SUMMARY OF PROCEEDINGS
DIRECTOR'S HEARINGS

Conference Room

Date: January 7, 2010

ATTENDANCE:
Hearing Officer: James E. Ellis
Staff: Kathe Malouf, Holly Nelson
Kern County Roads Department: Brian Blacklock and Steve Young
Kern County Environmental Health Services Department: Amy Rutledge

The hearing convened at 10:00 a.m.

The Hearing Officer announced that any decision made at this hearing was subject to appeal and proceeded to review the various types of cases and appeal deadlines. For Zoning related cases, any such appeal must be filed within 14 days from and including the date of hearing. For Zoning Violations, an appeal must be filed within seven days from and including the date of hearing, and for Parcel Maps, an appeal must be filed within ten days from and including the date of decision of the Hearing Officer. The Hearing Officer noted that the appeal forms are available at the Planning Counter and must be accompanied by an appeal fee of $420.

PUBLIC PRESENTATIONS:
NEW CASES:

1. (a) Lot Line Adjustment No. 9-09; (b) Zone Variance Case No. 14, Map No. 10 – (a) A Lot Line Adjustment proposing to adjust the lot lines between three parcels of record creating three parcels ranging in size from 1.28 acres (net) to 75.30 acres for residential and agricultural use; (b) A Zone Variance to allow a 1.28-acre (net) parcel and a 2.03-acre (net) parcel where 20 acres is required (Section 19.12.050) in an A (Exclusive Agriculture) District – The southeast corner of Bowman Road and Wollomes Avenue, Delano – Categorically Exempt, Section 15305 – Tonko Zaninovich by 4 Creeks, Inc.

Randy Wasnick of 4 Creeks, Inc., the applicant’s representative, was in attendance. The Hearing Officer noted that he was notified that a condition of approval needed to be added requiring that the applicant obtain a non-public water supply permit. The Hearing Officer questioned if this request was included due to the fact that the existing well was not currently permitted. Amy Rutledge of the Kern County Environmental Health Services Department verified that there is no permit history on the existing well and that it is currently being utilized as a non-public well. Mr. Wasnick requested clarification on what a non-public water supply permit was. Ms. Rutledge clarified when a non-public water supply permit is required and explained that the permit is normally required prior to the issuance of building permits; however, because the lots are developed and Environmental Health cannot track the sale of the lot, it is requested that the permit be obtained at this time. The Hearing Officer noted that there is enough of a health and safety issue that the condition of approval will be added.

Mr. Wasnick indicated that he had no problems with any of the recommended conditions of approval.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer approved the Lot Line Adjustment (Notice of Decision) subject to the recommended conditions with
changes; and approved the Zone Variance (Notice of Decision #01-10) subject to the recommended conditions.

New Lot Line Adjustment Condition (11) to read as follows:

(11) Prior to issuance of the Certificate of Compliance, the applicant shall obtain a non-public water supply permit from the Kern County Environmental Health Services Department for use of the existing domestic water well.

All remaining conditions to be renumbered as appropriate.

2. Zone Variance Case No. 34, Map No. 198 - A Zone Variance to allow the temporary installation of a meteorological tower for a period of no more than three years measuring 198 feet tall, where 80 feet is the maximum structure height permitted (Section 19.16.080.C) in an E (20) RS (Estate - 20 acres - Residential Suburban Combining) District – North side of Tehachapi Willow Springs Road, approximately three miles north of Backus Road, Mojave – Categorically Exempt, Section 15303 – Alta Wind Power Development, LLC by Patrick and Henderson

The applicant was not in attendance. The Hearing Officer announced that the newspaper failed to properly publish the hearing notice for this case; therefore, the case would be continued to January 21, 2010 to allow the case to be properly advertised.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer continued the case to January 21, 2010.

3. Zone Modification Case No.8, Map No. 102-13 - A Zone Modification to allow the retention of a six-foot-high masonry and iron fence, where four feet is the maximum allowed in the front-yard setback area (Section 19.08.210.B); and to allow the retention of a six-foot-high wooden fence, where four feet is the maximum allowed within ten feet of the rear lot line of a reverse corner lot between the street and the established front-yard setback line on the key lot to the rear (Section 19.08.210.F), in an R-2 (Medium-density Residential) District – Northwest corner of Sequoia Drive and Belle Avenue, 501 Sequoia Drive, Bakersfield – Categorically Exempt, Section 15303 – Graciano Serrano

The applicant, Graciano Serrano was in attendance and stated that he had reviewed the staff report and conditions as recommended by Staff and did not have any questions. Melvin Thompson, an adjacent property owner, spoke in support of the requested modification, stating that the fence is well constructed and is an improvement to the area. Mr. Thompson stated that he has had discussions with neighboring property owners, and they, too, agree that the fence has enhanced the area. He stated that the fence is easy to see around and that he has no difficulty getting in or out of his driveway. The Hearing Officer asked Brian Blacklock of the Kern County Roads Department if their department had any comments on the proposed fence. Mr. Blacklock stated that they have gone out and reviewed the site and did not see any traffic concerns that would result from the retention of the fence. Mr. Blacklock stated that they ran accident data at the intersection, and the data indicated that there have been no accidents at the location during the past two years.

