7, 2016 - UP 2015-0023 – Verizon Wireless – Moffett Road with November 19, 2015 Planning Commission Staff Report
- B. City of Ceres Proposed Condition Letter – December 18, 2015
- C. Verizon Wireless Proposed Condition Letter – December 18, 2015
- D. Planning Commission Minutes – January 7, 2016
- E. Mackenzie & Albritton LLP c/o Verizon Wireless Appeal Letter – January 15, 2016
- F. City of Ceres Appeal Response Letter – February 5, 2016



January 7, 2016

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

**SUBJECT: USE PERMIT APPLICATION NO. PLN2015-0023 – VERIZON WIRELESS –
MOFFETT ROAD**

At the November 19, 2015, Planning Commission meeting, the proposed application was continued to the January 7, 2016, to provide additional time for the City of Ceres and Verizon Wireless to try to come to a mutual agreement on a time frame to allow the proposed monopole to operate and remain on the project site. The memo to the Planning Commission dated November 19, 2015, proposed Condition of Approval No.22 which stated: *"The monopole, and all attached equipment, shall be removed within six (6) months of the subject parcel being annexed into the city, unless an extension is approved by the city."*

Since the November 19th Planning Commission meeting, the City of Ceres and Verizon Wireless met, and continue to be unable to arrive at a mutual agreement on length of time the monopole and all attached equipment can remain on the property. The City of Ceres current position is to support the project, provided a condition is added limiting the monopole and all attached equipment to remain for a minimum of 10 years and beyond until such time the area is annexed and further development of the property is proposed by the applicant. According to the proposed City of Ceres condition, Verizon Wireless would only be obligated to remove or relocate the site monopole and all attached equipment following annexation of the property to the City of Ceres and after submittal of improvement plans to the City of Ceres for development of the property. The City of Ceres proposed condition of approval is outlined in Attachment "1".

Verizon Wireless representatives have indicated that they do not agree to the amended condition and have requested a condition allowing for a minimum of 20 years. Verizon Wireless's proposed condition of approval is included in Attachment "2".

Staff has considered the proposed amendments to Condition No. 22, and believes that since annexation and development time frames are unknown at this time, the amended condition provided by the City of Ceres is practical, and leaves further development responsibility of the property as a prerogative of the property owner.

Staff has evaluated both proposed conditions and supports the condition submitted by the City of Ceres with minor editorial revisions. As discussed in the November 19, 2015, Planning Commission Staff Report, the County General Plan policy requires written support from the City of Ceres in order to approve this discretionary project. The County did not agree with the original position taken by the City of Ceres, which was recommendation to deny the permit. The

City of Ceres has since amended its position, and now conditionally supports the project. The County supports the City's recent amendment with minor editorial revisions.

RECOMMENDATION

Staff recommends the Planning Commission approve Use Permit Application No. PLN2015-0023 – Verizon Wireless – Moffett Road as outlined in Exhibit A - Findings and Actions Required for Project Approval, with the amendment to Condition of Approval No. 22 as reflected below.

22. **The cell tower at 4037 Moffett Road would remain up for a minimum of 10 years. The 10 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower/monopole. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA by the filing of a Notice of Preparation for annexation and EIR for the area. Verizon Wireless would only be obligated to remove or relocate the site monopole and all attached equipment following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower/monopole and all accessory structures of said tower. The City would make reasonable efforts to relocate the facility to a zoning designation that would support cell tower facilities.**

Attachments:

1. Letter from Tom Westbrook, Director of Community Development, City of Ceres, dated December 18, 2015.
2. Letter from Paul Albritton, Mackenzie & Albritton LLP, dated December 18, 2015.
3. Planning Commission Memo and Staff Report dated November 19, 2015.



PLANNING AND BUILDING DIVISION
2220 Magnolia Street
Ceres, CA 95307
209-538-5774
Fax 209-538-5675

CITY COUNCIL

Chris Vierra, Mayor
Ken Lane Bret Durossette
Linda Ryno Mike Kline

December 18, 2015

Miguel A. Galvez
Stanislaus County Planning and Community Development
1010 10th St., Suite 3400
Modesto, CA 95354

RE: PLN2015-0023 - Verizon Wireless - Moffett Road

Dear Mr. Galvez:

As you know, the City of Ceres was originally not supportive of this application, but has been working with the project proponent to provide a condition to allow the proposed cellular tower for a temporary period of time. The City of Ceres had initiated and began land use entitlement for annexation, a master plan and EIR back in 2004, which was known as the Maple Glen Master Plan. Unfortunately, due to a recession, the project stopped in 2008. It is the City's opinion that as the economy recovers, this project would be poised to resume the master plan and EIR efforts and proceed toward annexation of the area.

As such, the City of Ceres desires to protect the area from cellular facilities as they are not permitted residential uses of property. The current General Plan designation indicates residential use for this property, and therefore, the objection. The City of Ceres can support the development of this project pursuant to the following condition of approval being added to the County's conditions of approval:

The cell tower at 4037 Morgan Road would remain up for a minimum of 10 years. The 10 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA by the filing of a Notice of Preparation for annexation and EIR for the area. Verizon Wireless would only be obligated to remove or relocate the site following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower and all accessory structures of said tower. The City would make reasonable efforts to relocate the facility to a zoning designation that would support cell tower facilities.

That said, the City of Ceres will not support this project if there are any alterations to the conditions of approval noted above. We intend to participate at the County Planning Commission meeting on January 7th, 2016 and would be available to address any questions raised at that meeting.

Sincerely,

Tom Westbrook
Director of Community Development

ATTACHMENT 1

MACKENZIE & ALBRITTON LLP

220 SANSOME STREET, 14TH FLOOR
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

December 18, 2015

VIA EMAIL

Timothy Vertino
Assistant Planner
Stanislaus County Planning &
Community Development
1010 10th St. Suite 3400
Modesto, CA 95354

Re: Verizon Wireless Proposed Wireless Telecommunication Facility
Stanislaus County Application # PLN2015-0023

Dear Timothy:

We write to you on behalf of our client Verizon Wireless. As you know, following Planning Commission hearing of November 19, 2015, Verizon Wireless and the City of Ceres agreed to meet in an effort to arrive upon a mutually acceptable condition of approval regarding possible City annexation of the proposed facility location. As of today, Verizon Wireless and the City are close to, but have not reached an agreement on a condition. A fundamental disagreement remains between Verizon Wireless and the City of Ceres over the minimum period of operation for the Verizon Wireless tower. Barring agreement on this condition, Verizon Wireless will seek approval of the facility absent any condition regarding annexation.

As of today's date, I have received approval from Verizon Wireless to propose the following condition, which revises slightly the language proposed by the City of Ceres:

The cell tower at 4037 Moffett Road would remain in operation for a minimum of twenty (20) years. The 20 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA and commencing upon notice to Verizon Wireless of the filing of a Notice of Preparation for annexation and EIR. Verizon Wireless would only be obligated to remove or relocate the site following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower and all accessory structures of said tower. The City shall make diligent efforts to relocate the facility and identify or create a zoning designation that would support cell tower facilities to provide for uninterrupted wireless service.

Timothy Vertino
Stanislaus County Planning &
Community Development
December 18, 2015
Page 2 of 2

We are hopeful that Planning staff and the Planning Commission can support approval of Verizon Wireless's application with the above condition of approval.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, reading "Paul Albritton". The signature is written in a cursive style with a large, looping initial "P".

Paul B. Albritton

cc: John Doering, Esq.
Thomas Boze, Esq.
Tom Hallinan, Esq.
Tom Westbrook



November 19, 2015

MEMO TO: Stanislaus County Planning Commission
FROM: Department of Planning and Community Development
SUBJECT: **USE PERMIT APPLICATION NO. PLN2015-0023 – VERIZON WIRELESS – MOFFETT ROAD**

Staff received one item of correspondence for this agenda item after the staff report was published: (1) a project response from the City of Ceres (see attached).

City of Ceres Response to County Staff Recommendation

Staff received late correspondence from Tom Westbrook, City of Ceres, Director of Community Development, dated November 18, 2015. In the letter, City of Ceres reiterates its position that it will not support a cell tower in this location, as their "General Plan designation of residential and the corresponding zoning designation does not permit cell towers". However, the City of Ceres has not established any zoning district (pre-zoning) for this area to regulate communication facilities. Due to the Federal Telecommunications Act of 1996, county staff must approve the proposed communication facility, unless there is written substantial evidence in the record to deny the application. Staff believes that the City of Ceres has not submitted written substantial evidence to date.

In regards to the letter received, and the County's General Plan Sphere of Influence Policy, staff is recommending that the Planning Commission add Condition of Approval No. 22.

- 22. The monopole, and all attached equipment, shall be removed within six (6) months of the subject parcel being annexed into the city, unless an extension is approved by the city.**

RECOMMENDATION

Staff recommends the Planning Commission approve Use Permit Application No. PLN2015-0023 – Verizon Wireless – Moffett Road as outlined in Exhibit A - Findings and Actions Required for Project Approval, with the addition of Condition of Approval No. 22 as described above.

Attachments:

- (1) City of Ceres referral response letter dated November 18, 2015.



Planning and Building Division
2220 Magnolia Street
Ceres, CA 95307
209-538-5774
Fax: 209-538-5675

CITY COUNCIL

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Mike Kline Linda Ryno

November 18, 2015

Angela Freitas, Stanislaus County Planning Director
County of Stanislaus
Department of Planning and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

SUBJECT: Response to Stanislaus County Planning Department's Recommendation – Verizon Wireless
Use Permit Application No. PLN 2015-0023, 4037 Moffett Road (APN: 041-011-012)

Dear Ms. Freitas,

The City of Ceres has reviewed the staff report prepared for the Verizon Wireless project (Use Permit Application No. PLN 2015-0023) proposed at 4037 Moffett Road. The staff report for this project indicates that the Stanislaus County Planning Department staff is making a recommendation to the County's Planning Commission for approval of this project. As you are aware, pursuant to the previous correspondence that the City has had with both the applicant and the Stanislaus County Planning Division staff since January 2015 (two months prior to the County staff receiving the formal use permit application for the project), the City of Ceres continues to hold the position that it will not support a cell tower in this location, as our General Plan designation of residential and the corresponding residential zoning designation does not permit cell towers, and thus, the City of Ceres cannot support the proposed project.

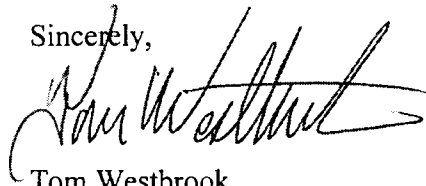
Having said that, the City of Ceres has also taken the liberty of reviewing the Stanislaus County's General Plan Goal 5 (and its implementation measures) and its Spheres of Influence Policies 1 and 2, which identify how the County Planning Commission and/or Board of Supervisors make their decisions to approve or deny projects that are proposed within a city's Sphere of Influence. In reviewing this information, the City of Ceres is of the understanding that Implementation Measure 1 of General Plan Goal 5 requires Stanislaus County staff to refer all discretionary development proposals that are within a city's Sphere of Influence to that city to determine whether or not said project can be approved, and (per Policy 1) that when said project is referred to that city for preliminary approval, that the project shall not be approved by the County unless written communication is received from the city memorializing their approval. Additionally, Policy 2 states that if the County finds that a project is inconsistent with a city's general plan designation that said project shall not be approved.

Angela Freitas, Stanislaus County Planning Director
November 18, 2015
Page Two

Based on the above noted information, it is our belief that if the Stanislaus County Planning Commission approves this project, the County would be violating its own general plan policies, as the City of Ceres has only provided the County with written communication of its opposition to the project as it does not support the proposed project. As such, it is our hope that the County Planning Commission reconsiders the County staff's recommendation and deny the use permit request.

Furthermore, I wanted to let you know that I will be in attendance of the upcoming Stanislaus County Planning Commission meeting this Thursday evening (November 19, 2015) in which the Commission is considering this project and would be available to address any questions that may be raised by the County Planning Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Westbrook", written over a horizontal line.

Tom Westbrook
Director of Community Development
(209) 538-5774
tom.westbrook@ci.ceres.ca.us

STANISLAUS COUNTY PLANNING COMMISSION

November 19, 2015

STAFF REPORT

USE PERMIT APPLICATION NO. PLN2015-0023 - VERIZON WIRELESS – MOFFETT ROAD

REQUEST: TO CONSTRUCT A NEW WIRELESS COMMUNICATION FACILITY, WHICH INCLUDES A 75-FOOT HIGH MONOPOLE WITH 12 MOUNTED ANTENNAS, A 184 SQUARE-FOOT EQUIPMENT SHELTER, A 48KW GENERATOR, AND SUPPORTING EQUIPMENT.

APPLICATION INFORMATION

Property Owner:	Winchester Farms Inc.
Applicant/Agent:	Joey Acquistapace, Epic Wireless, Verizon Wireless
Location:	4037 Moffett Road, on the west side of Moffett, south of E. Service Road, in the Ceres area.
Section, Township, Range:	23-4-9
Supervisorial District:	Five (Supervisor DeMartini)
Assessor's Parcel:	041-011-012
Referrals:	See Exhibit G Environmental Review Referrals
Area of Parcel(s):	30± acres
Water Supply:	Private well
Sewage Disposal:	Septic/leach system
Existing Zoning:	A-2-10 (General Agriculture)
General Plan Designation:	UT (Urban Transition)
Sphere of Influence:	Ceres
Community Plan Designation:	N/A
Williamson Act Contract No.:	N/A
Environmental Review:	Negative Declaration
Present Land Use:	Orchard, agricultural shop, pole barn, and single-family dwelling.
Surrounding Land Use:	Vacant land, scattered single-family dwellings, and commercial/light industrial businesses to the north; single-family dwellings, and orchards to the east; orchards, scattered single-family dwellings, and a school to the south; vacant land, orchards, and scattered single-family dwellings to the west.

RECOMMENDATION

Staff recommends the Planning Commission approve this request based on the discussion below and on the whole of the record provided to the County. If the Planning Commission decides to approve the project, Exhibit A provides an overview of all of the findings required for project approval which includes use permit findings.

PROJECT DESCRIPTION

The project is a request to construct a 75-foot high monopole with 12 mounted antennas, a 184 square-foot equipment shelter on a concrete pad, a 48kw diesel generator, and supporting equipment within a 1,200 square foot leased area. A six-foot-high chain link fence will surround the leased area, which will have access to Moffett Road via a private gravel road.

SITE DESCRIPTION

The 30± acre parcel is located at 4037 Moffett Road, on the west side of Moffett Road, south of E. Service Road, and west of State Highway 99, inside the City of Ceres' Local Agency Formation Commission (LAFCO) adopted Sphere of Influence. The project site is currently a producing almond orchard developed with a single family residence, and accessory structures in support of the agricultural operation.

The project site, and all adjacent parcels are zoned A-2-10 (General Agriculture) and developed with scattered single-family dwellings, agricultural, and commercial/light industrial uses. The nearest off-site single-family dwelling is 300± feet north of the proposed monopole location. Further out, to the north of E. Service Road there is a mix of zoning designations including Rural Residential (R-A), General Commercial (C-2), and Industrial (M). The project site is ¼ mile west of State Highway 99, less than a quarter mile north-east from John J. Hidahl Elementary School, and a quarter mile east of Central Valley High School.

ISSUES

County staff evaluated the project and identified the following issues and provides the following comments.

1. General Plan Policy for Discretionary Projects in a City's Spheres of Influence

All discretionary applications for development within unincorporated areas of the County that are located in a City's LAFCO adopted Sphere of Influence are referred to the appropriate cities for preliminary approval, per Stanislaus County's General Plan Land Use Element - Sphere of Influence policy.

