

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

RESOLUTION NO. 03041

A.P. # 207-033-006-000

**FINDINGS AND
DECISION**

In the matter of the application of
Jeff Fetter (PLN000670)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for the replacement, stealth “windmill” design, and expansion to 68 feet in height of an existing, permitted 32 foot-tall wireless communication antenna, located at 181 Hitchcock Road, Salinas area, south of the intersection of South Davis Road and Hitchcock Road, came on regularly for hearing before the Planning Commission on August 13, 2003.

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

FINDINGS OF FACT

1. **FINDING:** The subject Use Permit, (PLN000670) as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County General Plan, Greater Salinas Area Plan and the Monterey County Zoning Ordinance (Title 21). The property is located at 181 Hitchcock Road, Salinas Area. The parcel is zoned “F/40” (Farmlands, 40 Acres Minimum Building Site). The site is physically suitable for the use proposed. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21, and any zoning violation abatement costs have been paid.

EVIDENCE: The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The Monterey County General Plan
- b) The Greater Salinas Area Plan
- c) Chapter 21.30 of Monterey County Zoning Ordinance (Regulations for the "F" Zoning District)
- d) Chapter 21.64.310 of the Monterey County Zoning Ordinance (Regulations for the Siting, Design and Construction of Wireless Communication Facilities)

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Department, Agricultural Commissioner and Salinas Rural Fire District. There has been no indication from these agencies that the site is not suitable for the proposed use. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property, as conditioned. Each agency has reviewed the application and some have recommended conditions of approval.

EVIDENCE: The Airport Land Use Commission reviewed the project on July 28, 2003, and voted to recommend approval of the project to the Planning Commission (6-0, 2 absent), with the condition that an aircraft navigation safety light be added to the antenna structure.

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 project file PLN000670.

EVIDENCE: The on-site inspection by the project planner on June 7, 2003 to verify that the proposed project complies with the Greater Salinas Area Plan.

EVIDENCE: Chapter 21.30 of Title 21 permits wireless communication facilities, in the F (Farmlands) zoning district with a Use Permit.

2. **FINDING:** The proposed project is categorically exempt from the California Environmental Quality Act.
EVIDENCE: Sections 15302 of the County CEQA Guidelines categorically exempts the replacement facilities from environmental review. The proposed windmill-design antenna tower will replace an existing monopole. No adverse environmental impacts were identified during staff review of the Use Permit application.

3. **FINDING:** The proposed wireless communication antenna is compatible with the area.
EVIDENCE: The antenna will incorporate a windmill design, appropriate to the agricultural setting of the project site. A condition of approval is included requiring the ground equipment to be painted a flat gray to match the metal lattice of the windmill, for maximum visual blending.

4. **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, Agricultural Commissioner, Water Resources Agency and Salinas Rural Fire District. 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 windmill is required to be lighted with a single red obstruction light as if it were technically found to be an FAA obstruction to air navigation, in accordance with recommendations of the Airport Land Use Commission. The windmill will therefore be visible to pilots of low-flying aircraft in the area, such as crop duster aircraft. The project is not located within any runway or safety zone of any airport.
EVIDENCE: Personal communication with Todd Muck, AICP, Senior Planner, Airport Land Use Commission on July 29, 2003.
EVIDENCE: The on-site inspection by the project planner on June 7, 2003 to verify that the proposed project complies with the Greater Salinas Area Plan.
EVIDENCE: Materials in file PLN000670.
EVIDENCE: Preceding findings and supporting evidence.

5. **FINDING:** The development of 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, Area Plan or Local Coastal Program.

EVIDENCE: The project is not located within a designated scenic corridor as identified in the Greater Salinas Area plan. The project will be visible from Davis road and Hitchcock Road; however, the proposed antenna facility incorporates a stealth windmill design, and will be indistinguishable from a typical agricultural windmill. Windmills are traditionally associated with farming uses, and contribute to the visual character of these areas. The antenna facility will be situated within a grouping of agricultural buildings, continuing the existing pattern of development concentration at the center of the parcel. The project will result in the removal of an existing, visually incompatible wireless communication monopole, which will improve the appearance of the site.