The Hearing Officer stated that when considering previous fence height modifications, the fundamental concern has been line of site for traffic. He stated that in reviewing the request and hearing the testimony of the Kern County Roads Department, he did not believe there would be any traffic impacts, noting that the property owner who would be most impacted by the fence was in support of the request. The Hearing Officer stated that he would approve the modification as
requested and instructed the applicant to contact the Kern County Building Inspection Division regarding the need to obtain a building permit.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer approved the Zone Modification (Notice of Decision #02-10) subject to the recommended conditions.

4. Tentative Parcel Map No. 11781 - Tentative Parcel Map 11781 proposing to divide a 20.23-acre parcel of record into 15 lots ranging in size from one-acre (net) to 2.1 acres (net) for industrial use. – West side of North Brady Street, approximately 600 feet south of Inyokern Road (State Highway 178), Ridgecrest – Negative Declaration – The PAM Development Companies by Cornerstone Engineering, Inc.

This case was heard after Item 6. Derrill Whitten of Cornerstone Engineering, Inc, the applicant’s representative, was in attendance. The Hearing Officer outlined the proposal, as requested, and the location of the project. Mr. Whitten indicated that he had no concerns with the conditions and requested approval as recommended.

The Hearing Officer explained that parcel maps do not normally require a hearing; however, a hearing was requested by Mr. Robert Dickson, who was in attendance. The Hearing Officer noted that he had read the submitted letter and questioned if there were any concerns in addition to the ones outlined in the letter. Mr. Dickson indicated that an owner to the north of the project site had not been notified of the hearing. Mr. Dickson also expressed concern over the impact that commercial and industrial development would have on the area. Mr. Dickson noted that the Ridgecrest area currently has a high level of empty commercial buildings. The Hearing Officer indicated that the issue of the vacant industrial land would have been looked at when the zone change was considered.

The Hearing Officer noted that if the property is developed, precise development plans would be considered at a public hearing and details of the development would be considered at that time. The Hearing Officer also noted that a mitigation measure from the original negative declaration required the submittal of an acoustical report; however, the Kern County Environmental Health Services Department has agreed to defer the report to the precise development plan stage. Amy Rutledge of the Kern County Environmental Health Services Department confirmed the deferral.

The Hearing Officer expressed concern regarding the local road along the westerly map boundary (Cory Street). The Hearing Officer noted that the road would be a paved local road, however, it is a tee-intersection that does not connect to anything. The Hearing Officer indicated that it would be better to have a cul-de-sac rather than a tee-intersection, or off-site improvements would be necessary to tie into State Route 178. The Hearing Officer also noted that the most direct route is more commonly utilized whether the road is paved or not.

Brian Blacklock of the Roads Department indicated that the Kern County Roads Department made the initial comments on the initial zone change proposal; however, the Kern County Engineering and Survey Services Department commented on the proposed tentative parcel map. The Hearing Officer noted that a traffic impact study was prepared for the environmental document, and the study recommended signalization at Brady Street and Highway 178, of which the applicant is to pay their fair share portion.

The Hearing Officer indicated that the piece of pavement proposed along Cory Street (west map boundary) does not serve a fundamental purpose and individuals tend to utilize an alignment, paved or not. The Hearing Officer questioned if the Kern County Roads Department had a fundamental issue with the use of a cul-de-sac at the western terminus of Plateau Drive in lieu of the tee-intersection.
Mr. Blacklock indicated that he does not see why the Kern County Roads Department would not be able to support the cul-de-sac. Mr. Whitten indicated that the turnaround would be cheaper, however, he would lobby for the development of Cory Street and that the part width improvement would not be an attractive nuisance. Mr. Whitten verified that parcels to the west of the site were created by parcel map and that the required dedications for Cory Street were made at that time and could develop with half-width street improvements. Mr. Whitten indicated that he did not think that the State Department of Transportation (Caltrans) would want an intersection at Cory Street and Highway 178. Mr. Blacklock indicated that if a connection were allowed, it would most likely be a right-turn in and right-turn out only. Mr. Whitten indicated that the parcels to the west obtain access from Inyokern Road (State Route 178) and if Cory Street were to be extended, it would involve the Army Corps of Engineers. The Hearing Officer indicated that for circulation in the area, it would be best to connect Cory Street to Highway 178; however, Caltrans has been critical to the opening up of additional connections on the highway. The Hearing Officer noted that it was his inclination to delete the paving requirement along Cory Street and allow a turn around since the need for development of Cory Street would be better gauged at the precise development plan stage.

