

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

RESOLUTION NO. 04051

A.P. # 207-022-017-000

In the matter of the application of
John Machado et al (PLN040304)

FINDINGS & DECISION

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, for a new wireless facility consisting of a 70-foot tall cellular/GPS tower disguised as a windmill, 1,250 sq. ft. fenced lease area, and a 336 sq. ft. equipment shelter building with an emergency diesel operated generator. The project is located at 140 Blanco Road, Salinas, within the Machado farm complex on Blanco Road in the F/40 Zone, east of Davis Road, Greater Salinas area, came on regularly for hearing before the Planning Commission on October 27, 2004.

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

FINDINGS OF FACT

- 1. FINDING: PLAN, POLICY AND ZONING CONSISTENCY FINDING:** Use Permit for Machado PLN040304, as described in condition #1 and as conditioned, conforms to the plans, policies, requirements and standards of the General Plan, the Greater Salinas Area Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 140 Blanco Road, Salinas (Assessor Parcel Number 207-022-017), within the Machado farm complex on Blanco Road, east of the Blanco and Davis Road intersection, Greater Salinas Area.

The subject parcel is located in an area designated for Farmlands with 40-acre minimums. Monterey County's *Wireless Communication Facilities Ordinance No. 04053* allows wireless telecommunication facilities to be located on any lot or parcel in any zoning district, subject to the findings and evidence presented in this exhibit and the conditions of approval found in Exhibit "C." The subject property is found in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.

- EVIDENCE:** (a) The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with
- 1.) Monterey County General Plan and the Greater Salinas Area Plan;
 - 2.) Section 21.64.310 of the Monterey County Zoning Ordinance, Title 21, "Regulations for the Siting, Design, and Construction of Wireless Communication Facilities;"
 - 3.) Section 21.30.050 B of the Monterey County Zoning Ordinance, Title 21, public and quasi-public uses.

The latter two sections designate this project as consistent with placement of a wireless communication tower in a Farmlands designated area (F/40) as a public and quasi-public use

when meeting standard development guidelines. These guidelines have been included in this report as conditions of approval.

(b) Written and verbal public testimony submitted at public hearings before the Planning Commission.

(c) The applications, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed developments as found in project file **PLN040304** (Machado).

(d) The on-site inspection by the project planner on September 21, 2004.

2. FINDING: NO VIOLATIONS EXIST: 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 subject properties, and all zoning violation abatement cost, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County Planning and Building Inspection Department records and is not aware of any violations that exist on subject property.

3. FINDING: VISUAL IMPACT: The development of the proposed wireless communication facility will not adversely affect any designated public viewing area, scenic corridor, or identified environmentally sensitive area.

EVIDENCE: (a) The 70-foot high telecom tower is exposed to public view approximately 20 feet above existing evergreen trees at the southwest corner of a heavily vegetated residential lot surrounded by open fields in row crop cultivation. The exposed portion of the tower will be seen from both Blanco and Davis Roads camouflaged as a windmill behind a single-family residence and accessory agricultural structures fronting on Blanco Road. An existing, similar telecom tower camouflaged as a windmill can be seen a short distance south of the subject parcel on Davis Road, although the latter tower is shorter in height. Therefore, the proposed tower as partially screened and camouflaged, is made to harmonize with the surrounding rural setting.

(b) The subject parcel is also directly across Blanco Road from a walled residential neighborhood within the City of Salinas City limits. Although not formally within the City of Salinas Sphere of Influence, the City's Community Development Department has reviewed the project and made the following comments:

"The proposed antenna would have limited impact on nearby properties, since it would be located on the southwest portion of the developed area of the subject property away from residences across Blanco Road. In addition, the proposed facility would be shielded from Blanco Road by existing on-site agricultural and residential structures. If appropriate, Staff recommends that the applicant allow other carriers to co-locate on the proposed facility to reduce the number of telecommunication antennas and facilities." [Letter from Thomas B. Wiles dated July 19, 2004, Associate Planner from City of Salinas Community Development Department]

(c) File and application materials; staff site visit and administrative record; Greater Salinas Area Plan.

4. FINDING: SITE SUITABILITY: The chosen site is adequate for the development of the proposed wireless communication facility and the applicant has demonstrated that the site is adequate for the provision of telecommunication services as required by the FCC.

EVIDENCE: (a) Two other alternative sites were found unfeasible: (1) the existing faux windmill, wireless antenna a quarter mile south of the subject site on Davis Road does not have the height to co-locate another carrier; and (2) the landowner holding a PG&E power pole easement across their property about a quarter of a mile west of the subject site on Blanco Road will not lease further ground space to the required Verizon equipment shelter because of potential disruption of their agricultural operations.

(b) The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works, Parks Department, Environmental Health Division, the Salinas Rural Fire Protection District, the Monterey County Agricultural Commissioner's office and the County's Airport Land Use Commission. There has been no indication from these agencies that the site is not suitable for the proposed development.

(c) Files with application materials found in Planning & Building Inspection Department file no. **PLN040304** (Machado).

5. FINDING: HEALTH AND SAFETY: The establishment, maintenance, or operation of the uses or structures 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 uses, or be detrimental or injurious to property and improvement in the neighborhoods, or to the general welfare of the County.