According to the General Plan, the project is not approved by the County unless written communication is received from the city memorializing their approval. The County Planning Commission and Board of Supervisors shall consider the responses of the cities in the permit process. If the County finds that a project is inconsistent with the city's general plan designation, it shall not be approved. Agricultural use and churches shall not be considered inconsistent if the only inconsistency is with a statement that a development within the urban transition area or sphere of influence shall be discouraged.

In this case, the project site is located within the City of Ceres' Sphere of Influence and the project was referred to the City for their review and comment during the Early Consultation and Initial Study referral process. The City of Ceres has provided two responses indicating that they do not support the project. (See Exhibit E and E-1 – *Stanislaus County CEQA Referral Response Forms*.)

The project site has City of Ceres General Plan designations of High-Density Residential, Medium-Density Residential, Low-Density Residential, and Parks. However, the City of Ceres has not established any zoning district (pre-zoning) for this area to regulate communication facilities, and the City's General Plan is silent with respect to the siting of telecommunications facilities. The City's

zoning code contains prohibitions for monopoles in various residential zoning districts; however, these prohibitions are not applicable to General Plan land use designations, or apply to properties whose zoning designation has not been established. Furthermore, the City has not provided documentation to indicate that the communication towers are prohibited in areas located outside of its City limits. No documentation has been provided by the City to the County that the project is inconsistent with the City's General Plan designations and goals and policies.

This project sites only zoning designation is the County's designation of A-2-10 (General Agriculture), which allows communication towers, and facilities with approval of a use permit application.

2. The Telecommunications Act of 1996 (47 U.S.C. Sections 332 (c)(7)(B)(iii)

A letter from Mackenzie & Albritton LLP, representing Valley Limited Partnership, dba Verizon Wireless, dated July 2, 2015, was sent to the City of Ceres in response to the City's position. (See Exhibit E-3.) In this letter, Verizon asserts that the response from the City of Ceres lacks substantial evidence contained in a written record to support denial of the application, and denial of the application is in violation of federal law. Furthermore, the letter states that City zoning code prohibits communication towers, but that "these prohibitions do not apply to General Plan designations, nor do they apply to any land where the zones have not been established, such as the application location."

Notwithstanding comment letters from the City of Ceres opposing the placement of the proposed communications tower facility at this subject site, the Federal Law supersedes the County's General Plan land use policy relating to development and approval criteria as it relates to requests to place, construct or modify wireless service facilities in unincorporated areas of the County.

3. Siting Standards for Communication Facilities

Section 21.91 of the Zoning Ordinance includes regulations for the placement of communication facilities. County staff reviewed the proposed use, and has determined that project is consistent with the Zoning Ordinance. The proposed communication facility is located in an agriculture zone, and will not reduce the parcels agricultural production. The nearest single-family dwelling is located over 300 feet to the north of the proposed communication facility, which is more than twice the height of the proposed 75-foot monopole. The proposed size of the equipment shelter is 184 square feet, while a maximum of 600 square feet is allowed.

The City of Ceres has not responded with any conditions regarding siting standards, or aesthetics of the proposed monopole tower, and communication facility.

Stanislaus County encourages co-locating, the use of existing communication towers when reasonably available. The applicant represents that there are no existing cellular towers located in the desired coverage area that could have been co-located. On March 16, 2015, City of Ceres approved a Verizon communication facility at 4107 Morgan Road, which included a 90-foot-high monopole. This approved communication facility is approximately 1.5 miles west of the project site. The applicant for this approved communication facility was "Complete Wireless Consulting Inc.", while the current proposal's applicant is "Epic Wireless Group Inc.", both representing Verizon Wireless. Both tower's coverage area have some service overlapping west of State Highway 99, however the proposed tower at 4037 Moffett Road also covers new area north along Highway 99, and east of Highway 99. (See Exhibit B - *Maps, Site Plans, Elevations, Coverage Maps, Ceres Maps.*)

GENERAL PLAN CONSISTENCY

The project site currently has a County General Plan designation of UT (Urban Transition). The purpose of the Urban Transition designation is to ensure that land remains in agricultural usage until urban development consistent with a city's (or unincorporated community's) general plan designation is approved. Generally, urban development will only occur upon annexation to a city, but such development may be appropriate prior to annexation provided the development is not inconsistent with the land use designation of the General Plan of the affected city. If this is to occur, a change in the General Plan designation consistent with the adopted goals and policies to some other land use designation shall be required.

Until Urban Transition land within a sphere of influence are annexed, they should be zoned General Agriculture (A-2). The Urban Transition designation is appropriate for undeveloped land located within the LAFCO-established sphere of influence of a city or town.

The project site is located in the LAFCO adopted Sphere of Influence. As previously mentioned in the Issues section, the County's General Plan Sphere of Influence policy cannot override federal law relating to the provision of substantial evidence in the record by the City to support their recommendation of project denial.

Per the General Plan, Safety Element, Goal Two Policy Eleven, the proposed Use Permit for a communication tower in the A-2 zoning district was referred to the local crop dusting companies which typically serve the area; however, no referral response was received to date. Staff believes that implementation of the policies and goals found in the Safety Element of the General Plan requires safety lighting be installed at the top of the communication facility. Federal Aviation Administration guidelines dictate two or more steady burning lights to be installed on towers measuring 150 feet or less. The installation of the FAA approved safety lighting has been added to the projects conditions of approval.

ZONING ORDINANCE CONSISTENCY

The site is currently zoned A-2-10 (General Agriculture, 10 acre minimum). Section 21.20.030(B)(3) of the Stanislaus County Zoning Ordinance allows facilities for public utilities and communication towers as Tier Three uses. Tier Three uses are not directly related to agriculture but may be necessary to serve the A-2 district or may be difficult to locate in an urban area, and may be allowed when the Planning Commission makes the following findings:

- 1.) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity; and
- 2.) The parcel on which such use is requested is not located in one of the county's "most productive agricultural areas," as that term is used in the agricultural element of the general plan; or the character of the use that is requested is such that the land may reasonably be returned to agricultural use in the future. Most productive agricultural areas do not include any land within LAFCO-approved spheres of influence of cities or community services districts and sanitary districts serving unincorporated communities.

The specific findings required for approval of this use permit are outlined in Exhibit A of this report. Staff believes that all of the findings necessary for approval of this request can be made. There is no indication that, under the circumstances of this particular case, the proposed use will be

detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use or that it will be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. The proposed use will not be substantially detrimental to or in conflict with agricultural use of property in the area.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised. (See Exhibit G - *Environmental Review Referrals*.) A Negative Declaration has been prepared for approval prior to action on the use permit itself as the project will not have a significant effect on the environment. (See Exhibit F - *Negative Declaration*.) Conditions of approval reflecting referral responses have been placed on the project. (See Exhibit C - *Conditions of Approval*.)

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay **\$2,267.00** for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Timothy Vertino, Assistant Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps, Site Plan, Elevations, Coverage Maps, Ceres Maps
- Exhibit C - Conditions of Approval
- Exhibit D - Initial Study
- Exhibit E - City of Ceres Referral Responses dated April 23, and September 16, 2015, Map, and letter from Mackenzie & Albritton dated July 2, 2015.
- Exhibit F - Negative Declaration
- Exhibit G - Environmental Review Referral

Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that:
 - (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County;
 - (b) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;
 - (c) The parcel on which such use is requested is not located in one of the County's "most productive agricultural areas" as that term is used in the Agricultural element of the General Plan; **or** the character of the use that is requested is such that the land may reasonably be returned to agricultural use in the future; and
4. Approve Use Permit Application No.PLN2015-0023 – Verizon Wireless – Moffett Road, subject to the attached Conditions of Approval.

**UP PLN2015-0023
VERIZON WIRELESS – MOFFETT ROAD
AREA MAP**

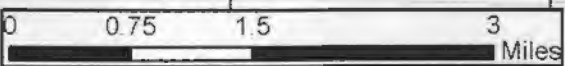
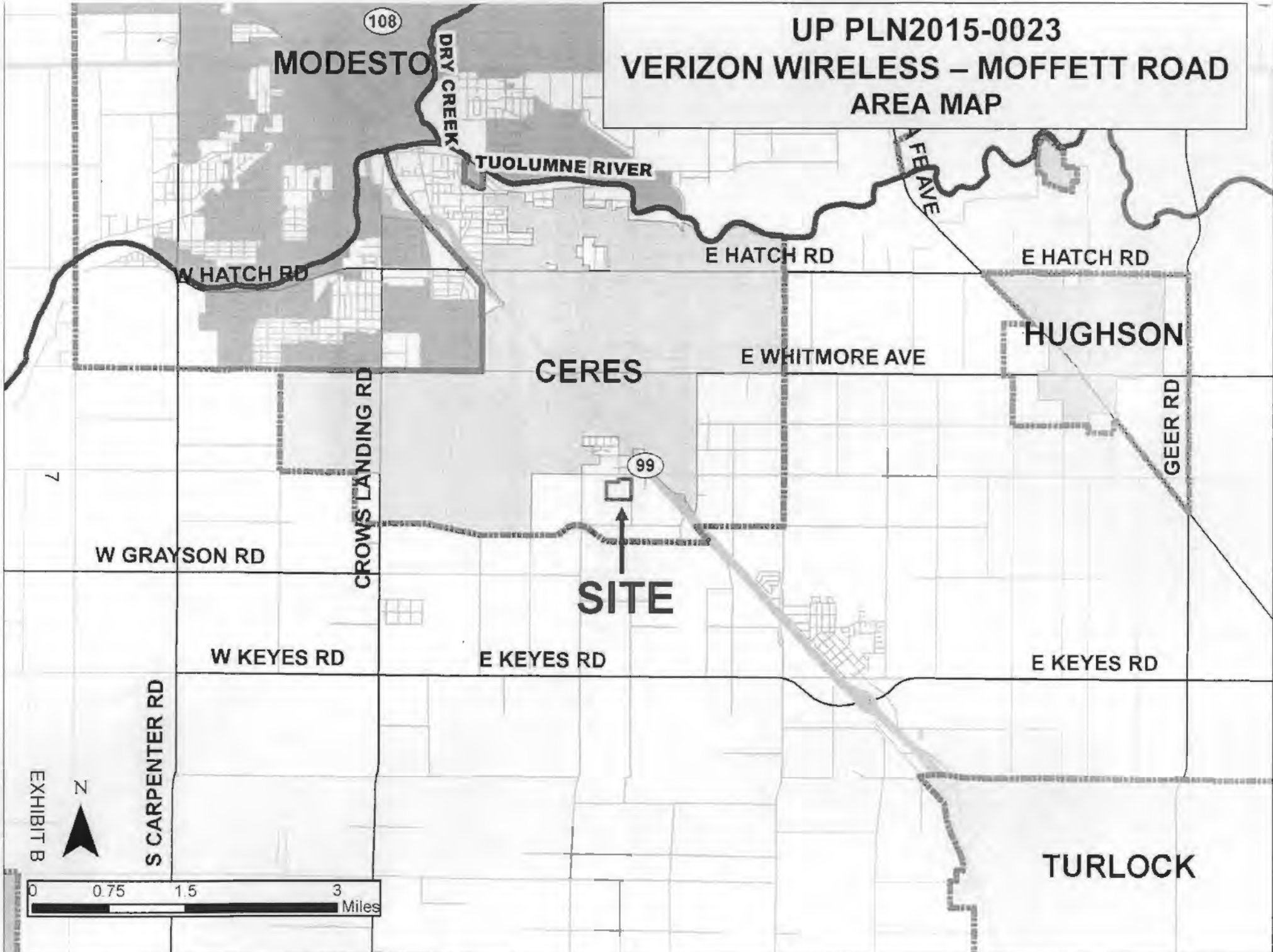
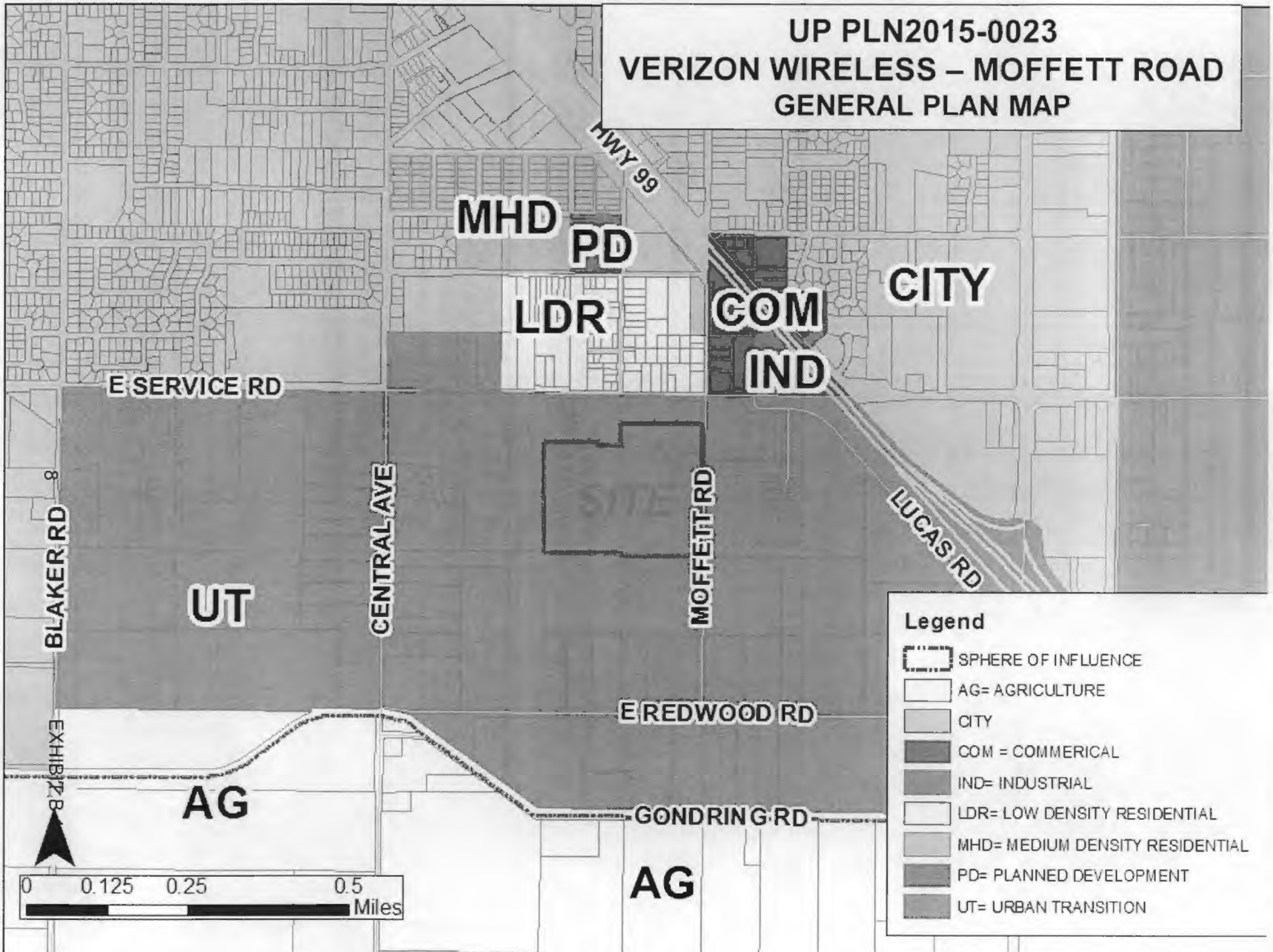