Mr. Blacklock indicated that comments from the Kern County Roads Department dated October 2008, were included in the environmental document that identified mitigation for signals and required the payment of a proportionate share. Mr. Blacklock requested that a condition of approval be included requiring that, prior to recordation of the parcel map, the applicant pay their proportionate share as identified by the traffic study. The Hearing Officer confirmed that the proportionate share encompassed both intersections that were identified in the traffic study. The Hearing Officer indicated that the comments were included in the environmental document; however, they were not brought forward as mitigation, but it is his inclination to add the requirements as a condition of approval.

Mr. Dickson expressed concern regarding the location of the proposed intersection of Brady Street and Plateau Drive and requested that the street be relocated to the south map boundary and that the structures on the eastern lots be set back 150 feet from the road. The Hearing Officer noted that the proposed intersection is off set from the existing driveway on the east side of Brady Street and that no official comments had been received from the Kern County Roads Department regarding the location of the intersection. The Hearing Officer noted that he did not see a reason for requiring a redesign of the map, and he was not inclined to place the requested restrictions on the eastern lots since it would be better addressed at the precise development plan stage.

Mr. Dickson questioned if the required flood study will look at the flooding on Highway 178; however, the Hearing Officer indicated that he would defer to the Kern County Engineering and Survey Services Department/Floodplain Management Section to define the parameters of the study. Mr. Dickson indicated that Caltrans is aware of the flooding problem but has been unable to do anything about it. Mr. Dickson explained that water collects at the intersection and sets for a couple of days. The Hearing Officer indicated that he had reviewed Caltrans’ comments included in the environmental document and that the comments stopped short of requiring off-site improvements. Mr. Whitten clarified that there is a flooding problem along Inyokern Road and that the water sheet floods across the road and onto the Base where it collects in Mirror Lake. In response to the drainage study comment, Mr. Whitten indicated that it was their responsibility only to make sure that any drainage created by the project remains on the site, not to fix an existing regional problem.

The Hearing Officer clarified that, the precise development plan process will allow for the ability to address proposed uses at a noticed public hearing. The Hearing Officer indicated that it was his intent to delete the condition requiring paving along Cory Street and substituting a turn around. He further indicated that any improvements to Cory Street would best be evaluated in conjunction with the submittal of precise development plans for the affected lots. Another option would be to include a
condition that either off-site improvements be constructed connecting Cory Street to Highway 178 or a cul-de-sac be located at the terminus of Plateau Drive. Mr. Whitten indicated that he would prefer a condition requiring the cul-de-sac. Mr. Blacklock indicated that he would like the opportunity to see what is submitted for review and that public access dedications along Cory Street are still required. Mr. Blacklock also noted that he would prefer that the western parcels have access only from Plateau Drive. The Hearing Officer indicated that he is hesitant to require the dedication of vehicular access onto Cory Street from the western lots at this time, since it too would be better addressed at the precise development plan stage.

The Hearing Officer noted that the Board of Supervisors approved the zone change on the property and although the concern of premature development may have merit, the decision was made by the Board of Supervisors to dedicate the property to a commercial/industrial use. In addition, any aesthetic and noise issues will be addressed at the precise development plan stage.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer approved the Tentative Parcel Map (Notice of Decision) subject to the recommended conditions with the following changes:

Delete original Condition (21).

Added new Condition (21) to read as follows:

(21) Plateau Drive shall terminate in a cul-de-sac as approved by the Kern County Engineering and Survey Services Department and the Kern County Roads Department.

Original Condition (27) amended to read as follows:

*(27) Concurrent with the submittal of any land division application or Master Precise Development Plan, the developer shall submit an acoustical analysis prepared by a qualified consultant with experience in the field of environmental noise assessment and architectural acoustics. This requirement may be waived in writing by the Kern County Environmental Health Services Department. A copy of the waiver shall be submitted to the Planning Department. This requirement has been deferred to the precise development plan stage.

Original Condition (39) amended to read as follows:

(39) The following requirement shall appear as a note on all grading plans:

If any abandoned water wells are located within the development or discovered during excavation or grading, the Kern County Environmental Health Services Department must be contacted to obtain information for the proper permitting and destruction procedures.

