

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

RESOLUTION NO. 03049

A.P. # 149-011-013-000

**FINDINGS AND
DECISION**

In the matter of the application of
Hearst-Argyle Stations, Inc. (PLN030177)

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to increase the height of an existing, previously approved 100 foot tall wireless communication lattice antenna tower (Use Permit No. PC93-27), to 140 feet, to allow installation of 14 new panel antennas and two whip antennas on the tower extension; and installation of a 144 square foot radio equipment building at the base of the tower, located at the northern terminus of Fremont Peak Road, Greater Salinas Area, 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, (PLN030177) as described in condition #1 and as conditioned, conforms to 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 the northern terminus of Fremont Peak Road, Fremont Peak State Park. The parcel is zoned "PG/40" (Permanent Grazing, 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 21.34 of Monterey County Zoning Ordinance (Regulations for the "PG" 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, 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 recommend approval of the project to the Planning Commission (6-0, 2 absent), with no recommended changes or conditions of approval for the project.
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 PLN030177.

EVIDENCE: The area inspection by the project planner on July 28, 2003 to verify that the proposed project complies with the policies of the Greater Salinas Area Plan.

EVIDENCE: Chapter 21.64.310 of Title 21 permits wireless communication facilities in the “PG” zoning district with a Use Permit.

2. **FINDING:** The proposed project is categorically exempt from the California Environmental Quality Act.

EVIDENCE: Section 15301 of the County CEQA Guidelines categorically exempts the minor modifications to existing structures from environmental review. The existing 120-foot tall antenna structure is proposed to be extended in height to 140 feet, a minor height extension. No adverse environmental impacts were identified during staff review of the Use Permit application.

EVIDENCE: Section 15303 of the County CEQA Guidelines categorically exempts the construction of minor structures from environmental review. The proposed equipment building will be 144 square feet in size, and 10 feet tall, which is small in size.

3. **FINDING:** The proposed wireless communication facility is compatible with the area.

EVIDENCE: The site is characterized by a large clustering of tall antennas, the tallest of which are 402 and 350 feet, respectively. Several smaller antennas are grouped together around these. The project antenna, including the 140 feet height proposed, is the third largest of all existing antennas, but does not significantly change the character of the site due to the existing large number of antennas with which it is grouped. For this reason, the project does not result in significant additional visual clutter. 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, 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 area; or the County in general.

EVIDENCE: No new lighting is proposed for the facility, including aircraft safety lighting, as the adjacent, taller antennas are equipped with lighting serving as air navigation warning for all antennas in the group. The Airport Land Use Commission reviewed the project at their meeting of July 28, 2003. The Commission recommended approval of the project, with no changes or conditions.

EVIDENCE: Project Justification and Visual Exhibits

EVIDENCE: The area inspection by the project planner on July 28, 2003 to verify that the proposed project complies with the Greater Salinas Area Plan.

EVIDENCE: Materials in file PLN030177

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 site is visible from a wide area in the Greater Salinas Area, but at a distance no closer than approximately five miles from a public road (public viewing area) in this area due to intervening topography. The site is closely visible from within Freemont Peak State Park; however, the site is characterized by a large clustering of tall antennas, the tallest of which are 402 and 350 feet, respectively. Several smaller antennas are grouped together around these. The proposed facility, including the 140 feet height proposed, will be the third tallest of all existing antennas, but will not significantly change the character or appearance of the site due to the existing large number of antennas with which it is grouped. For this reason, the project will not result in significant additional visual clutter.
- 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 purpose of the request is to allow for clear radio and television broadcast to Aptos, Capitola, Santa Cruz and Watsonville. These signals require a clear line of sight to these broadcast areas, which is currently blocked by topographic features of Freemont Peak. Reception in these areas from the broadcaster is currently unclear. Other antennas mounted on the site will provide improved radio signal broadcast to Hollister, San Juan Bautista, and Salinas and Monterey areas.
- EVIDENCE:** Broadcast to the areas above is currently blocked from signal transmission from the current tower by Freemont Peak.
- EVIDENCE:** The applicant is requesting a twenty-foot tower structure extension for a total height of 140 feet. No modifications to the site are necessary.
- EVIDENCE:** Project Justification and Visual Exhibits
- EVIDENCE:** Materials in project file PLN030177
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:** 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 ridgeline development, as conditioned by permit, will not create a substantially adverse visual impact when viewed from a common public viewing area.

EVIDENCE: The project site is visible from a wide area in the Greater Salinas Area, but at a distance no closer than approximately five miles from a public road (public viewing area) in this area due to intervening topography. The antenna will protrude above new ridgeline areas as seen from this distance, however, the project will be an insignificant feature of the ridgeline view due to the viewing distance.

EVIDENCE: Findings and evidence for 5 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 (PLN030177) is to allow an increase the height of an existing, previously approved 120 foot tall wireless communication lattice antenna facility (Use Permit No. PC93-27), to 140 feet, to allow installation of 14 new panel antennas and two whip antennas on the tower extension; installation of a 144 square foot radio equipment building at the base of the tower; and for ridgeline development. The project is located at the northern terminus of Fremont Peak Road, Fremont Peak State Park (Assessor's Parcel Number 149-011-013). 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 03049) was approved by the Planning Commission for Assessor's Parcel Number 149-011-013 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. Any exterior illumination shall be in accordance with a lighting plan to be submitted for review by the Planning Director. Lighting shall be designed to direct light only to the area intended to be illuminated, and shall be glare shielded so it will not be visible off-site. **(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)**

Prior to Building Department Final Inspection:

6. Ground equipment shall be painted a flat gray color to match the metal lattice of the antenna tower. **(Planning and Building Inspection)**
7. When construction begins, temporary or permanent address numbers shall be posted at the entrance of the property. Permanent address numbers shall be posted at the entrance of the property and a building identification sign mounted on the equipment building prior to requesting final clearance. All address numbers (permanent and temporary) shall be posted on the property so as to be clearly visible from the road. Where visibility cannot be provided, a post or sign bearing the address numbers shall be set adjacent to the driveway or access road to the property. Address numbers posted shall be Arabic, not Roman or written out in words. Address numbers posted shall be a minimum number height of 6 inches with a 1/2 inch stroke, and contrasting with the background colors of the sign. **(Fire District)**
8. Portable fire extinguisher(s) shall be installed and maintained in the equipment building. The extinguisher(s) shall have rating(s) that are compatible with the equipment and that are in conformance with the Uniform Fire Code Standard 10-1. **(Fire District)**
9. Prior to final inspection, an inspection by the Salinas Rural Fire District shall take place. This inspection may be made in conjunction with local ranger unit personnel from the California Department of Forestry. **(Fire District)**

Continuous Permit Conditions:

10. 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)**
11. The parcel shall be maintained in a condition free of weeds and the accumulation of trash or other nonessential combustible materials. **(Fire District)**
12. The 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, Diehl, Gonzalves, Rochester, Wilmot
NOES: None
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.