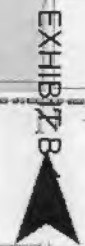
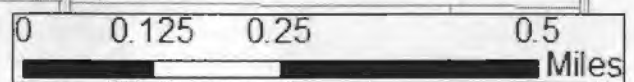
EXHIBIT B

**UP PLN2015-0023
 VERIZON WIRELESS – MOFFETT ROAD
 GENERAL PLAN MAP**



Legend

-  SPHERE OF INFLUENCE
-  AG= AGRICULTURE
-  CITY
-  COM = COMMERCIAL
-  IND= INDUSTRIAL
-  LDR= LOW DENSITY RESIDENTIAL
-  MHD= MEDIUM DENSITY RESIDENTIAL
-  PD= PLANNED DEVELOPMENT
-  UT= URBAN TRANSITION



**UP PLN2015-0023
 VERIZON WIRELESS – MOFFETT ROAD
 ZONING DESIGNATION MAP**

CERES

P-D (111)

R-2 P-D (265)

H-1

R-A

C-2 M

E SERVICE RD

SITE

A-2-10

LUCAS

A-2-10

A-2-10

MOFFETT RD

E REDWOOD RD

GONDRING RD











A-2-40

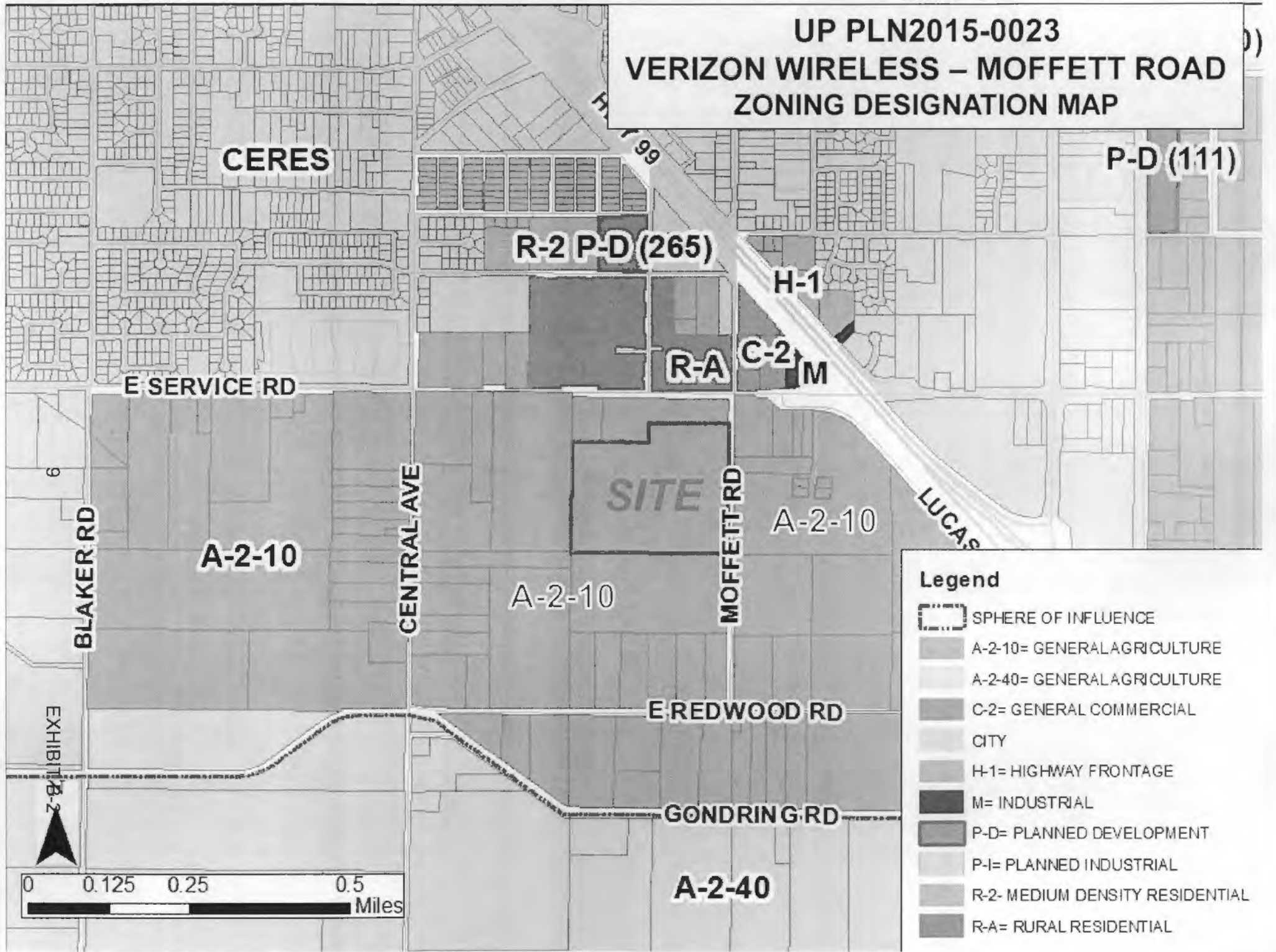
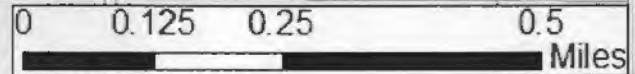
BLAKER RD

CENTRAL AVE

EXHIBIT B-2

Legend

-  SPHERE OF INFLUENCE
-  A-2-10= GENERAL AGRICULTURE
-  A-2-40= GENERAL AGRICULTURE
-  C-2= GENERAL COMMERCIAL
-  CITY
-  H-1= HIGHWAY FRONTAGE
-  M= INDUSTRIAL
-  P-D= PLANNED DEVELOPMENT
-  P-I= PLANNED INDUSTRIAL
-  R-2= MEDIUM DENSITY RESIDENTIAL
-  R-A= RURAL RESIDENTIAL



**UP PLN2015-0023
VERIZON WIRELESS – MOFFETT ROAD
2013 AERIAL MAP**



SITE

CENTRAL AVE

MOFFETT RD

LUCAS RD

E REDWOOD RD

0 375 750 1,500 Feet

EXHIBIT B-3Z



10

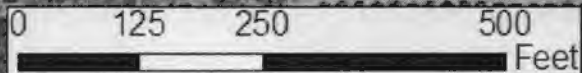
UP PLN2015-0023
VERIZON WIRELESS – MOFFETT ROAD
2013 AERIAL MAP

LEASED AREA

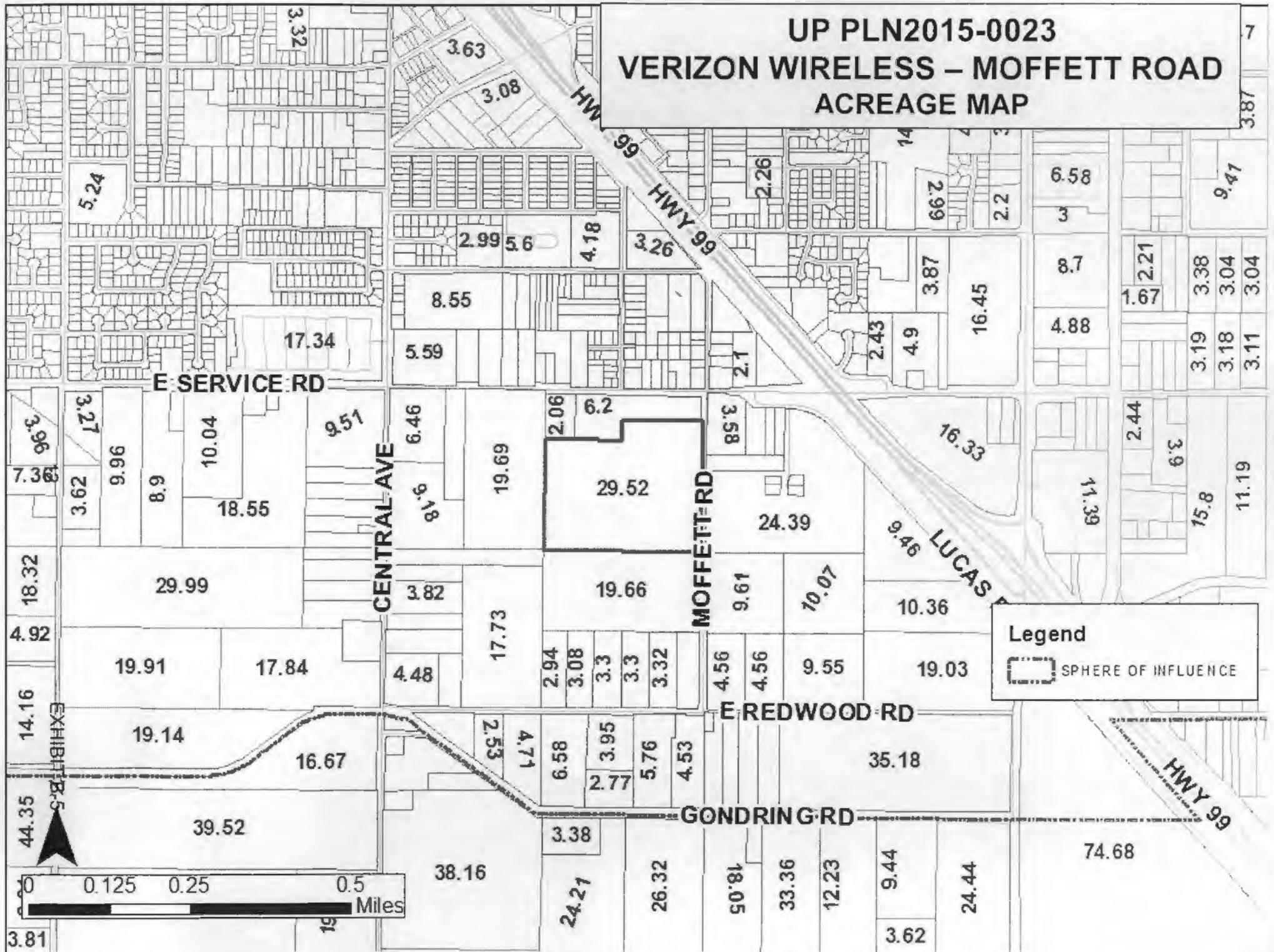
MOFFETT RD

11

EXHIBIT B-4



UP PLN2015-0023
VERIZON WIRELESS – MOFFETT ROAD
ACREAGE MAP



OVERALL BOUNDARY
SCALE: 1"=300'

VICINITY MAP

UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD SITE PLAN

PARCEL B
12 PM 146
APN 041-011-014

PROPOSED 15' WIDE
NON-EXCLUSIVE VERIZON WIRELESS
ACCESS EASEMENT
(PARCEL B)

PROPOSED 6' WIDE
NON-EXCLUSIVE VERIZON WIRELESS
UTILITY EASEMENT
(PARCEL C)

PROPOSED VERIZON WIRELESS
LEASE PREMISES
(PARCEL A)

REMAINDER PORTION
22 PM 85

APN: 041-011-012

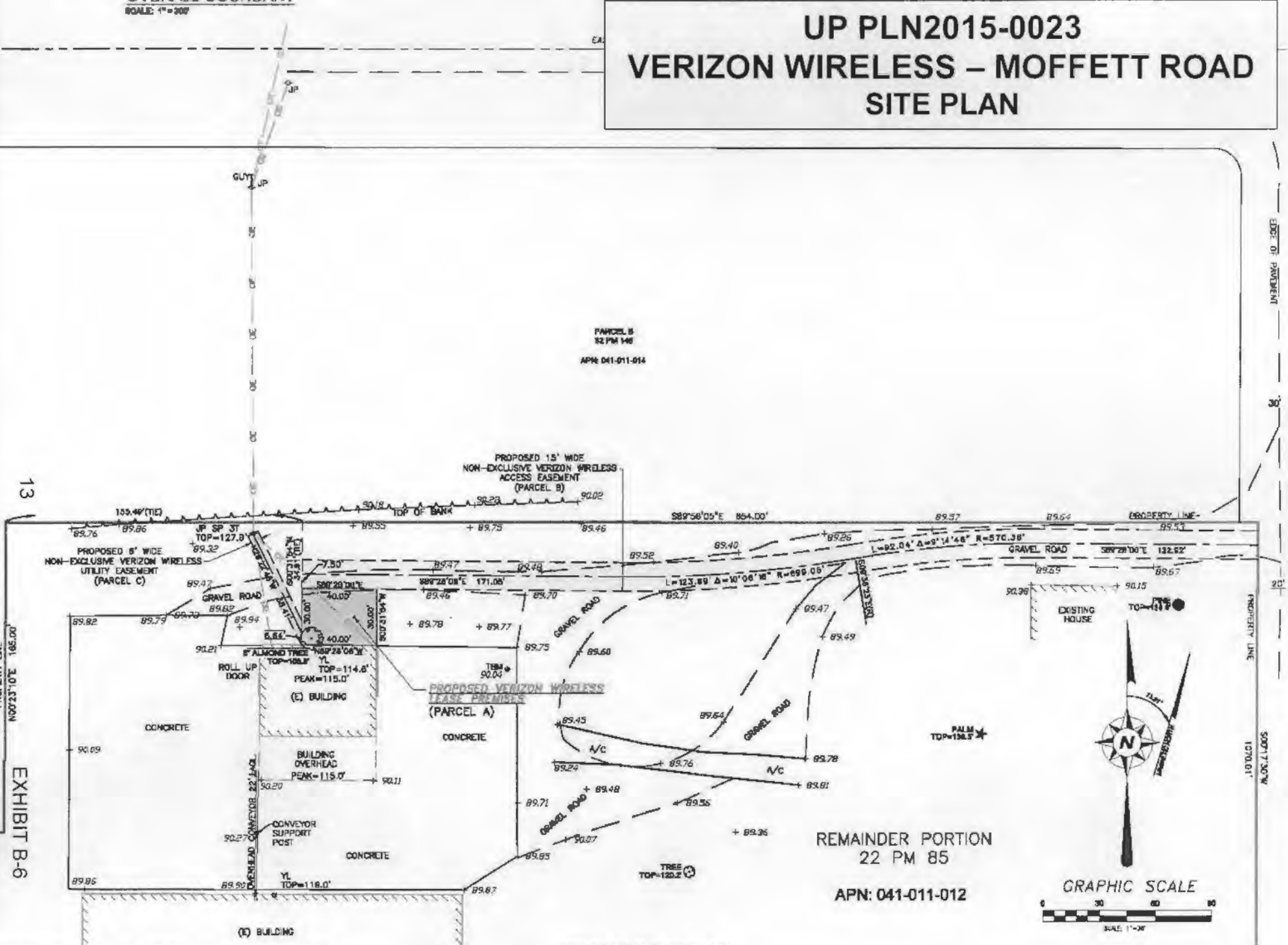


ENLARGED SITE PLAN
SCALE: 1"=30'

BOUNDARY SHOWN IS BASED ON RECORD INFORMATION AND FOUND MONUMENTATION.
THIS IS NOT A BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE APPROXIMATE.

