

**PLANNING COMMISSION  
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 02010

A.P. # 416-471-014-000

**FINDINGS AND**

**DECISION**

In the matter of the application of  
**KKMC Radio (PLN010292)**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow an amendment to a previously approved Use Permit (PC04918) for the addition of 20 ft. to two (2) existing 186 foot radio towers; the addition of 160 square feet to an existing transmission shed; and the construction of a third new 206 foot radio tower, all to improve radio wave length and comply with FCC authorization for night time operation; on a 10 acre portion of land leased from the Handley Family Ranch located at 25485 Iverson Road, Gonzales, Central Salinas area, came on regularly for hearing before the Planning Commission on February 27, 2002.

Said Planning Commission, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

1. **FINDING:** The subject Use Permit (**KKMC Radio; PLN010292**), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the General Plan, the Central Salinas Area Plan, the Monterey County Zoning Ordinance (Title 21), and Ordinance 03938, the siting of Wireless Communication Facilities. The property is located on a 10 acre portion of land leased from the Handley Family Ranch located at 25485 Iverson Road, between Jack Road and Johnson Canyon Road and northeast of the City of Gonzales (Assessor Parcel Numbers 416-471-005, -006, -007; -008, -009, and -014). The parcel is zoned "PG/40" or Permanent Grazing, 1 unit/40 acres. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21, except for the height of a non-habitable accessory structure which falls under Ordinance 03938 regarding the standards and procedures to be followed in the siting of wireless communication facilities.  
**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with the General Plan and Central Salinas Area Plan.  
**EVIDENCE:** The project site is physically suitable for the proposed use as described in the project file. The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, Agricultural Commissioner, Monterey County Airport Land Use Commission, and the Gonzales Fire Department. There has been no indication from these agencies that the site is not suitable for the proposed development. Each agency has recommended conditions for project approval.  
**EVIDENCE:** The recommendation for approval of the project by the Chualar Neighborhood Design Review Committee on November 27, 2001 by a vote of 5 ayes; 0 noes; 0 absent; and 0 abstentions.  
**EVIDENCE:** Monterey County Land Airport Land Use Commission along with the Agricultural Commissioner have reviewed the project and recommend the tower and others similarly situated should be lighted with warning lights, such as a red flashing beacon lit during hours of dark or fog/low visibility.

**EVIDENCE:** Written and verbal public testimony submitted at public hearings before the Planning Commission.

**EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file #PLN010292.

**EVIDENCE:** Section 21.34.050 D. of the Monterey County Zoning Ordinance (Title 21). Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

**EVIDENCE:** The photo taken from the Highway 101 visual corridor that is approximately 2 miles west of the site. Also, a digital photo image for computer use simulating the project tower can be found in the project file #PLN010292. Both images confirm the minimal visual impact of the proposed project from the Highway 101 designated visual corridor.

2. **FINDING:** The proposed use is reviewed pursuant to the standards and procedures to be followed in the siting of wireless communication facilities as found in Monterey County Ordinance 03938, and found to be consistent with, and in compliance with said ordinance.

**EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file #PLN010292.

**EVIDENCE:** The photo taken from the Highway 101 visual corridor that is approximately 2 miles west of the site. Also, a digital photo image for computer use simulating the project tower can be found in the project file #PLN010292. Both images confirm the minimal visual impact of the proposed project from the Highway 101 designated visual corridor.

**EVIDENCE:** The recommendation for approval of the project by the Chualar Neighborhood Design Review Committee on November 27, 2001 by a vote of 5 ayes; 0 noes; 0 absent; and 0 abstentions.

**EVIDENCE:** Condition No's. 2, 6 and 10.

3. **FINDING:** The project as proposed is consistent with Policy 26.1.6.1 of the Central Salinas Valley Area Plan dealing with visual resources; namely, that development shall have appropriate review where it is permitted in sensitive or highly sensitive areas as shown on the Scenic Highways and Visual Sensitivity Map (Figure 5 found in the Central Salinas Valley Planning Area Plan. a) The project will not result in ridgeline development. b) Although the project is located in the public viewshed as found in the above cited Policy, the Planning Commission finds that the proposed tower does not have a significant visual impact as viewed with the unaided eye from the Highway 101 visual corridor.

**EVIDENCE:** The Gabilan Range serves as a backdrop to the proposed radio tower that eliminates any ridgeline view of the tower as seen from the nearest public visual corridor, Highway 101.

**EVIDENCE:** The photo taken from the Highway 101 visual corridor that is approximately 2 miles west of the site, attached to this report as Exhibit "E." Also, a digital photo image for computer use simulating the project tower can be found in the project file #PLN010292. Both images confirm the minimal visual impact of the proposed project from the Highway 101 designated visual corridor.

4. **FINDING:** The proposed project will not have a significant environmental impact. Section 15061 (3), of the Monterey County CEQA Guidelines categorically exempts the proposed development from environmental review by applying the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

**EVIDENCE:** No adverse environmental impacts were identified during staff review of the development application. It is considered that the project as an amended use is not considered to have added a potential environmentally significant impact to an existing project already approved with

an adopted Negative Declaration.

