

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

RESOLUTION NO. 02056

A.P. # 125-501-046-000

FINDINGS AND

DECISION

In the matter of the application of

David H. Freeman, et al (PLN000646)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for Freeman/Sprint PCS for a telecommunication site consisting of a 60' monopole with 2-sector slim line flush mount antennae, 2 equipment cabinets and associated equipment within a 300 sq. ft. lease area, located at 2624 El Camino Real, northeast of Highway 101, in the Prunedale area, North County area plan, came on regularly for hearing before the Planning Commission on September 25, 2002.

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

FINDINGS OF FACT

- 1. FINDING:** The Freeman/Sprint Use Permit (PLN000646) described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County General Plan, the North County Area Plan and the Monterey County Zoning Ordinance (Title 21), specifically Chapter 21.20 (Regulations for Heavy Commercial Zoning) and Chapter 21.64.310 (Siting, Design and Construction of Wireless Communication Facilities). The property is located at 2624 El Camino Real North, in the Prunedale area, North County Area Plan (Assessor's Parcel Number 125-501-046-000).

The subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provision of this Title. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials in file PLN000646, for conformity with the Monterey County General Plan, the North County Area Plan and the applicable regulations in Title 21, Zoning Ordinance.

EVIDENCE: The staff planner conducted several on-site inspections to verify that the project conforms to the plans listed above.

EVIDENCE: The proposed project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works and Parks Departments, Environmental Health Division, the North County Fire Protection District, the Monterey County Agricultural Commissioner's office, the North County Land Use Advisory Committee. There has been no indication from these agencies that the site is not suitable for the proposed development. No conditions were recommended by these agencies.

EVIDENCE: A Geotechnical report prepared by Krazan & Associates, Inc. on April 16, 2001, concludes that the site, with implementation of standard measures and practices, is suitable for the project.

EVIDENCE: An Archaeological Report prepared by Archaeological Resource Management on July 6, 2001 concludes that there is no evidence of cultural resources on the site and the project can proceed.

EVIDENCE: There has been no public opposition to this project.

EVIDENCE: Administrative Record as a whole.

- 2. FINDING:** The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA).

EVIDENCE: The California CEQA Guidelines, Section 15303.C exempts this project from environmental review. This project will not have significant adverse impacts on the environment. The site is not located within any environmentally sensitive area or other sensitive resource area as defined in the Monterey County General Plan and the North County Area Plan.
- 3. FINDING:** The proposed wireless communications facility will not significantly affect any designated public viewing area, scenic corridor or any identified environmentally sensitive area or resource as defined in the Monterey County General Plan and Area Plan.

EVIDENCE: The proposed monopole is designed to blend with the existing vegetation on site and surrounding topography. The low profile flush mounted antenna and relatively short slim monopole contains two-sectors and two small cabinets. The equipment cabinets would be screened from view by a natural redwood fence. The monopole is set into existing vegetative canopy and is similar in size and appearance to surrounding utility poles and outbuildings. The pole shall be painted leaf green to match the environment. All utility lines shall be underground.
- 4. FINDING:** The proposed wireless communication facility will not create a hazard for aircraft in flight. The pole is within the range of other utility type poles in this area in terms of height. The pole does not penetrate restricted airspace.

EVIDENCE: The project is consistent with Section 21.86 (Airport Approaches Zoning) and does not require review by the Monterey County Airport Land Use Commission due to minimal height and location of the monopole.
- 5. FINDING:** The site is adequate for the development of the proposed wireless communications facility and the applicant has demonstrated that it is the best location for the provision of services as required by the FCC.

EVIDENCE: The applicant has demonstrated that alternative site options have been investigated and that those options per the report dated April 5, 2002, did not meet Sprint's radio frequency (RF) objectives.
- 6. 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: Preceding findings and supporting evidence.

EVIDENCE: The use conforms to local and federal levels of compliance and is found to be within expectable limits under those categories, regulations and mandates of public health, safety, welfare, zoning and environmental issues. The use/permit conforms to FCC, FAA, and PUC standards and is licensed federally.

7. **FINDING:** The Planning Commission's decision on this project is appealable to the Board of Supervisors.
EVIDENCE: Section 21.80.040 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 Use Permit by Freeman/Sprint PCS is for a telecommunication site consisting of a 60' monopole with 2-sector slim line flush mount antennae, 2 equipment cabinets and associated equipment within a 300 sq. ft. lease area. The project is located at 2624 El Camino Real North (APN 125-501-046-000 east of Highway 101, in the Prunedale area, North County Area Plan. 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 a Building Permit:

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 02056) was approved by the Planning Commission for Assessor's Parcel Number 125-501-046-000 on September 25, 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. The applicant shall comply with all recommendations in the Geotechnical Engineering report prior to issuance of a building permit. **(Planning and Building Inspection)**

Prior to Final Building Inspection/Occupancy:

5. The color of the monopole and related equipment shall be leaf green; fence shall be redwood to match the surrounding natural setting. **(Planning and Building Inspection)**
6. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. **(Planning and Building Inspection Department)**
7. 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:

8. 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)**
9. The applicant and/or successors and assigns shall encourage co-location by other wireless carriers on this tower assuming appropriate permits are approved for co-location. Any expansion or additions of microwave dishes, antennas and/or similar appurtenances located on the monopole, which are not approved pursuant to this permit, are not allowed unless the appropriate authority approves additional permits or waivers. In any case, the overall height of the monopole shall not exceed 60 feet. **(Planning and Building Inspection)**
10. If the applicant abandons the facility or terminates the use, the applicant shall remove the monopole, panel antennas, and equipment shelter. Upon such termination or abandonment, the applicant shall enter into a site restoration agreement subject to the approval of the Director of Planning and Building Inspection and County Counsel. The site shall be restored to its natural state within 6 months of the termination of use or abandonment of the site. **(Planning and Building Inspection)**
11. The facility must comply with Federal Communications Commission (FCC) emission standards. If the facility is in violation of the then existing FCC emission standards, the Director of Planning and Building Inspection shall set a public hearing before the appropriate authority whereupon the appropriate authority may, upon a finding based on substantial evidence that the facility is in violation of the then existing FCC emission standards, revoke the permit or modify the conditions of the permit. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 25th day of September, 2002, by the following vote:

AYES: Errea, Sanchez, Hawkins, Brennan, Parsons, Diehl, Hernandez, Wilmot
NOES: Engell
ABSENT: Pitt-Derdivanis

Original Signed By:

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 90th 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.