

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

RESOLUTION NO.

02077

A.P. # 008-163-003-000-M

In the matter of the application of
DECISION

FINDINGS AND

Pebble Beach Company (PLN020237)

for a Coastal Development Permit in accordance with Title 20.1 (Monterey County Coastal Implementation Plan Ordinances) Chapter 20.140 (Coastal Development Permits) of the Monterey County Code, to allow construction of an 80-foot monopole (snag), antennas, metering cabinet, 240 sq. ft. underground equipment vault and grading (approximately 378 cu. Yds. cut); and Design Approval, located off Del Ciervo Road, Pebble Beach, fronting on and north of Del Ciervo Road east of the intersection of Del Ciervo Road and Macomber Drive, Del Monte Forest Area, Coastal Zone, came on regularly for hearing before the Planning Commission on December 11, 2002.

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

FINDINGS OF FACT

1. **FINDING:** **CONSISTENCY** - The project, described in Condition #1 (Exhibit "F.2") and as conditioned, is consistent with the applicable plans and policies of the Del Monte Forest Land Use Plan, Monterey County Coastal Implementation Plan (Part 5), Part 6 of the Coastal Implementation Plan, and with the Monterey County Zoning Ordinance (Title 20) which designates this area as appropriate for wireless communication facilities. Specifically, the project complies with Section 20.64.310, which regulates the siting, design and construction of wireless communication facilities.

EVIDENCE:

- (a) PBI staff has reviewed the project as contained in the application and accompanying materials for consistency with the Del Monte Forest Land Use Plan, Monterey County Coastal Implementation Plan (Part 5) and Part 6 of the Coastal Implementation Plan. PBI staff has reviewed the project as contained in the application and accompanying materials for conformity with and have determined that the project is consistent with the Del Monte Forest Land Use Plan which designates this area as appropriate for wireless communication facilities. Specifically, the project complies with Section 20.64.310 which regulates the siting, design and construction of wireless communication facilities. Staff notes are provided in PBI File No. PLN020237.
- (b) Project planner conducted an on-site inspection on June 26, 2002 and October 2, 2002 to verify that the project on the subject parcel conforms to the plans listed above.
- (c) The project, which is for wireless communication facilities, is allowed on any lot or parcel in any zoning district subject to the appropriate permits, pursuant to Sections 20.64.310 (Title 20).
- (d) The parcel is zoned "LDR-B-6-D (CZ)" or Low Density Residential, Regulations for Building Site, Design District.
- (e) Land Use Advisory Committee (LUAC): The Del Monte Forest LUAC recommended approval of the project by a vote of 4 for and 0 against. LUAC meeting minutes dated November 7, 2002 (Exhibit "C.1").
- (f) Airport Land Use Commission (ALUC): The Monterey County ALUC reviewed the project on October 28, 2002 and recommended approval of the project subject to one condition. See Finding #9.

2. **FINDING: NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision and any other applicable provisions of the County's zoning ordinance. No violations exist on the property, and all zoning violation abatement cost, if any, have been paid.
- EVIDENCE:** (a) Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on the subject property.
3. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance or operation of the Use/project applied for will not under the circumstances of this particular case, be detrimental to the 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 improvements in the neighborhood or to the general welfare of the County.
- EVIDENCE:** (a) The project was reviewed by Planning and Building Inspection, Public Works, Parks and Recreation, Environmental Health, Water Resources Agency and Pebble Beach Community Services District. The respective departments and agencies 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. The applicant has agreed to these conditions as evidenced by the application and accompanying materials and conditions (Exhibit "F.2").
- (b) Technical reports have been provided by outside consultants with recommended conditions and modifications that provide additional assurances regarding project safety. "Geotechnical Investigation for Del Monte Forest Wireless Network Plan," prepared by Haro, Kasunich & Associates, Inc., Watsonville, CA, August 2002. "Biological Resource Assessment," prepared by Zander Associates, Novato, CA, dated August 1, 2002. Letter to Cheryl Burrell regarding an Archaeological Reconnaissance from Archaeological Consulting, Salinas, CA, dated May 10, 2002. "RF Exposure Report," prepared by Hammett & Edison, Inc., Consulting Engineers, San Francisco, CA, dated June 25, 2002. Reports are in the project files.
4. **FINDING: SITE SUITABILITY** - The site is suitable for the use proposed.
- EVIDENCE:** (a) Staff conducted an on-site visit on June 26, 2002 and October 2, 2002.
- (b) The project has been reviewed for suitability by Planning and Building Inspection, Public Works, Parks and Recreation, Environmental Health, Water Resources Agency and Pebble Beach Community Services District. Conditions recommended have been incorporated.
- (c) Technical reports by outside geological, geotechnical, biological and archaeological consultants indicate that there are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats or similar areas that would indicate the site is not suitable for the use proposed. Agency staff concurs. Reports are in project files.
- (d) Necessary public facilities are available.
5. **FINDING: PUBLIC ACCESS** - The project is in conformance with the public access and public recreation policies of the Coastal Act and Local Coastal Program, and does not interfere with any form of historic public use or trust rights (see 20.70.050.B.4). No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan, can be demonstrated.