13
PROPERTY LINE 1065.00'
EXHIBIT B-6

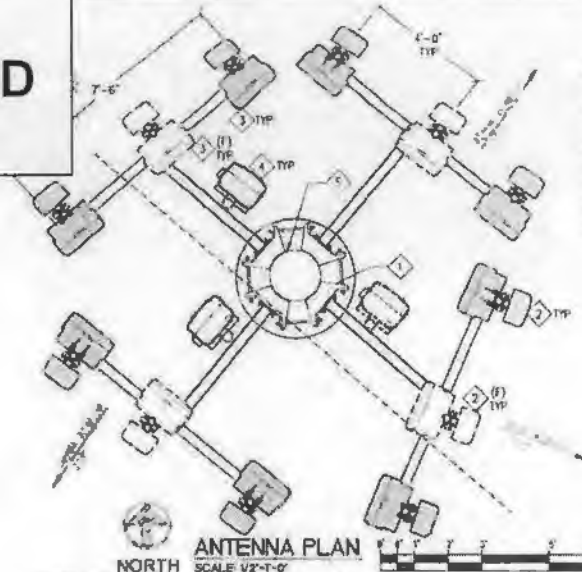
EDGE OF PAVEMENT
PROPERTY LINE 1370.01'
5007.30' W
1370.01'



UP PLN2015-0023

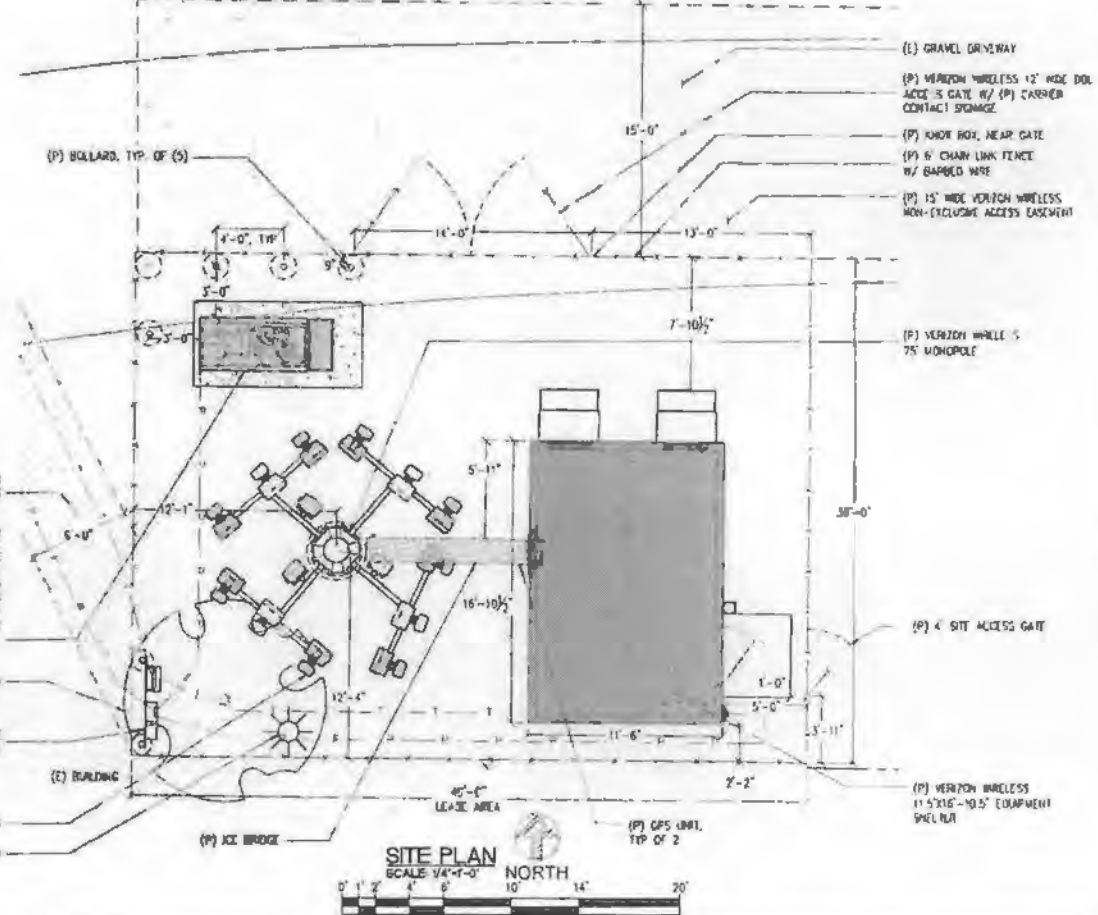
VERIZON WIRELESS – MOFFETT ROAD

SITE PLAN



- #### ANTENNA PLAN KEY NOTES
- 1 (P) QUAD SECTION MOUNT WITH STANDOFFS AND 1-ARMS
 - 2 (P) VERIZON WIRELESS 8' TALL ANTENNAS, (B) (P) & (A) FOR (7), TYPICAL OR (3) PER SECTOR
 - 3 (B) VERIZON WIRELESS PHAS-12 8/42 RECEIVERS, (B) (P) & (B) FOR (7), TYPICAL OR (4) PER SECTOR, JACK MOUNTED
 - 4 (S) TOWER MOUNTED RAYCAP SURGE SUPPRESSORS, (2) (P) & (1) FOR (7)
 - 5 (P) 75' TALL MONOPOLE

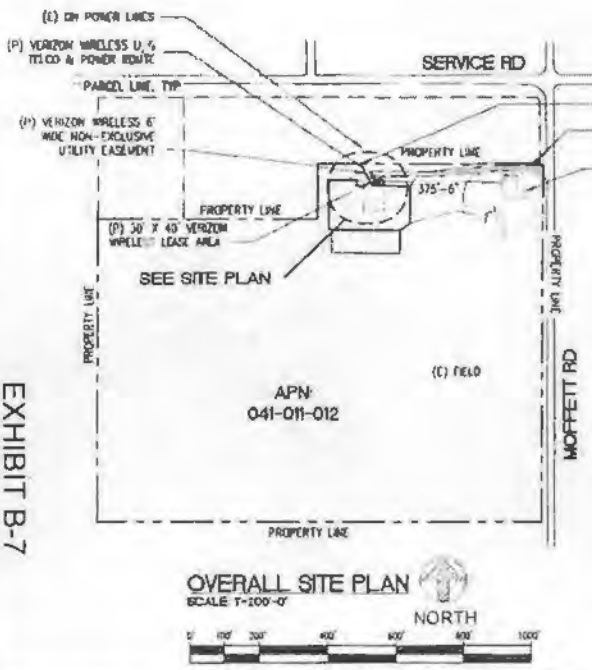
ANTENNA PLAN
SCALE 1/2"=1'-0"



SITE PLAN
SCALE 1/4"=1'-0"

14

EXHIBIT B-7

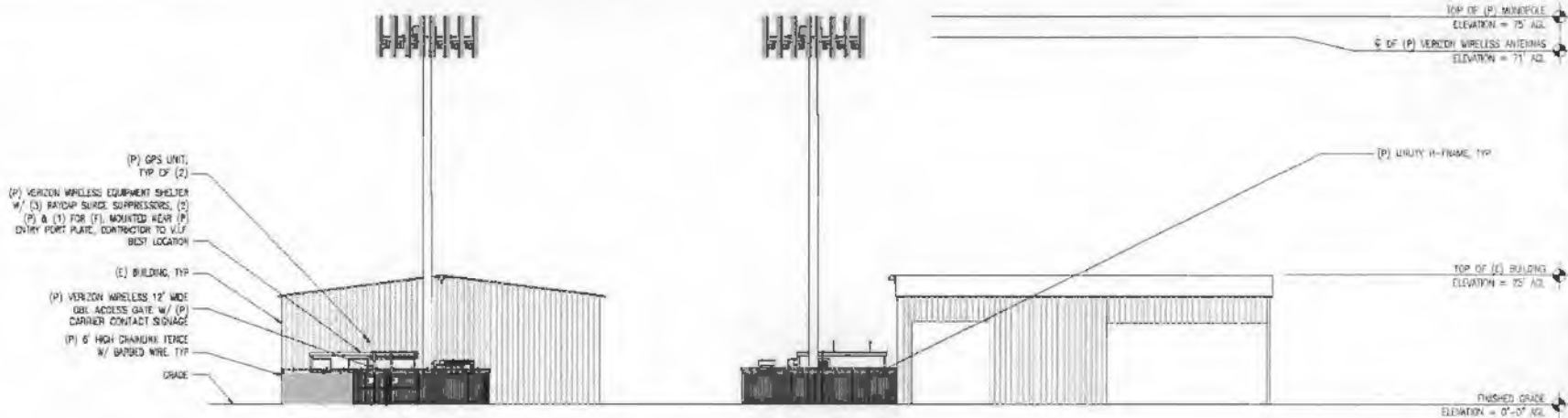


OVERALL SITE PLAN
SCALE 1"=100'-0"

- (E) POWER POLE & (P) VERIZON WIRELESS POWER P.O.C.
- (P) 15' WIDE VERIZON WIRELESS NON-EXCLUSIVE ACCESS EASEMENT
- (E) RESIDENCE
- (P) ROUTE FOR POWER AND TELCO CONDUITS
- (P) VERIZON WIRELESS STANDBY 45KW DIESEL GENERATOR W/ 210 GALLON J.C. 142 LISTED TANK ON A (P) 5'X10' CONCRETE PAD, W/ "NO SHEDDING" DIESEL FUEL AND APPROPRIATE NFPA 704 RACHANCE ON THE GENERATOR DIESEL FUEL STORAGE TANK
- (E) TREE TO BE REMOVED
- (P) VERIZON WIRELESS 5' WIDE UTILITY H-FRAME
- (P) VERIZON WIRELESS ANTENNAS
- (E) LIGHT ON BUILDING TO BE REMOVED

- (E) GRAVEL DRIVEWAY
- (P) VERIZON WIRELESS 12' WIDE DOL ACCESS GATE W/ (P) CARRIER CONTACT STORAGE
- (P) KNOX BOX NEAR GATE
- (P) 6' CHAIN LINK FENCE W/ BARBED WIRE
- (P) 15' WIDE VERIZON WIRELESS NON-EXCLUSIVE ACCESS EASEMENT
- (P) VERIZON WIRELESS 75' MONOPOLE
- (P) 4' SIT ACCESS GATE
- (P) VERIZON WIRELESS 11.5'X16'-10.5' EQUIPMENT SHELTER

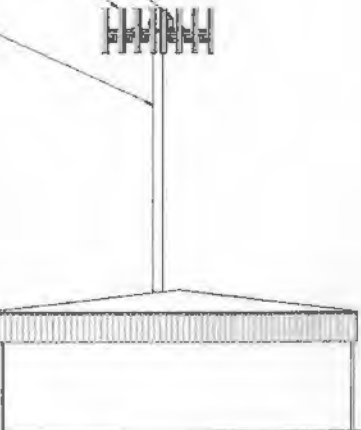
UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD ELEVATIONS



NORTH ELEVATION
SCALE 1/4"=1'-0"

WEST ELEVATION
SCALE 1/4"=1'-0"

- (5) RAYDAP SURGE SUPPRESSORS, (2) (P) & (1) FOR (F) TYP
- (12) VERIZON WIRELESS ANTENNAS, (8) (P) & (4) FOR (F), (16) HRUS12 W/ A2 RECEIVERS, (8) (P) & (8) FOR (F) TYP
- (P) VERIZON WIRELESS 75' HIGH STD. MONOPOLE, TYP



SOUTH ELEVATION
SCALE 1/4"=1'-0"

EAST ELEVATION
SCALE 1/4"=1'-0"

15

EXHIBIT B-8



CERES
NSR PROJECT ID: 20141069152
PS LOCATION #: 296105
4037 MOFFETT RD.,
CERES CA, 95307



ATM Engineering
Tom McPherson, SE
2525 East Bidwell Street
Folsom, CA 95630
Phone: 916-489-7100
Direct: 916-934-5177
Email: tom@atm-engineering.com