Original Condition (40) amended to read as follows:

(40) The following note shall appear on all grading plans:

If, during grading or construction, any plugged, abandoned, or unrecorded well(s) are uncovered or damaged, the Department of Conservation/Division of Oil, Gas, and Geothermal Resources shall be contacted to inspect and approve any remediation required.
Original Condition (41) amended to read as follows:

(41) The following note shall appear on the final map:

This property is presently located in the vicinity of the China Lake Naval Air Weapons Station (NAWS) and/or is underneath Special Use Airspace or Air Routes. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to NAWS operations (for example: noise, vibration, low-level over flight or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

Added new Condition (42) to read as follows:

(42) Prior to recordation, the applicant shall pay, to the Kern County Roads Department, a proportionate share, which equates to $100,800.00, for the installation of a traffic signal at State Route 178/Inyokern Road and Jacks Ranch Road (22 percent project share) and at State Route 178/Inyokern Road and Brady Street (41 percent project share). In the event that the recordation of the parcel map does not occur within two years from the initial date of the project approval, the Kern County Roads Department may require a recalculation of these amounts.

All conditions renumbered as appropriate.

5. (a) Tentative Parcel Map No. 11914; (b) Zone Variance Case No. 9, Map No. 77 - (a) Tentative Parcel Map 11914 proposing to divide a 30.13-acre parcel of record into a five-acre parcel for residential use and a 25.1-acre designated remainder for agricultural use; (b) A Zone Variance to allow a five-acre parcel where 20 acres is required (Section 19.12.050), in an A (Exclusive Agriculture) District – West side of Rowlee Road, 1/4 mile north of Lerdo Highway, north of Buttonwillow – General Rule, Section 15061(b)(3) – Peter Andreotti by French and Associates

Jeff French of French and Associates, the applicant’s representative, was in attendance. Mr. French indicated that he had no problems with the recommended conditions of approval.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer approved the Tentative Parcel Map (Notice of Decision) subject to the recommended conditions; and approved the Zone Variance (Notice of Decision #03-10) subject to the recommended conditions.

EXTENSION OF TIME CASE:

6. Conditional Use Permit Case No. 20, Map No. 230-16 - An Extension of Time (Section 19.104.050.B) for a period of one year for this Conditional Use Permit (Resolution 185-07; approved December 13, 2007 and extended for one year on December 18, 2008) which allowed a church in an A-1 (Limited Agriculture) District – Northwest corner of Sierra Highway and Hood Avenue, Rosamond – General Rule, Section 15061(b)(3) – Community Lighthouse Ministry Church by Carlson Architecture Company

The applicant was not in attendance. There was no public testimony offered.
There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer approved the Extension of Time to expire on December 13, 2010, subject to the original conditions of approval.

VIOLATION CASE:

7. Violation - Map No. 63-12 - Consideration of violation findings – 1928 Harrington Avenue, Lake Isabella – General Rule, Section 15061(b)(3) – Nancy Shebesta

Nancy Shebesta was in attendance and stated that the auto lift had been removed from the project site and submitted photographs to the Hearing Officer as evidence that the lift had been dismantled. Ms. Shebesta stated that the accessory shed was still on site, and the Hearing Officer stated that the accessory shed created the same concern as the auto lift, noting that approval of the requested conditional use permit for a parking lot would not abate the violation. The Hearing Officer stated that if the applicant wished to pursue the conditional use permit for a parking lot, the shed would have to be removed from the site. The Hearing Officer discussed the option that the applicant had previously considered which included the processing of a General Plan Amendment and change in zone classification to a commercial district. The Hearing Officer stated that if the property owner wished to pursue a General Plan Amendment and zone change for the site, that would abate the current zoning violation and he could make the necessary findings to allow the General Plan Amendment and zone change applications to move forward. The Hearing Officer stated that he would continue the hearing for two weeks in order to allow the property owner time to decide if he wished to proceed with a General Plan Amendment and zone change or with the conditional use permit. Ms. Shebesta stated that she believed the property owner would want to pursue the General Plan Amendment and zone change. There was brief discussion regarding the possibility of including adjacent parcels for the General Plan Amendment and zone change applications, and the Hearing Officer stated that if one of the property owners did not wish to be part of the General Plan Amendment and zone change, the applicant could still move forward with her request.

There being no one else wishing to be heard, pro or con, hearing closed. The Hearing Officer continued the case to January 21, 2010.

This portion of the meeting was reserved for persons desiring to address the Hearing Officer on any matter not on the agenda and over which the Hearing Officer has jurisdiction. NO ONE WAS PRESENT FOR PUBLIC PRESENTATION.

Meeting adjourned at 11:15 a.m.

JAMES E. ELLIS, Planning Operations Division Chief