- EVIDENCE:**
- (a) The subject properties are not described as areas where the Local Coastal Program requires access.
 - (b) Staff site visit on June 26, 2002 and October 2, 2002.
 - (c) Materials and documents in project files.

6. **FINDING: CEQA (Mitigated Negative Declaration)** - On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed project as designed, conditioned and mitigated, will have a significant effect on the environment. The mitigated negative declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- (a) The Monterey County Planning and Building Inspection Department prepared an Initial Study pursuant to CEQA. The Initial Study identified several potentially significant effects, but the applicant has agreed to proposed mitigation measures that avoid the effects or mitigate the effects to a point where clearly no significant effects would occur. The Initial Study is on file in the office of Planning and Building Inspection and is hereby incorporated by reference (File Reference # PLN020237). All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.
 - (b) A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with Monterey County regulations and is designed to ensure compliance during project implementation. Applicant must enter into an "Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition #20)
 - (c) Evidence that has been received and considered includes: 1) the application plans and materials; 2) reports submitted by the applicant including "Geotechnical Investigation for Del Monte Forest Wireless Network Plan," prepared by Haro, Kasunich & Associates, Inc., Watsonville, CA, August 2002. "Biological Resource Assessment," prepared by Zander Associates, Novato, CA, dated August 1, 2002. Letter to Cheryl Burrell regarding an Archaeological Reconnaissance from Archaeological Consulting, Salinas, CA, dated May 10, 2002. "RF Exposure Report," prepared by Hammett & Edison, Inc., Consulting Engineers, San Francisco, CA, dated June 25, 2002; and 3) staff reports that reflect the County's independent judgment. These reports are on file in the offices of the Planning and Building Inspection (File Reference # PLN020237, PLN020288; PLN020289; PLN020290; PLN020291; PLN020292) and are incorporated by reference herein.
 - (d) The project site is located in a High Archaeological Sensitivity Zone according to resource maps for the Del Monte Forest area. In order to prevent impact to any potential archaeological resource during the construction process, if any cultural, archaeological, historical and/or paleontological resources are uncovered at the site, 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 for the discovery
 - (e) The mitigated negative declaration was circulated for public review from October 11, 2002 to November 9, 2002. The County has considered the comments received

during the public review period, and they do not alter the conclusions in the Initial Study and mitigated negative declaration.

- (f) The Monterey County Department of Planning and Building Inspection, located at 2620 First Avenue, Marina, CA, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the negative declaration is based.

7. **FINDING:** **VISUAL RESOURCES (Policy #56)** – The project does not detract from the scenic values of the area and has been designed to be subordinate to and blended into the environment.

- EVIDENCE:**
- (a) The project site is only visible for a few seconds to passing motorists on a local road, Del Ciervo Road.
 - (b) The proposed monopole will be disguised as a Monterey pine snag in order to blend in with the natural environment. The color and mold for the snag will be taken from existing trees in the area in order to blend in better. Equipment will be placed underground and will not be visible except for a small metering cabinet. Native vegetation will be restored to screen the facilities.
 - (c) Site visit by project planner on June 26, 2002 and October 2, 2002.

8. **FINDING:** **WIRELESS COMMUNICATIONS (Public Viewing Areas)** - The proposed development for the wireless communication facilities will not adversely affect any designated public viewing area, scenic corridor or identified environmentally sensitive area.