STAMP

ISSUE STATUS

REV	DATE	DESCRIPTION	REV
REV 1/1/2014	9/22/2015		01
REV 1/2/2014	9/22/2015		02
REV 2/2/2015	10/29/2015		03

SHEET TITLE:
ELEVATIONS

A-2

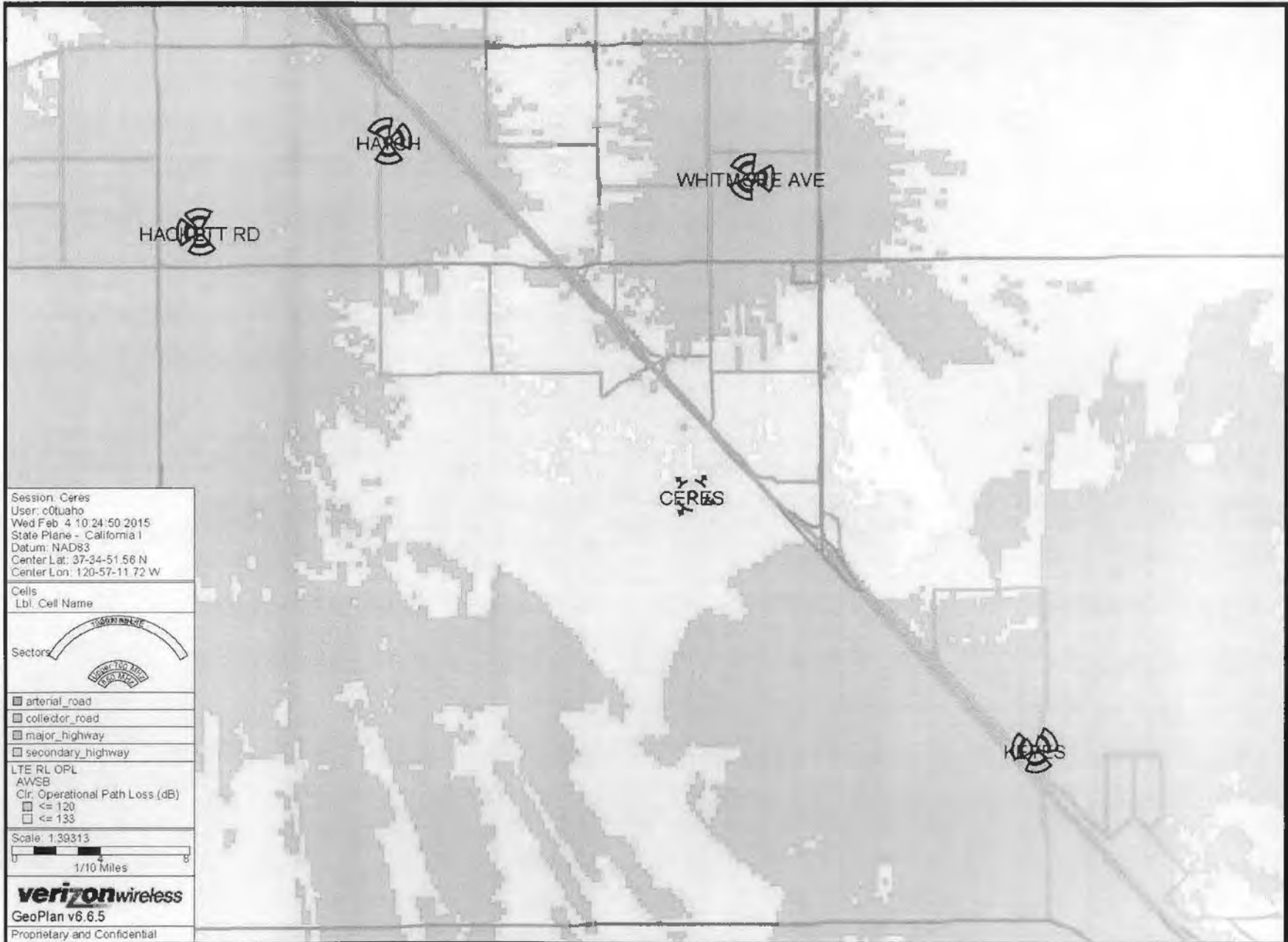
**UP PLN2015-0023
VERIZON WIRELESS – MOFFETT ROAD
TOWER COVERAGE**

16



EXHIBIT B-9

UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD COVERAGE MAP: BEFORE



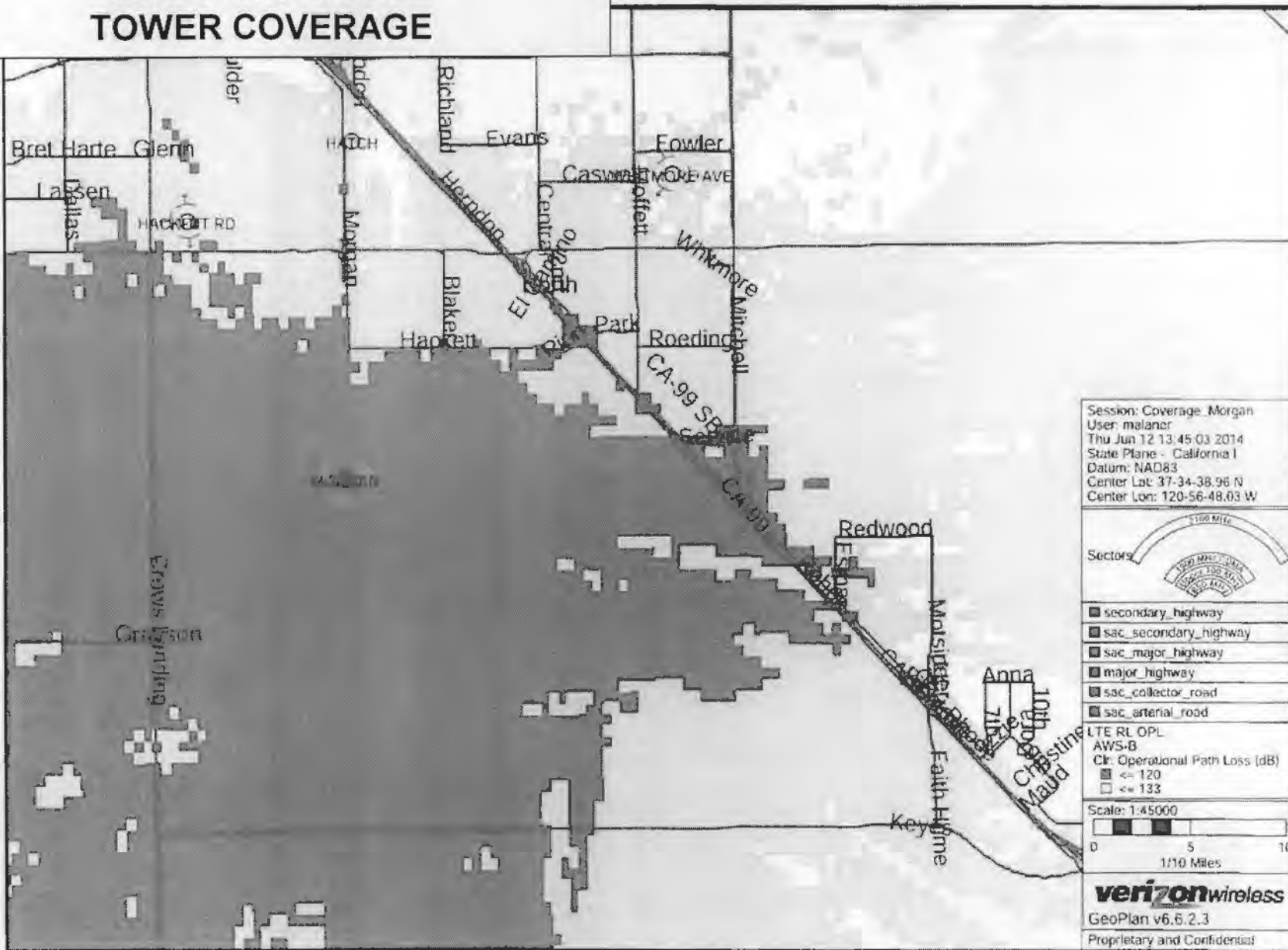
UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD COVERAGE MAP: AFTER



18

EXHIBIT B-11

CERES VERIZON TOWER – MORGAN ROAD TOWER COVERAGE



Session: Coverage_Morgan
 User: malaner
 Thu Jun 12 13:45:03 2014
 State Plane - California I
 Datum: NAD83
 Center Lat: 37-34-38.96 N
 Center Lon: 120-56-48.03 W

Sectors:

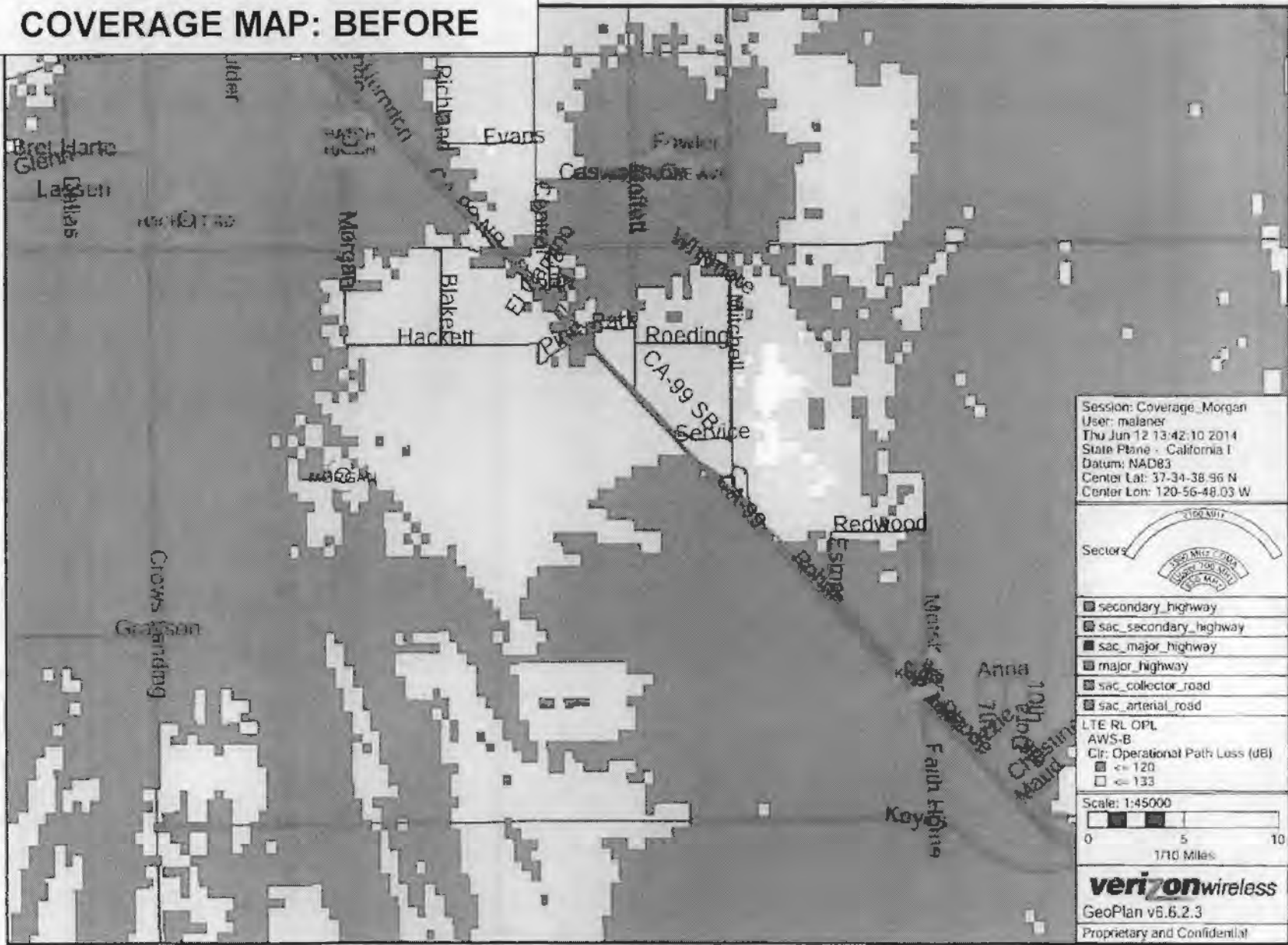
- secondary_highway
- sac_secondary_highway
- sac_major_highway
- major_highway
- sac_collector_road
- sac_arterial_road

LTE RL OPL
 AWS-B
 Cl: Operational Path Loss (dB)
 <= 120
 <= 133

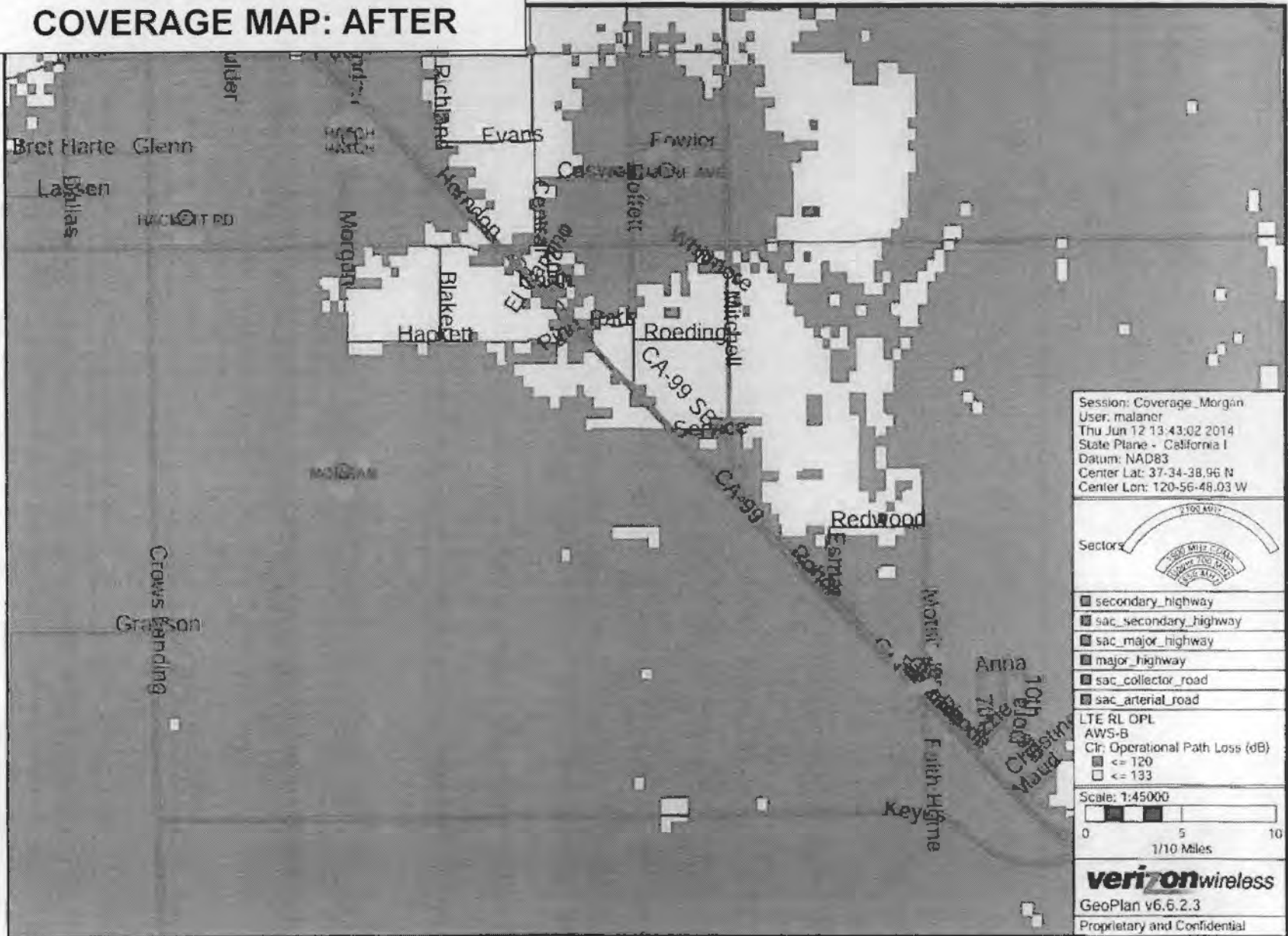
Scale: 1:45000

verizonwireless
 GeoPlan v6.5.2.3
 Proprietary and Confidential

CERES VERIZON TOWER – MORGAN ROAD COVERAGE MAP: BEFORE



CERES VERIZON TOWER - MORGAN ROAD COVERAGE MAP: AFTER



UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD

Existing



22

Existing



Proposed



Proposed



view from Collins Road looking south at site

view from E Service Road looking southeast at site

UP PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD

Existing



Existing



Proposed



Proposed



view from E Service Road looking southwest at site



Ceres 296105
4037 Moffett Road, Ceres, CA
Photos/ins Produced on 4-7-2015

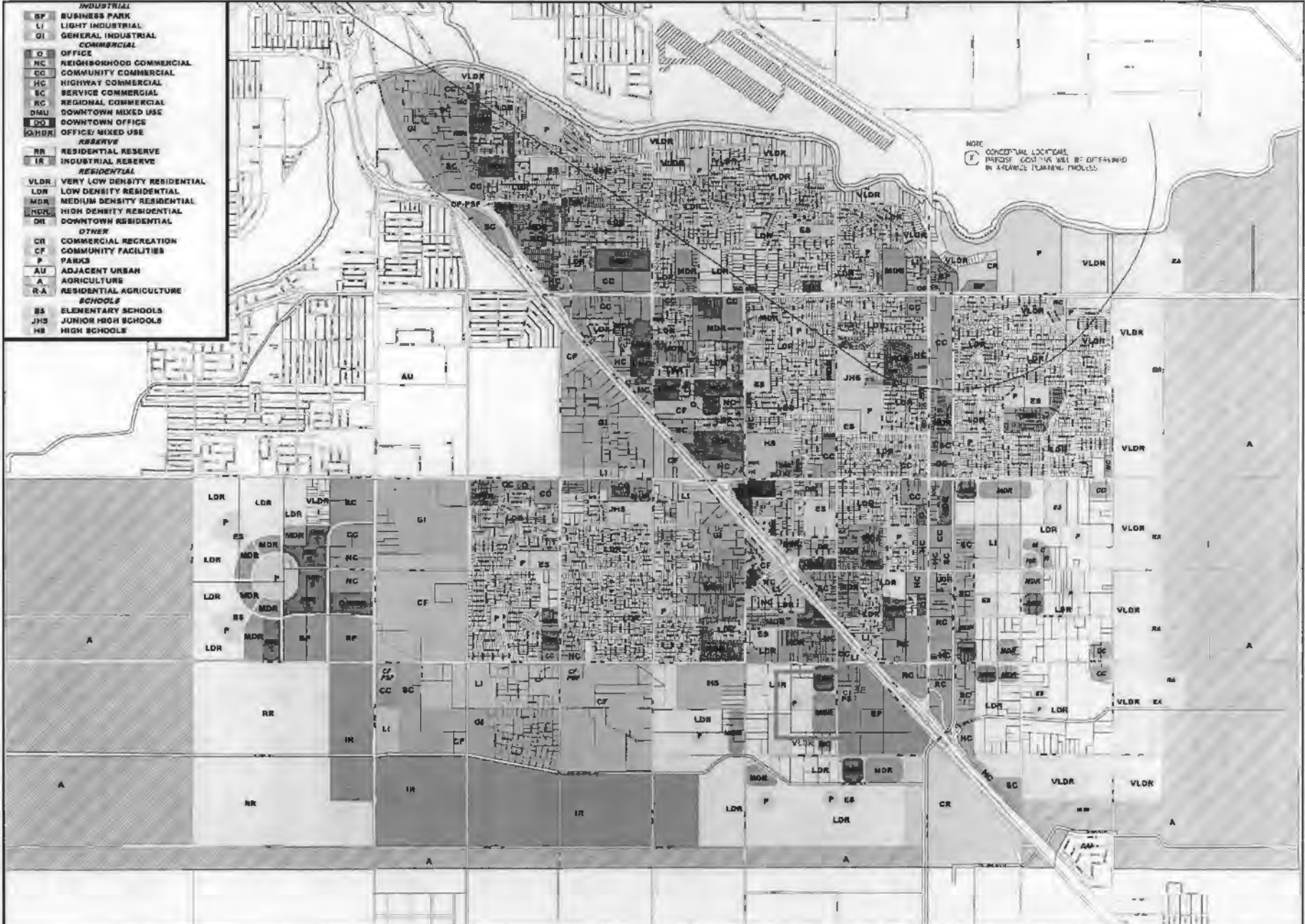
view from E Service Road looking southwest at site