**EVIDENCE:** Since there is minimal land disturbance, the only potential environmental issues would be related to visual impacts. The project is beyond normal visibility from public viewing areas (Highway One and Chualar Canyon Road). Further, the added tower is visually consistent with the existing towers, which were adequately reviewed in the original negative declaration that found the visual impacts to be insignificant.

5. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, Gonzales Fire District, Agricultural Commissioner, and Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

**EVIDENCE:** The proposed tower is located in an area that has been used by agricultural aircraft for many years and is heavily traveled. For this reason, the Agricultural Commissioner recommends that the tower and others similarly situated should be lighted with warning lights, lit during hours of dark, fog, or general low visibility. Also, the Federal Communications Commission ("FCC"), as a requirement for antenna structure registration, requires special paint and lighting for the tower. Any structure above telephone pole level presents a hazard to helicopters that must fly in marginal weather conditions, such as 50-foot ceilings

**EVIDENCE:** The FCC Antenna Structure Registration #1011583, issued February 17, 1999 to Monterey County Broadcasters, Inc., as found in file #PLN010292 and 800-foot visibility.

**EVIDENCE:** File and application materials contained in the project file #PLN010292.

6. **FINDING:** The project is appealable to the Board of Supervisors.

**EVIDENCE:** Section 21.80.040. D of the Monterey County Zoning Ordinance (Title 21).

### DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. The subject Use Permit consists of an amendment (**KKMC Radio; PLN010292**) to a previously approved Use Permit (PC04918) for the addition of 20 feet to two (2) existing 186 foot radio towers; the construction of a third new 206 foot radio tower; and the addition of 160 feet to an existing transmission shed on a 10 acre portion of land leased from the Handley Family Ranch located at 25485 Iverson Road, Gonzales (Assessor Parcel Numbers 416-471-005, -006, -007; -008, -009, and -014) in the Central Salinas Planning Area. The proposed project is in accordance with County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (**Planning and Building Inspection**)

**Prior to the Issuance of Grading and Building Permits:**

2. The applicant agrees as a condition and in consideration of the approval of the permit to enter into an indemnification agreement with the County whereby the applicant agrees to defend, indemnify, and hold harmless the County, its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under the permit. Applicant shall obtain the permission of the owner on which the wireless communications facility is located to allow the recordation of said indemnification agreement, and the applicant shall cause said indemnification agreement to be recorded by the County Recorder as a prerequisite to County issuance of the building and/or grading permit. The County shall promptly notify the applicant of any such action or claim, and the County shall cooperate fully in the defense thereof. The County may, at its sole discretion, participate in the defense of such action, but such participation shall not relieve applicant of its obligations under this condition. **(Planning and Building Inspection)**
3. The applicant shall record a notice that states: "A permit (Resolution 02010) was approved by the Planning Commission for Assessor's Parcel Numbers 416-471-005, -006, -007; -008, -009, and -014 on February 27, 2002. The permit was granted subject to **11** conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
4. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
5. If applicable, new utility and service lines shall be placed underground. **(Planning and Building Inspection)**

**Prior to Final Building Inspection:**

6. That the tower be obstruction marked, lighted, and monitored in accordance with FAA Circular Number 70/7460-1J, Chapters 3, 4, 5, and 13, and to the satisfaction of the Agricultural Commissioner's Office **(Planning and Building Inspection & Agricultural Commissioner)**
7. The area exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion. **(Planning and Building Inspection)**
8. The applicant shall agree in writing that if future technological advances allow for reducing the visual impacts of the telecommunication facility, the applicant shall make modifications to the facility accordingly to reduce the visual impact as part of the facility's normal replacement schedule. **(Planning and Building Inspection)**

**Continuous Permit Conditions:**

9. If during the course of construction or other activities on the subject property, cultural, archaeological, historical, and/or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. **(Planning and Building Inspection)**

10. If, in the future, the facility is no longer needed, the applicant agrees to abandon the facility and remove the tower, panel antennas and equipment shelter. The site shall be restored to its natural state within 6 months of termination of use or abandonment of the site. If this should occur, the applicant shall enter into a site restoration agreement subject to the approval of the Director of Planning and Building Inspection and County Counsel.  
**(Planning and Building Inspection)**
  
11. If, as a result of future scientific studies and/or alterations of industry wide standards resulting from such studies, substantial evidence is presented to the County that radio frequency transmissions are in violation of the existing Federal Communications Commission emission standards, the Director of Planning and Building Inspection shall set a public hearing at which time this permit may be revoked or conditions of the permit may be modified.  
**(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 27th day of February, 2002, by the following vote:

AYES: Errea, Sanchez, Hawkins, Parsons, Brennan, Pitt-derdivanis, Diehl, Hernandez, Wilmot  
NOES: None  
ABSENT: Lacy

Original Signed By:

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DALE ELLIS, SECRETARY

Copy of this decision mailed to applicant on

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.