- EVIDENCE:**
- (a) File and application materials; Initial Study and Mitigated Negative Declaration; staff report and administrative record; Del Monte Forest Land Use Plan.
 - (b) The project site is not located on a designated scenic corridor or ridgeline, nor is it visible from any designated scenic corridor or vista point based on the Del Monte Forest Land Use Plan Visual Resource Map and site visits.
 - (c) There is no environmentally sensitive area on or adjacent to the project site. Technical Report, “Biological Resource Assessment,” prepared by Zander Associates, Novato, CA, dated August 1, 2002.
 - (d) Site visit by project planner on June 26, 2002 and October 2, 2002.

9. **FINDING:** **WIRELESS COMMUNICATIONS (Aircraft Hazard)** - 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:**
- (a) The project is consistent with Sections 20.92 and (Airport Approaches Zoning).
 - (b) The telecommunication tower applicant is required to provide proof from the California Public Utilities Commission, the Federal Communications Commission and the Federal Aviation Authority that they have received the appropriate approvals when required.
 - (c) The Monterey County Airport Land Use Commission (ALUC) reviewed the project on October 28, 2002 and recommended approval subject to a condition that a red obstruction light be attached to the top of each new monopole tower and shielded to be visible only from the sky with the shielding to be removed if the trees in the vicinity of the towers are removed. The concern was over the likelihood of fire suppression helicopters flying over the Del Monte Forest. ALUC (draft) minutes dated October 28, 2002 (Exhibit “C”). However, the Federal Aviation Administration made a determination of “No Hazard” for the proposed structure and stated that “marking and lighting are not necessary for aviation safety.” In addition, the California Department of

Forestry verified that their helicopters do not fly lower than 150 feet above the tree canopy nor do they fight fires at night. Based on the above information, staff did not incorporate the ALUC condition.

(d) Materials and documents in project file.

10. **FINDING: WIRELESS COMMUNICATIONS (Alternative Sites)** – The sites are adequate for the development of the proposed facilities and the applicant has demonstrated that there are not alternative sites for the proposed facilities.

EVIDENCE: (a) There are no existing sites in the area that could serve as a co-location facility for this site. Two alternative sites were evaluated by the applicant: the intersection of Del Ciervo Road and 17-Mile Drive; and the Fire Station near the Highway One entrance gate. Due to the topography and lower elevations, the alternative sites do not provide the same level of transmission service. They would also result in greater visual impact than the proposed site because of a need for either additional sites or a taller 100-foot monopole.

(b) Site visit by project planner on June 26, 2002 and October 2, 2002.

(c) Materials and documents in project file.

11. **FINDING: APPEALABILITY** - The Planning Commission's decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission.

EVIDENCE: (a) Section 20.86.030 and 20.86.080 of the Monterey County Zoning Ordinance, Title 20.

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 Coastal Development Permit and Design Approval allows construction of an 80-foot monopole and antennas, 240 sq. ft. underground vault, metering cabinet, auxiliary equipment, access path and grading (approximately 378 cubic yards of cut). The project is located on Del Ciervo Road opposite Kingsley Court, Pebble Beach (Assessor's Parcel Number 008-163-003-000) in the Del Monte Forest area of the Coastal Zone. 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 the Building Permits:

2. The applicants each agree as a condition and in consideration of the approval of their respective 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 said permit. Each 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 the issuance of the building and/or grading permit. The County shall promptly notify each applicant of any such claim, action, or proceeding, 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 & Building Inspection)**

3. Each applicant shall record a notice that states: "A permit (Resolution 02077) was approved by the Planning Commission for Assessor's Parcel Number 008-163-003-000 on December 11, 2002. The permit was granted subject to 22 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 necessary, new utility and service lines shall be placed underground. **(Planning and Building Inspection)**
6. The applicant shall obtain all required building and grading permits from the Department of Planning and Building Inspection before commencing the operation. **(Planning and Building Inspection)**
7. The applicant shall obtain appropriate approvals from the California Public Utilities Commission and the Federal Communications Commission. **(Planning and Building Inspection)**
8. Exterior lighting shall be hooded and shall be located no higher than 10' above ground level. All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Proposed lighting is to be located on related equipment sheds when possible. Lighting shall be operated by means of an on-off switch and shall be used only during maintenance checks or emergencies. To ensure compliance, the applicant shall submit three copies of an exterior lighting plan to the Director of Planning and Building Inspection for approval prior to land use clearance illustrating these measures and shall submit photodocumentation after the lights have been installed. **(Planning and Building Inspection)**
9. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. **(Planning and Building Inspection)**
10. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan. The Plan shall include, at a minimum, the following elements:

- a. A listing of every mitigation measure approved by the decision-making body which certifies the subject environmental document;
- b. An identification of the date or other appropriate time period expected for implementation of each mitigation measure;
- c. If the date of the implementation of mitigation measure is uncertain, an estimate shall be provided;
- d. If a mitigation measure requires continuous or frequent (e.g. daily) monitoring, the frequency and duration of required monitoring shall be specified;
- e. If unclear on the faces of each measure, the standard for determining successful implementation of each measure shall be clearly identified;
- f. Individuals of organizations responsible for monitoring and/or reporting shall be clearly identified;
- g. The responsibilities under the plan for the applicant, County staff, and if necessary, consultants shall be identified; and
- h. Relevant reporting procedures and forms shall be included;
- i. Applicant agreement to pay consultant and staff to monitor long term measures beyond the final project inspection by the Planning and Building Inspection Department. **(Planning and Building Inspection)**

Prior to Final Building Inspection/Occupancy:

11. The applicant shall agree in writing that if future technological advances allow for reducing 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)**
12. The site shall be landscaped. At least three weeks prior to final, three copies of a landscaping plan shall be submitted to the Director of Planning and Building Inspection for approval. A landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. Before occupancy, landscaping shall be either installed or a certificate of deposit or other form of surety made payable to Monterey County for that cost estimate shall be submitted to the Monterey County Planning and Building Inspection Department. **(Planning and Building Inspection)**
13. The colors of the monopole, panel antennas and equipment shelter shall be approved by the Director of Planning and Building Inspection. Nonreflective paint shall be used on all equipment. The applicant shall submit a sample of the proposed paint/color to Planning and Building Inspection for review and approval prior to issuance of building permits. **(Planning and Building Inspection)**
14. Prior to final the applicant shall submit a report confirming or denying the existence of any cultural or archaeological resources encountered in the project area during excavation and any applicable measures that were taken to the Director of Planning and Building Inspection Department. **Planning and Building Inspection Department)**

Continuous Permit Conditions:

15. If during the course of construction 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)**
16. All landscaped areas and planted trees shall be continuously maintained by the applicant in a litter-free, weed-free, healthy, growing condition. Primary telecommunication receivers and transmitters, support structures and accessory antennas shall be permanently maintained and regularly painted as long as the facility is in operation. **(Planning and Building Inspection)**
17. 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 pole shall not exceed the height limit approved by this permit. **(Planning and Building Inspection)**

18. 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)**
19. The facility must comply with Federal Communications Commission (FCC) emission standards. If the facility is in violation of 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)**
20. Any additional microwave dishes or antennas proposed to be added to the monopole must be approved by the Director of Planning and Building Inspection, either as an Amendment to a previously approved permit or by a new permit or if it qualifies be found exempt, prior to installation. **(Planning and Building Inspection)**
21. The location, type and size of all antennas, satellite dishes, towers, and similar appurtenances shall be approved by the Director of Planning and Building Inspection. **(Planning and Building Inspection)**
22. The owner and carrier shall allow reasonable access to the project site for environmental research and monitoring for the purpose of studying the impacts of wireless facilities on wildlife. The research and monitoring activities shall not disrupt or interfere with the approved use of the facility without the consent of the owner and carrier. **(Planning and Building Inspection)**

PASSED AND ADOPTED this 11th day of December, 2002, by the following vote:

AYES: Errea, Sanchez, Hawkins, Brennan, Parsons, Diehl, Engell, Wilmot
NOES: None
ABSENT: Pitt-Derdivanis
ABSTAIN: Hernandez

Original Signed By:

LYNNE MOUNDAY, SECRETARY PRO TEM

Copy of this decision mailed to applicant on

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. 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 APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

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 Marina.

2. The construction or use authorized by this permit must start within two years of the date of approval of this permit unless extended by the Director of Planning and Building Inspection pursuant to Section 20.140.100 of the Coastal Implementation Plan.