Ceres 296105
4037 Moffett Road, Ceres, CA
Photos/ins Produced on 4-7-2015

- INDUSTRIAL**
- BP BUSINESS PARK
- LI LIGHT INDUSTRIAL
- GI GENERAL INDUSTRIAL
- COMMERCIAL**
- O OFFICE
- NC NEIGHBORHOOD COMMERCIAL
- CC COMMUNITY COMMERCIAL
- HC HIGHWAY COMMERCIAL
- SC SERVICE COMMERCIAL
- RC REGIONAL COMMERCIAL
- DMU DOWNTOWN MIXED USE
- DO DOWNTOWN OFFICE
- OMMU OFFICE/ MIXED USE
- RESERVE**
- RR RESIDENTIAL RESERVE
- IR INDUSTRIAL RESERVE
- RESIDENTIAL**
- VLDR VERY LOW DENSITY RESIDENTIAL
- LDR LOW DENSITY RESIDENTIAL
- MDR MEDIUM DENSITY RESIDENTIAL
- HDR HIGH DENSITY RESIDENTIAL
- DR DOWNTOWN RESIDENTIAL
- OTHER**
- CR COMMERCIAL RECREATION
- CF COMMUNITY FACILITIES
- P PARKS
- AU ADJACENT URBAN
- A AGRICULTURE
- RA RESIDENTIAL AGRICULTURE
- SCHOOLS**
- ES ELEMENTARY SCHOOLS
- JHS JUNIOR HIGH SCHOOLS
- HS HIGH SCHOOLS

NOTE
 (P) CONCEPTUAL LOCAL
 OFFICE/ COMM. USE WILL BE OBTAINED
 IN A FUTURE PLANNING PHASE.

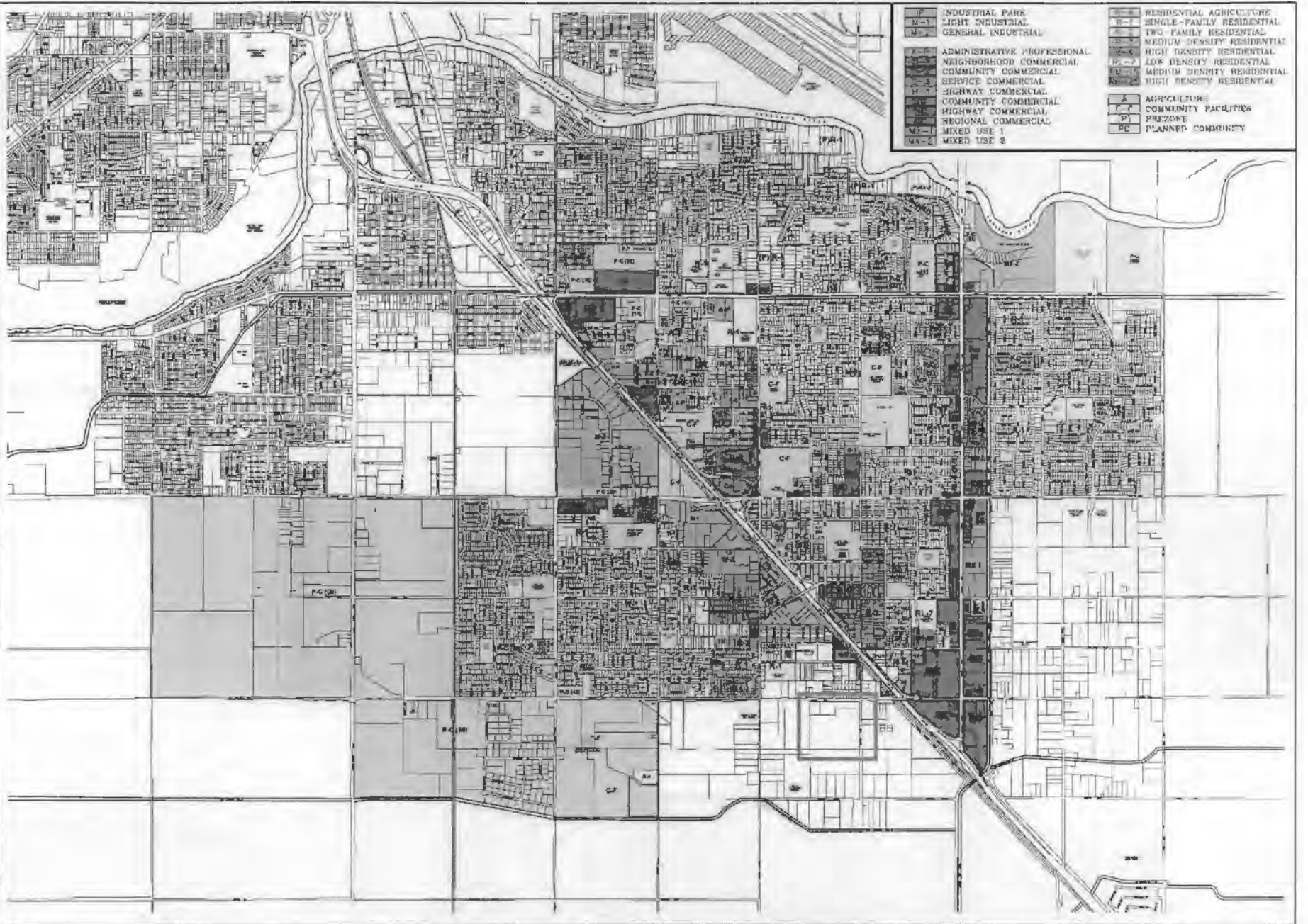


CITY OF CERES

GENERAL PLAN LAND USE DIAGRAM

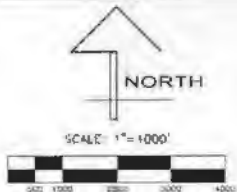
BASE MAP PREPARED JANUARY 1984

DRAWN BY
 DATE
 BY



CITY OF CERES

ZONING BASEMAP



PARR JR
 DATE: JAN 2013
 BY: Zoning

NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

CONDITIONS OF APPROVAL

USE PERMIT APPLICATION NO. PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD

Department of Planning and Community Development

1. The use shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2015), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,267.00**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
5. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
6. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.

7. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the County Planning Director and the City of Ceres design standards.
8. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
9. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.
10. All unused or obsolete towers and equipment shall be removed from their respective sites within six months after their operation has ceased, at the property owner's or applicant's expense.
11. The overall height of the tower, including antenna, mounting hardware, and base, shall not exceed 75 feet. Modifications to the tower's height or appurtenant structures are subject to a land use permit. The appropriate land use permit shall be determined by the Planning Director or appointed designee.
12. The wireless communication facility is subject to all other applicable regulations and permits, including those of the Public Utilities Commission (PUC) of the State of California and the Federal Communication Commission (FCC).
13. Pursuant to State Water Resources Control Board (State Water Board) Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works. The applicant at all times shall employ Best Management Practice's (BMP) as prescribed by the State Water Board to reduce pollutants and runoff flows from new construction resulting from project approval.
14. The applicant shall install two L-810 top mounted obstruction lights at the top of the tower per Federal Aviation Guideline AC70460-1k, Chapter 5 Section 53(a). The applicant is required to install and maintain the lighting for operational use at all times.

Department of Public Works

15. The applicant shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way.
16. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.

17. No parking, loading, or unloading of vehicles shall be permitted within the county road right-of-way of Moffett Road.
18. The access easement shall meet all of the Fire Warden's requirements.

Building Permits Division

19. Building permits are required and the project must conform with the California Code of Regulations, Title 24.

Turlock Irrigation District

20. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at the developer's expense.
21. If any irrigation facilities are found during construction, the applicant shall contact TID.

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line through it~~.*



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354
 Phone: 209.525.6330 Fax: 209.525.5911

CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, December 30, 2009

- 1. **Project title:** Use Permit Application No. PLN2015-0023 – Verizon Wireless – Moffett Road
- 2. **Lead agency name and address:** Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354
- 3. **Contact person and phone number:** Timothy Vertino, Assistant Planner
(209) 525-6330
- 4. **Project location:** 4037 Moffett Road on the west side of Moffett Road, south of E. Service Road, in the Ceres area. APN: 041-011-012
- 5. **Project sponsor’s name and address:** Joey Acquistapace
Epic Wireless d/b/a Verizon Wireless
8700 Auburn Folsom Road Suite 400
Granite Bay, CA 95746
- 6. **General Plan designation:** UT (Urban Transition)
- 7. **Zoning:** A-2-10 (General Agriculture)
- 8. **Description of project:**

Request to construct a new non-staffed wireless communication facility that includes a 75 foot tall monopole with 12 mounted antennas, 184 square foot equipment shelter, a 48KW generator, and supporting equipment within 1,200 square foot leased area on a 30± acre parcel. The site is currently developed with an orchard, supportive agriculture storage buildings, and a single family home.

- 9. **Surrounding land uses and setting:** Vacant land is located to the west; orchards are located to the east; row crops are located to the south; vacant land, and single family residential dwellings are located to the north.
- 10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):** City of Ceres
Building Permits Division
Department of Environmental Resources
Department of Public Works
Turlock Irrigation District

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture & Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology / Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation / Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Timothy Vertino, Assistant Planner
Signature

September 4, 2015
Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, than the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) **Mitigation Measures.** For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). References to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
 - 7) **Supporting Information Sources:** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) the significant criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

I. AESTHETICS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Discussion: The site itself is not considered to be a scenic resource or a unique scenic vista. The adjacent parcels consist of agricultural uses as well as single-family dwellings in support of the onsite agriculture. Residentially zoned parcels are located over 300 feet from the project site, north of E. Service Road. The project site lies within the City of Ceres' Sphere of Influence and, based on Policy 2(b) of the Sphere of Influence subsection of the General Plan, the project will need to meet the City of Ceres' development standards. The proposed communication facility will not have an adverse effect on the existing visual character of the site and its surroundings. Any lighting used for access or security shall be designed for the least intrusion possible. The proposal does not include tower lighting, unless it is required by the Federal Aviation Administration (FAA) standards. An Early Consultation Referral was sent to the local crop dusting agency, but no response has been received to date. No adverse impacts to the existing visual character of the site or its surroundings are anticipated.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹.

II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?			X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?			X	

Discussion: The project requests to construct a 75-foot monopole communication tower and equipment shelter on a 1,200 square foot lease area of a 30± acre parcel. In accordance with Section 21.20.030C(j) of the County Code, uses that are “not directly related to agriculture but may be necessary to serve the A-2 district or may be difficult to locate in an urban area”, including “facilities for public utilities and communication towers”, may be allowed within an A-2 zoning district provided the following findings can be made: (1) the use, as proposed, will not be substantially detrimental to, or in conflict with, agricultural use of other property in the vicinity and (2) the parcel on which such use is requested is not located in one of the County’s “most productive agricultural areas”.

In determining "most productive agricultural areas", factors to be considered include, but are not limited to: soil types and potential for agricultural production; the availability of irrigation water; ownership and parcelization patterns; uniqueness and flexibility of use; the existence of Williamson Act contracts; and existing uses and their contributions to the agricultural sector of the economy.

The project site is not enrolled in a Williamson Act Contract, and has soils classified by the Farmland Mapping and Monitoring Program as being primarily “Prime Farmland”. The project site is currently improved with an almond orchard, single family home, and a garage. The project does not propose to remove any trees to build the proposed cell tower and support equipment. This project will have no impact to forest land or timberland.

Buffer guidelines require any new or expanding Tier 3 uses approved by a discretionary permit in the A-2 zoning district to incorporate a buffer to minimize conflicts between agricultural and nonagricultural uses; however, because this project is considered a low people intensive use, and has proposed an unmanned communications facility, the buffer standard is not being applied.

This project was circulated to the Stanislaus County Farm Bureau and Ag Commissioner during the early consultation referral period and no comments were received.

Considering the information above and the fact that the proposed project will only utilize 1,200 square feet of a 30± acre parcel, no negative impacts to agricultural resources are anticipated as the site will continue to produce agriculture. No forest resources exist in the area.

Mitigation: None

References: California Department of Conservation Important Farmland Maps, [ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/sta14_no.pdf](http://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2014/sta14_no.pdf), Stanislaus County General Plan and Support Documentation¹.

III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?				X

Discussion: The project site is within the San Joaquin Valley Air Basin, which has been classified as "severe non-attainment" for ozone and respirable particulate matter (PM-10) as defined by the Federal Clean Air Act. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. As such, the District maintains permit authority over stationary sources of pollutants.

The primary source of air pollutants generated by this project would be classified as being generated from "mobile" sources. Mobile sources would generally include dust from roads, farming, and automobile exhausts. Mobile sources are generally regulated by the Air Resources Board of the California EPA which sets emissions for vehicles and acts on issues regarding cleaner burning fuels and alternative fuel technologies. As such, the District has addressed most criteria air pollutants through basin wide programs and policies to prevent cumulative deterioration of air quality within the Basin.

The project will not conflict with, or obstruct implementation of, any applicable air quality plan. Traffic increase will be minimal due to the un-staffed nature of the proposed use. The equipment proposed for this project, which includes a back-up generator with a 48KW diesel fuel tank, does not generate criteria pollutants. The construction phase of this project will be required to meet SJVAPCD's standards and to obtain all applicable permits. This project has been referred to the District, but no comments have been received to date. Based on the project details stated above, no significant impacts to air quality are anticipated.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

IV. BIOLOGICAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

Discussion: The proposed project will be un-staffed and will occupy only 1,200 square feet of a 30± acre site which has already been disturbed by farm buildings to support the on-site orchard. It does not appear this project will result in impacts to endangered species or habitats, locally designated species, or wildlife dispersal or mitigation corridors. The project is also not within any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. This project was referred to the State Department of Fish and Wildlife through an early consultation and no response has been received.