EVIDENCE: The project is not located within an environmentally sensitive area, as defined by the Greater Salinas Area Plan.

EVIDENCE: Preceding findings and evidence.

6. **FINDING:** The site is adequate for the development of the proposed wireless communications facility and the applicant has demonstrated that it is the most adequate for the provision of services as required by the FCC

EVIDENCE: The antenna facility is located to fill an existing coverage gap, therefore, the subject site is the most feasible location for the provision of services.

EVIDENCE: Sprint PCS Monterey Network Analysis

EVIDENCE: Materials in project file PLN00670.

7. **FINDING:** The proposed wireless communication facility complies with all the applicable requirements of Section 20.64.310 of the Zoning Regulations.

EVIDENCE: Itemized Staff Report discussion on compliance with General Development Standards

EVIDENCE: Personal communication with Todd Muck, AICP, Senior Planner, Airport Land Use Commission, regarding FAA air navigation obstruction parameters

EVIDENCE: June 25, 2003 email from Jess Louk, Senior Property Specialist, National Property and Lease Management, to Suzanne Smith, project applicant, regarding project filing with the California Public Utilities Commission

EVIDENCE: Project Description and narrative submitted by the project applicant

EVIDENCE: Preceding findings and evidence

8. **FINDING:** The subject property upon which the wireless communication facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any, have been paid.

EVIDENCE: Findings and Evidence for 7, above

9. **FINDING:** That the proposed wireless communications facility will not create a hazard for aircraft in flight.

EVIDENCE: Findings and Evidence for 4 and 7, above.

10. **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 (PLN000670) is for the replacement and expansion to 68 feet in height of an existing, permitted 32 foot-tall wireless communication antenna. The replacement structure will be of a stealth, "windmill" design. The project is located 181 Hitchcock Road, Salinas area (Assessor's Parcel Number 207-033-006), south of the intersection of S. Davis Road and Hitchcock Road, in the Salinas 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)**
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 this permit and the conduct of the activities authorized under the permit. Applicant shall obtain the permission of the owner on which the wireless communication 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 obligation under this condition. **(Planning and Building Inspection)**
3. The applicant shall record a notice which states: "A permit (Resolution 03041) was approved by the Planning Commission for Assessor's Parcel Number 207-033-006 on August 13, 2003. The permit was granted subject to 14 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)**

Prior to Issuance of Building Permits:

4. The design for the required air navigation hazard light incorporating glare shielding directing light upwards shall be submitted to the Planning Department for review and approval. **(Planning and Building Inspection)**
5. 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. Said changes shall be subject to Design Approval by the Planning Director. **(Planning and Building Inspection)**
6. Any exterior illumination shall be in accordance with a lighting plan to be submitted for review by the Planning Director. **(Planning and Building Inspection)**

Prior to Building Department Final Inspection:

- 7. The antenna tower shall be equipped with a single, red air navigation hazard light in accordance with recommendations from the Airport Land Use Advisory Commission. **(Planning and Building Inspection, Agricultural Commissioner)**
- 8. Ground equipment shall be painted a flat gray color to match the metal lattice of the antenna tower. **(Planning and Building Inspection)**
- 9. A demolition permit shall be obtained for the removal of the existing monopole antenna to be replaced. **(Planning and Building Inspection)**

Continuous Permit Conditions:

- 10. The existing monopole shall be removed within 30 days of Building Department final inspection. **(Planning and Building Inspection)**
- 11. All exterior illumination 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. Any exterior illumination shall be in accordance with the project lighting plan approved by the Planning Director. **(Planning and Building Inspection Department)**
- 12. The windmill antenna structure and associated ground equipment shall be removed within six months of termination of the use or abandonment of the site. **(Planning and Building Inspection Department)**
- 13. 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 Department)**
- 14. The facility must comply with Federal Communication 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 13th day of August, 2003, by the following vote:

AYES: Errea, Sanchez, Hawkins, Padilla, Brennan, Parsons, Gonzalves, Rochester, Wilmot
 NOES: Diehl
 ABSENT: None

Original Signed By:

JEFF MAIN, 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.