Mitigation: None

References: California Department of Fish and Wildlife (formerly the Department of Fish and Game) California Natural Diversity Database and the Stanislaus County General Plan and Support Documentation¹. Stanislaus County General Plan and Support Documentation¹

V. CULTURAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d) Disturb any human remains, including those interred outside of formal cemeteries?			X	

Discussion: It does not appear this project will result in significant impacts to any archaeological or cultural resources. A condition of approval will be added to this project to address any discovery of cultural resources during the construction phases.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

VI. GEOLOGY AND SOILS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X

ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil creating substantial risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			X	

Discussion: As contained in Chapter Five of the General Plan Support Documentation, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5; however, as per the California Building Code, all of Stanislaus County is located within a geologic hazard zone (Seismic Design Category D, E, or F) and a soils test may be required as part of the building permit process. Results from the soils test will determine if unstable or expansive soils are present. If such soils are present, special engineering of the structure will be required to compensate for the soil deficiency. Any structures resulting from this project will be designed and built according to building standards appropriate to withstand shaking for the area in which they are constructed. Any earth moving is subject to Public Works Standards and Specifications which consider the potential for erosion and run-off prior to permit approval.

Mitigation: None

References: California Building Code, and the Stanislaus County General Plan and Support Documentation-Safety¹

VII. GREENHOUSE GAS EMISSIONS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?				X

Discussion: Minimal greenhouse gas emissions will occur during construction, from energy use, and from vehicle trips to maintain the equipment, which is anticipated to occur once monthly. These emissions are considered to be less than significant.

Mitigation:

References: Stanislaus County General Plan and Support Documentation¹

VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

Discussion: Pesticide exposure is a risk in agricultural areas. Sources of exposure include contaminated groundwater, which is consumed, and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. The operator of the facility will only visit the site occasionally for routine maintenance, thereby limiting potential exposure to pesticides.

The application has indicated that a Hazardous Material Business Plan will be submitted upon project completion. The project was referred to the Department of Environmental Resources (DER) Hazardous Materials Division, but no comments were received to date. A condition of approval will be added to the project requiring the applicant to coordinate with DER to determine what permits/plans are required.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

IX. HYDROLOGY AND WATER QUALITY -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

Discussion: Storm water run-off is not considered an issue because of several factors which limit the potential impact. These factors include a relatively flat terrain of the subject site and relatively low rainfall intensities. Areas subject to flooding have been identified in accordance with the Federal Emergency Management Act (FEMA). The project site itself is not located within a recognized flood zone and, as such, flooding is not an issue with respect to this project. An early consultation referral response from the Central Valley Regional Water Quality Control Board (RWQCB) requested the applicant coordinate with their agency to determine if any permits or Water Board requirements must be obtained/met prior to operation. A condition of approval will be added to the project requiring the applicant comply with this request prior to issuance of a building permit.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

X. LAND USE AND PLANNING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Discussion: Wireless Communication Facilities are Tier 3 permissible uses in the agricultural zoning district subject to finding that the project does not conflict with agricultural use of other property in the vicinity and is not located in one of the county's most productive agricultural areas. While the project is located on productive agricultural land, the 1,200 square foot lease area is not in agricultural production, and it is not anticipated to negatively impact surrounding agricultural

operations. The proposed cell tower will not physically divide an established community and/or conflict with any habitat conservation plan or natural community conservation plan. This project is not known to conflict with any land use plan, policy, or regulation of any agency with jurisdiction over the project.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XI. MINERAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources on the site.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XII. NOISE -- Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion: The construction phases of this project will temporarily increase the area's ambient noise level and, as such, will be conditioned to abide by County regulations related to hours and days of construction in the A-2-10 zone. The approximate construction period is estimated at two months. Generators will be operated for approximately 15 minutes per week for maintenance purposes, and during power outages and disasters. The project is not located near any public airport or private airstrip.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XIII. POPULATION AND HOUSING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Discussion: This project does not propose any significant type of growth inducing features; therefore, adverse effects created by population growth should not occur.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XIV. PUBLIC SERVICES --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project result in the substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?			X	
Schools?				X
Parks?				X
Other public facilities?			X	

Discussion: The County has adopted Public Facilities Fees, as well as a Fire Facility Fee on behalf of the appropriate fire district, to address impacts to public services. Such fees are required to be paid at the time of building permit issuance. Conditions of approval will be added to this project to insure the proposed use complies with all applicable fire department standards with respect to access and water for fire protection.

This project was circulated to all applicable school, fire, police, irrigation, and public works departments and districts during the early consultation referral period and no significant concerns were identified with regard to public services.

Mitigation:

References: Stanislaus County General Plan and Support Documentation¹

XV. RECREATION --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion: This project does not propose any new housing; therefore, it will not increase demands for recreational facilities.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XVI. TRANSPORTATION/TRAFFIC -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				X
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?			X	
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				X

Discussion: This project will not significantly increase traffic for this area. The applicant proposes an average of one vehicle trip per month for routine maintenance of the facility. The project was referred to Stanislaus County's Department of Public Works, which commented that all access easements shall meet all of the Fire Warden's requirements.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

Discussion: Installation and operation of a wireless communication facility will not require any water or wastewater services, solid waste services, or create runoff in excess of that already existing on the subject site. No issues are noted.

Mitigation: None

References: Stanislaus County General Plan and Support Documentation¹

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			X	

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	
---	--	--	---	--

Discussion: Review of this project has not indicated any features which might significantly impact the environmental quality of the site and/or the surrounding area.

¹Stanislaus County General Plan and Support Documentation adopted in October 1994, as amended. Optional and updated elements of the General Plan and Support Documentation: **Agricultural Element** adopted on December 18, 2007; **Housing Element** adopted on August 28, 2012; **Circulation Element** and **Noise Element** adopted on April 18, 2006.

**STANISLAUS COUNTY
CEQA REFERRAL RESPONSE FORM**

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: CITY OF CERES - PLANNING DIVISION

SUBJECT: USE PERMIT APPLICATION NO. PLN2015-0023 - VERIZON WIRELESS - MOFFETT ROAD

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.


Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

-  - As staff informed the applicant in an email dated Jan 16, 2015 (see attached), the City of Ceres Planning Division staff have looked at the proposed location and the site is within the City of Ceres Primary Sphere of Influence and has a General Plan designation of residential. The City's zoning code does not permit cell towers in residential areas. Therefore, the cell tower proposed at the subject site will not be permitted and cannot be supported by the City of Ceres.

James Michaels Associate Planner April 23, 2015
Name Title Date

**STANISLAUS COUNTY
CEQA REFERRAL RESPONSE FORM**

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: CITY OF CERES - PLANNING DIVISION

SUBJECT: USE PERMIT APPLICATION NO. PLN2015-0023 - VERIZON WIRELESS - MOFFETT ROAD

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) – (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: **PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):**

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

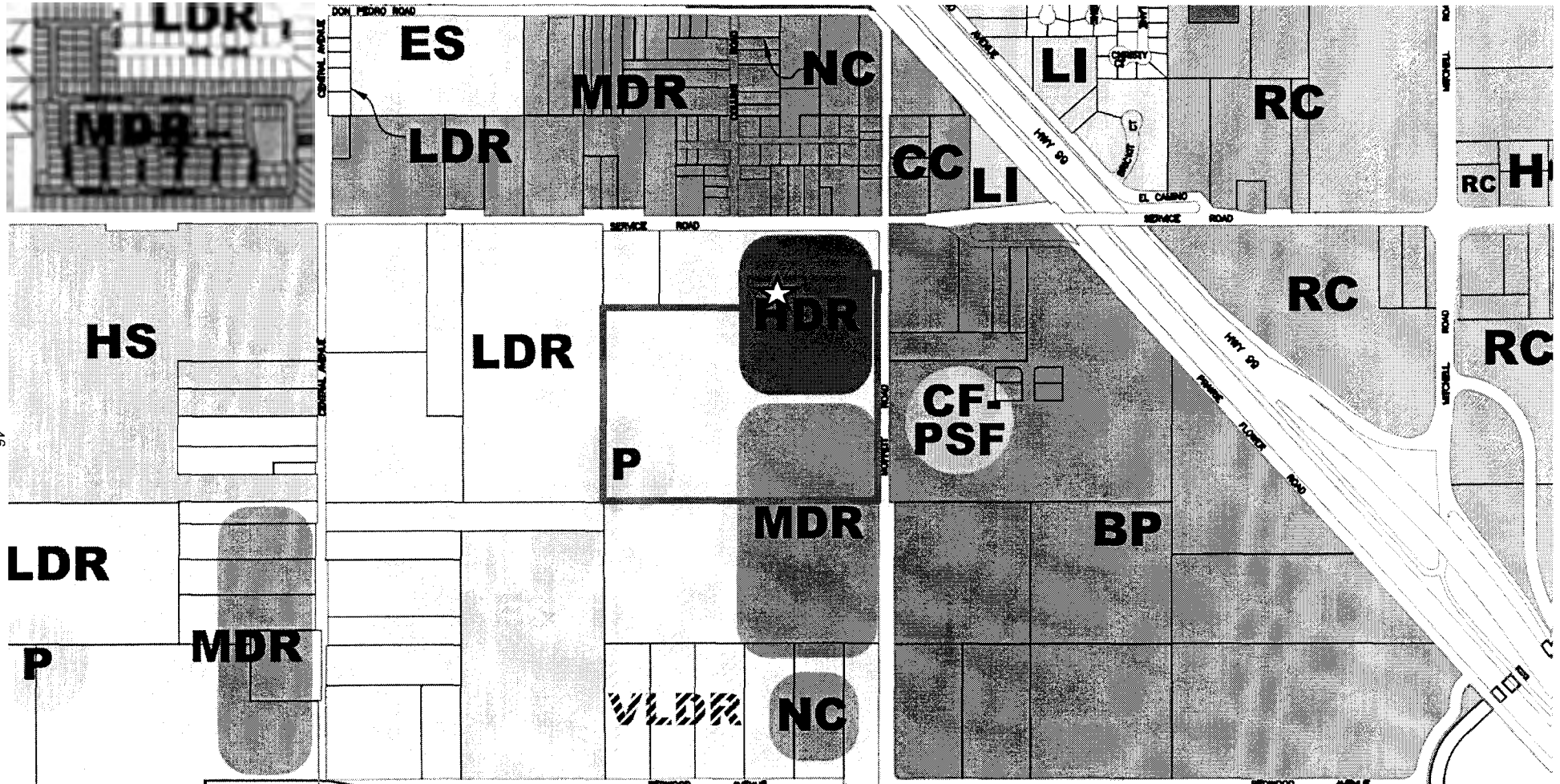
** Pursuant to the previous correspondence the City of Ceres has had with the applicant and County of Stanislaus, the City of Ceres is not supportive of this proposed project.*

Response prepared by:

James Michaels Associate Planner September 16, 2015
Name Title Date

I:\Planning\Staff Reports\UP\2015\UP PLN2015-0023 - Verizon Wireless - Moffett Road\CEQA 30-Day Referral\CEQA 30-day-referral.doc

Area of Detail – Ceres General Plan Map with Stanislaus County Application # PLN2015-0023 (4037 Moffett Road)



46

 4037 Moffett Road  Proposed Verizon Wireless Tower

MACKENZIE & ALBRITTON LLP

220 SANSOME STREET, 14TH FLOOR
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

July 2, 2015

VIA EMAIL

James Michaels
Associate Planner
Planning Division
City of Ceres
2220 Magnolia Street
Ceres, California 95307

Re: Verizon Wireless Proposed Telecommunication Facility
Stanislaus County Application # PLN2015-0023
4037 Moffett Road, APN # 041-011-012

Dear James:

We write to you on behalf of our client Verizon Wireless with respect to the above-referenced application for a telecommunication facility (the "Application") filed with the Planning and Community Development Department of Stanislaus County (the "County"). We are in receipt of your comments of April 23, 2015 stating that the City of Ceres (the "City") does not support the Application which is located within the City's sphere of influence. As discussed below, the City's reason for not approving the Application is not supported by the Ceres Municipal Code (the "Code"), and the City must revise its determination and support the Application. Lacking any support under the Code, the City's *de facto* denial of the Application violates federal law.

Following a thorough site selection process, Verizon Wireless chose to locate its proposed facility on a 30-acre parcel the supports an established orchard and several buildings, with a vacant parcel to the north. The Application seeks to place a 75-foot monopole with eight antennas next to an existing utility building on the parcel, along with a 195 square foot equipment shelter and a standby diesel generator to supply power in case of emergencies.

Verizon Wireless's monopole and equipment would be surrounded by a six-foot chain link fence on three sides; the abutting existing building provides a protective wall to the south. The monopole location is 900 feet south of the City limits of Ceres. Verizon Wireless's proposed facility will provide needed network coverage and wireless

James Michaels
City of Ceres
July 2, 2015

Page 2 of 3

capacity to residents and visitors in both incorporated Ceres and adjoining areas of the County.

The Application location lies within the City's sphere of influence, as described in the most recent Sphere of Influence Plan adopted in February 2012. Under Stanislaus County Code §21.08.090, when a discretionary application is located within a city's adopted sphere of influence, the County shall not approve the application unless written approval is first received from the City. In this case, the County referred the Application to the City's Planning Division for a determination as to whether the City approves of the Application. You provided the City's response on a County CEQA referral response form, stating that the City does not support the Application as the location of Verizon Wireless's proposed facility "has a General Plan designation of residential" and "the City's zoning code does not permit cell towers in residential areas."

The City's General Plan Land Use Diagram does designate the Application location as intended for high-density residential; however, the designation as high-density residential does not in any manner preclude placement of a telecommunication facility under the City's General Plan. In fact, the City's General Plan is silent with respect to siting of telecommunication facilities.

The Code contains prohibitions on "Self-supporting, monopole or guyed towers constructed for the purpose of supporting cellular equipment" for various established residential zones. (*See, e.g.*, Code §18.18.100(C), "The following uses are expressly prohibited in the R-4 Zone:") These prohibitions do not apply to General Plan designations, nor do they apply to any land where the zones have not been established, such as the Application location.

Though the City may informally anticipate that the location may be one day zoned in accordance with the General Plan designation, this is not a valid basis for invoking the prohibition on cellular monopoles where the Code provides a process for pre-zoning unincorporated land within the City's sphere of influence and that process has not yet occurred. Code §18.06.180 provides that "The City may pre-zone unincorporated territory adjoining the City for the purpose of determining the zoning that will apply to the property in such territory in the event of subsequent annexation to the City." *See also* Government Code §65859(a). According to an email received from you by our office on June 3, 2015, the City has not pre-zoned the Application location or surrounding area, no proposals for annexation of the Application location have been received by the City and the Application location is not part of any area-wide plan. (The City's Annexation Policy requires applications for annexation to be based on an area-wide plan.)

The regulation of the siting of wireless telecommunication facilities by the City is limited by federal law. Under 47 U.S.C. §332(c)(7)(B)(iii), a local jurisdiction must have substantial evidence to deny a wireless facility application. Where the City's *de facto*

James Michaels
City of Ceres
July 2, 2015

Page 3 of 3

denial of the Application is unsupported by the Code or any factual evidence, the City's summary action rejecting Verizon Wireless's application is barred by this federal law.

As the Application location is not classified in any way under a City zone, and its General Plan designation does not preclude placement of Verizon Wireless's proposed facility, there is no basis for the City's determination not to support the Application for the reason that the Code "does not permit cell towers in residential areas." With no basis to deny the Application, the City should revise its determination and approve the Application.

Finally we note that approval of the Application is supported under Policy 4.L.3 of the City's General Plan, that "The City shall promote technological improvements and upgrading of utility services in Ceres." The City's Approval of the Application would also allow the County to proceed with processing of the Application and avoid a clear violation of federal law.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Albritton", written in a cursive style.

Paul B. Albritton

cc: Tom Hallinan, Esq.
John Doering, Esq.

NEGATIVE DECLARATION

NAME OF PROJECT: Use Permit Application No. PLN2015-0023 – Verizon Wireless – Moffett Road

LOCATION OF PROJECT: 4037 Moffett Road on the west side of Moffett Road, south of E. Service Road, in the Ceres area. APN: 041-011-012

PROJECT DEVELOPERS: Joey Acquitapace
Epic Wireless d/b/a Verizon Wireless
8700 Auburn Folsom Road Suite 400
Granite Bay, CA 95746

DESCRIPTION OF PROJECT: Request to construct a new non-staffed wireless communication facility that includes a 75 foot tall monopole with 12 mounted antennas, 184 square foot equipment shelter, a 48KW generator, and supporting equipment within 1,200 square foot leased area on a 30± acre parcel. The site is currently developed with an orchard, supportive agriculture storage buildings, and a single family home.

Based upon the Initial Study, dated September 4, 2015, the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Timothy Vertino, Assistant Planner

Submit comments to: Stanislaus County
Planning and Community Development Department
1010 10th Street, Suite 3400
Modesto, California 95354

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT:USE PERMIT APPLICATION NO. PLN2015-0023 - VERIZON WIRELESS - MOFFETT ROAD

REFERRED TO:				RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	30 DAY	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPT OF CONSERVATION: Land Resources	X	X			X							
CA DEPT OF FISH & WILDLIFE	X	X			X							
CA DEPT OF TRANSPORTATION DIST 10	X	X			X							
CA OPR STATE CLEARINGHOUSE	X	X			X							
CA RWQCB CENTRAL VALLEY REGION	X	X		X				X		X	X	
CA STATE LANDS COMMISSION	X	X	X		X							
CITY OF: CERES	X	X		X				X		X		X
COOPERATIVE EXTENSION	X	X			X							
CROP DUSTERS	X	X			X							
FIRE PROTECTION DIST: CERES	X	X			X							
IRRIGATION DISTRICT: TID	X	X		X				X		X	X	
MOSQUITO DISTRICT: TURLOCK	X	X			X							
MT VALLEY EMERGENCY MEDICAL	X	X			X							
PACIFIC GAS & ELECTRIC	X	X			X							
RAILROAD: UNION PACIFIC	X	X			X							
SAN JOAQUIN VALLEY APCD	X	X			X							
SCHOOL DISTRICT 1: CERES UNIFIED	X	X			X							
STAN CO AG COMMISSIONER	X	X			X							
STAN CO BUILDING PERMITS DIVISION	X	X		X				X		X	X	
STAN CO CEO	X	X			X							
STAN CO DER	X	X			X							
STAN CO ERC	X	X		X				X		X		X
STAN CO FARM BUREAU	X	X			X							
STAN CO HAZARDOUS MATERIALS	X	X			X							
STAN CO PUBLIC WORKS	X	X		X				X		X	X	
STAN CO SHERIFF	X	X			X							
STAN CO SUPERVISOR DIST 5:DeMARINI	X	X			X							
STAN COUNTY COUNSEL	X	X			X							
STANISLAUS FIRE PREVENTION BUREAU	X	X			X							
STANISLAUS LAFCO	X	X			X							
SURROUNDING LAND OWNERS			X									
TELEPHONE COMPANY: ATT	X	X			X							
US FISH & WILDLIFE	X	X			X							
US MILITARY	X	X			X							



PLANNING AND BUILDING DIVISION
2220 Magnolia Street
Ceres, CA 95307
209-538-5774
Fax 209-538-5675

CITY COUNCIL

Chris Vierra, Mayor

Ken Lane

Bret Durossette

Linda Ryno

Mike Kline

December 18, 2015

Miguel A. Galvez
Stanislaus County Planning and Community Development
1010 10th St., Suite 3400
Modesto, CA 95354

RE: PLN2015-0023 - Verizon Wireless - Moffett Road

Dear Mr. Galvez:

As you know, the City of Ceres was originally not supportive of this application, but has been working with the project proponent to provide a condition to allow the proposed cellular tower for a temporary period of time. The City of Ceres had initiated and began land use entitlement for annexation, a master plan and EIR back in 2004, which was known as the Maple Glen Master Plan. Unfortunately, due to a recession, the project stopped in 2008. It is the City's opinion that as the economy recovers, this project would be poised to resume the master plan and EIR efforts and proceed toward annexation of the area.

As such, the City of Ceres desires to protect the area from cellular facilities as they are not permitted residential uses of property. The current General Plan designation indicates residential use for this property, and therefore, the objection. The City of Ceres can support the development of this project pursuant to the following condition of approval being added to the County's conditions of approval:

The cell tower at 4037 Morgan Road would remain up for a minimum of 10 years. The 10 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA by the filing of a Notice of Preparation for annexation and EIR for the area. Verizon Wireless would only be obligated to remove or relocate the site following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower and all accessory structures of said tower. The City would make reasonable efforts to relocate the facility to a zoning designation that would support cell tower facilities.

That said, the City of Ceres will not support this project if there are any alterations to the conditions of approval noted above. We intend to participate at the County Planning Commission meeting on January 7th, 2016 and would be available to address any questions raised at that meeting.

Sincerely,

Tom Westbrook
Director of Community Development

ATTACHMENT B

MACKENZIE & ALBRITTON LLP

220 SANSOME STREET, 14TH FLOOR
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

December 18, 2015

VIA EMAIL

Timothy Vertino
Assistant Planner
Stanislaus County Planning &
Community Development
1010 10th St. Suite 3400
Modesto, CA 95354

Re: Verizon Wireless Proposed Wireless Telecommunication Facility
Stanislaus County Application # PLN2015-0023

Dear Timothy:

We write to you on behalf of our client Verizon Wireless. As you know, following Planning Commission hearing of November 19, 2015, Verizon Wireless and the City of Ceres agreed to meet in an effort to arrive upon a mutually acceptable condition of approval regarding possible City annexation of the proposed facility location. As of today, Verizon Wireless and the City are close to, but have not reached an agreement on a condition. A fundamental disagreement remains between Verizon Wireless and the City of Ceres over the minimum period of operation for the Verizon Wireless tower. Barring agreement on this condition, Verizon Wireless will seek approval of the facility absent any condition regarding annexation.

As of today's date, I have received approval from Verizon Wireless to propose the following condition, which revises slightly the language proposed by the City of Ceres:

The cell tower at 4037 Moffett Road would remain in operation for a minimum of twenty (20) years. The 20 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA and commencing upon notice to Verizon Wireless of the filing of a Notice of Preparation for annexation and EIR. Verizon Wireless would only be obligated to remove or relocate the site following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower and all accessory structures of said tower. The City shall make diligent efforts to relocate the facility and identify or create a zoning designation that would support cell tower facilities to provide for uninterrupted wireless service.


ATTACHMENT C

Timothy Vertino
Stanislaus County Planning &
Community Development
December 18, 2015
Page 2 of 2

We are hopeful that Planning staff and the Planning Commission can support approval of Verizon Wireless's application with the above condition of approval.

Thank you for your assistance.

Sincerely,

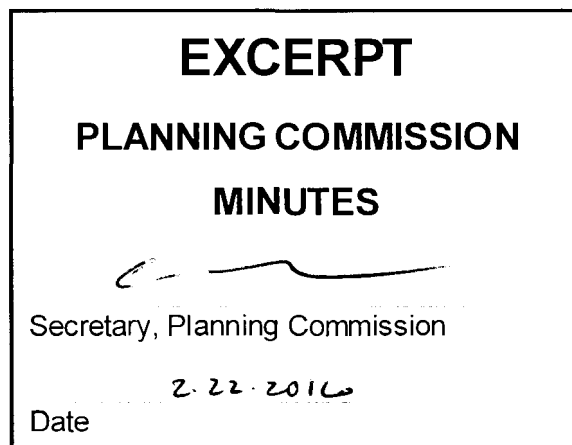
A handwritten signature in black ink, reading "Paul Albritton". The signature is written in a cursive style with a large, looping initial "P".

Paul B. Albritton

cc: John Doering, Esq.
Thomas Boze, Esq.
Tom Hallinan, Esq.
Tom Westbrook

- A. **USE PERMIT APPLICATION NO. PLN2015-0023 VERIZON WIRELESS – MOFFETT ROAD – Continued from November 19, 2015.** Request to construct a new wireless communication facility that includes a 75-foot high monopole with 12 mounted antennas, 184 square-foot equipment shelter, and supporting equipment within a 1,200 square-foot leased area on a 30± acre parcel in the A-2-10 (General Agriculture) zoning district. The project site is located at 4037 Moffett Road, south of E. Service Road, within the City of Ceres' Sphere of Influence. The Planning Commission will consider adoption of a CEQA Negative Declaration for this project. APN: 041-011-012
Staff Report: Timothy Vertino, Assistant Planner, Recommends **APPROVAL**.
Public hearing opened.
OPPOSITION: None
FAVOR: Joey Acquistapace, Epic Wireless, dba Verizon Wireless; Tom Westbrook, City of Ceres
Public hearing closed.
Peterson/Yamamoto (9/0) **APPROVED THE STAFF RECOMMENDATIONS AS OUTLINED IN EXHIBIT A – FINDINGS AND ACTIONS REQUIRED FOR PROJECT APPROVAL, OF THE NOVEMBER 19, 2015, PLANNING COMMISSION STAFF REPORT, WITH AMENDMENT TO CONDITION OF APPROVAL NO. 22 TO READ AS FOLLOWS:**

22. The cell tower at 4037 Moffett Road would remain up for a minimum of 10 years. The 10 year minimum would begin 120 days after the issuance of a building permit by Stanislaus County for the construction of the cell tower/monopole. Verizon Wireless would receive a 2 year notice of possible relocation or removal based upon CEQA by the filing of a Notice of Preparation for annexation and EIR for the area. Verizon Wireless would only be obligated to remove or relocate the site monopole and all attached equipment following annexation to the City and after submittal of improvement plans to the City of Ceres for development of the property. Verizon Wireless would have 60 days from the submittal of improvement plans to remove the tower/monopole and all accessory structures of said tower. The City would make reasonable efforts to relocate the facility to a zoning designation that would support cell tower facilities.



MACKENZIE & ALBRITTON LLP

220 SANSOME STREET, 14TH FLOOR
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/288-4000
FACSIMILE 415/288-4010

January 15, 2016

VIA EMAIL

Board of Supervisors
Stanislaus County
1010 10th Street, Suite 6500
Modesto, California 95354

Re: Verizon Wireless Appeal of Condition 22
Approved Telecommunications Facility
Stanislaus County Application # PLN2015-0023
4037 Moffett Road

Dear Honorable Members of the Board of Supervisors:

We write to you on behalf of our client Verizon Wireless in order to appeal Condition 22 of the approval of the above-referenced Verizon Wireless facility (the "Approved Facility") by the Stanislaus County Planning Commission on January 7, 2016. The Approved Facility is located within the sphere of influence of the City of Ceres (the "City"). Condition 22 was added by the Planning Commission to its approval at the request of the City and unreasonably limits the term of Verizon Wireless' permit to 10 years. In order to justify its investment in wireless services in Stanislaus County, Verizon Wireless seeks a minimum 20-year term for the Approved Facility.

Initially, the City did not support Verizon Wireless's application, stating that the location of the Approved Facility "has a General Plan designation of residential" and "the City's zoning code does not permit cell towers in residential areas."¹ In response, Verizon Wireless argued that while the City's General Plan Land Use Diagram does designate the Application location as intended for high-density residential, this designation does not in any manner preclude placement of a telecommunication facility under the City's General Plan. Further, the broad prohibition of wireless facilities in residential zones violates federal law.

The City's proposed annexation of areas south of the city limits and west of Highway 99 near the Approved Facility is highly speculative and not presently anticipated. Even if annexed, zoned and developed, there is no justification for excluding

¹ CEQA Referral Response Form by James Michaels, City of Ceres Associate Planner, April 23, 2015.

Board of Supervisors
Stanislaus County
January 15, 2016

Page 2 of 2

wireless facilities from residential zones. Verizon Wireless agreed to compromise on a form of Condition 22 allowing annexation of the Approved Facility location by the City, but cannot agree to the limited 10-year term. Verizon Wireless asks that the Board of Supervisors extend the minimum term under Condition 22 up to 20 years. This will allow Verizon Wireless to install the Approved Facility and provide needed wireless service to this important stretch of Highway 99.

A check in the amount of six hundred and twenty-two dollars for payment of the appeal fee is attached to this letter. Thank you for your careful consideration of this appeal.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Albritton". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Paul B. Albritton

cc: John Doering, Esq.
Timothy Vertino



PLANNING AND BUILDING DIVISION
2220 Magnolia Street
Ceres, CA 95307
209-538-5774
Fax 209-538-5675

CITY COUNCIL

Chris Vierra, Mayor
Ken Lane Bret Durossette
Linda Ryno Mike Kline

February 5, 2016

Miguel A. Galvez
Stanislaus County Planning and Community Development
1010 10th St., Suite 3400
Modesto, CA 95354

RE: Appeal of PLN2015-0023 - Verizon Wireless - Moffett Road

Dear Mr. Galvez:

The City of Ceres was disappointed to learn that the applicant (Verizon Wireless) had chosen to appeal the Stanislaus County Planning Commission approval of their proposed cell tower project.

As you know, the applicant met with the City of Ceres several months prior to the submittal of an application to Stanislaus County. The City was very clear in the initial meeting telling Verizon that we could not support project and strongly encouraged them to seek locations just one half mile south that would be outside of the City's Sphere of Influence.

In spite of the applicant's failure to fully explore alternative sites, prior to the applicant appealing the Planning Commission's decision, the City of Ceres and Verizon Wireless worked hard towards a solution and ultimately a condition of approval that one, would protect the City's long term development interests and two, would allow Verizon Wireless to develop a cell tower for a specific period of time. While this condition of approval was not entirely what each party desired, the City believes that it was a fair resolution of this matter. In short, they wanted 20 years - we didn't want to give them any time - and we thought we had a deal at 10 years.

For the sake of a historical perspective, the City of Ceres adopted Ordinance Number 90-767 on November 26, 1990. That ordinance was initiated by the City and regulates the development of cellular facilities within the City of Ceres. The primary purpose of this ordinance is to regulate the development of those facilities in the City and to protect their encroachment into nearby residentially zoned parcels, where cellular facilities are prohibited. In fact, where cellular facilities are permitted by way of a Conditional Use Permit (CUP) process, they must be at least twice the height of the tower away from any residentially zoned parcels. Cell towers that have been permitted in the City since the adoption of this ordinance have met that provision.

So, the City is not averse to approving cell towers within the city. In fact, less than a year ago, on March 16, 2015, the Ceres Planning Commission approved Conditional Use Permit (14-16 CUP) for the construction of a 90-foot cell tower facility at 4107 Morgan Road (also a Verizon site). The city also approved the required building permit for that cellular facility in June 2015, and the building permit was finalized for the new cell tower in October 2015.

ATTACHMENT F

Pursuant to Ordinance Number 90-767, the City of Ceres has crafted a condition of approval, which was approved by the Stanislaus County Planning Commission that would initially allow the cell tower for a 10-year period. Once the entitlement is granted and a building permit issued for the tower, the 10-year clock would start for the tower's removal. This position is consistent with Ordinance 90-767 as the area has a current General Plan designation of residential, where such towers are prohibited. It also practically allows Verizon an additional 2 years or so for a total of at least 12 years in order to recoup their investment.

For all of the reasons set forth above, we respectfully request that the Board of Supervisors uphold the Planning Commission's approval of the project and deny the appeal filed by Verizon Wireless.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Hallinan". The signature is fluid and cursive, with a large initial "T" and "H".

Tom Hallinan
Ceres City Attorney