EVIDENCE: (a) The proposed wireless communication facilities will not create a hazard for aircraft. The proposed location for the tower has been reviewed and recommended for approval by the County's Airport Land Use Commission (ALUC) with the recommendation that a red obstruction light as indicated on sheet number A-2 of the project plans be required as a condition of the project approval. The applicant is required also 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.

(b) The proposed location for the tower has been reviewed by the County's Agricultural Commissioner who notes that the tower is located in an area that has been used by agricultural aircraft for many years and is heavily traveled. It is noted that any structure above telephone pole level presents a hazard to helicopters that must fly in marginal weather conditions, such as 50-foot ceilings and 800-foot visibility. Therefore, a red flashing beacon shall be lit during hours of dark or fog/low visibility.

(c) The Environmental Health Division places a standard "Haz Mat Business Response Plan" that requires the applicant to register hazardous material associated with telecommunication tower.

(d) The Salinas Rural Fire District places a standard requirement that the electrical panel be labeled to indicate that the facility has backup power from an automatic generator.

(e) Condition no. 10 of Exhibit C.

6. FINDING: ENVIRONMENTAL REVIEW: The proposed project is seen as the construction and installation of small, new accessory equipment in an area with no significant adverse impacts on the environment. Although the 70-foot high tower is visible from Davis and Blanco Roads, the tower is not viewed from a designated scenic route. The structures are

considered exempt from California Environmental Quality Act review based on Section 15303, Class 3 (e) as an accessory structure, and Section 15061 (3) as a project without a potential significant effect on the environment.

- EVIDENCE:** (a) Standard conditions placed by the County's Environmental Health Division and the Salinas Rural Fire District, in addition to standard review and permits from the California Public Utilities Commission, the Federal Communications Commission and the Federal Aviation Authority, appear sufficient to mitigate the proposed towers effect on the environment. The Environmental Health Division places a standard "Haz Mat Business Response Plan" that requires the applicant to register hazardous material associated with telecommunication towers. The Salinas Rural Fire District places a standard requirement that the electrical panel be labeled to indicate that the facility has backup power from an automatic generator.
- (b) The County's Agricultural Commissioner and Airport Land Use Commission both require a red obstacle light atop the proposed tower to be assured of the tower's visibility for local aircraft.
- (c) The County's Planning and Building Inspection Department has reviewed the project and finds the proposed project location is low seismic hazard zone and low archaeological sensitivity zone that eliminate potential significant geological and archaeological impacts.
- (d) The County's Planning and Building Inspection Department and Planning Commission have reviewed the project's impact on the public viewshed. It has been determined that the existing vegetation screening and windmill camouflaging of the telecom tower in a rural area serves to harmonize said tower with surrounding land uses.
- (e) Conditions 4 to 12 of Exhibit C.

7. **FINDING: APPEAL:** 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 for a Use Permit be granted as shown on the attached sketch, and subject to the attached conditions.

PASSED AND ADOPTED this 27th day of October 2004, by the following vote:

AYES: Errea, Parsons, Hawkins, Padilla, Vandever, Wilmot, Diehl, Rochester, Sanchez
NOES: None
ABSENT: Salazar
ABSTAIN: None

JEFF MAIN, Secretary

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO 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 two years after the above date of granting thereof unless construction or use is started within this period.

Planning and Building Inspection Department Condition Compliance & Mitigation Monitoring and/or Reporting Plan	Project Name: MACHADO File No: PLN040304 APN: 207-022-017-000 Approval by: PLANNING COMMISSION Date: October 27, 2004
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**Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
PLANNING & BUILDING INSPECTION DEPARTMENT CONDITIONS OF APPROVAL						
1.		SPECIFIC USES ONLY: This Use Permit (PLN040304; Machado) allows for a new wireless facility consisting of a 70 foot tall Cellular/GPS Tower disguised as a windmill, 1,250 sq. ft. fenced lease area within which shall be a 336 sq. ft. equipment shelter building with an emergency diesel operated generator. The project is located at 140 Blanco Road, Salinas (Assessor Parcel Number 207-022-017-000), within the Machado farm complex on Blanco Road, east of Davis Road, Greater Salinas Area. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses 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)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless other- wise stated	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		NOTICE-PERMIT APPROVAL: The applicant shall record a notice that states, "A permit (Resolution 04051) was approved by the Planning Commission for Assessor's Parcel Number 207-022-017-000 on October 27, 2004. The permit was granted subject to 12 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)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3.		INDEMNIFICATION AGREEMENT: 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 said 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 the issuance of the building and/or grading permit. The County shall promptly notify the 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 and Building Inspection)	Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to PBI for review and approval.	Applicant/ Owner	Prior to issuance of grading or building permits.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
4.		POSSIBLE FUTURE REDUCTION OF VISUAL IMPACT: 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)	Submit written agreement to PBI for review and approval.	Applicant/ Owner	Prior to issuance of grading or building permits.	
5.		CO-LOCATION BY OTHER WIRELESS CARRIERS: 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 70 feet. (Planning and Building Inspection Department)	Encourage co-location by other wireless carriers on this tower assuming appropriate permits are approved for co-location. The overall height of the pole shall not exceed 70 feet.	Applicant/ Owner	Ongoing	
6.		ABANDONMENT OF THE FACILITY OR TERMINATION OF USE: 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 Department)	If the applicant abandons the facility or terminates the use, a site restoration agreement shall be submitted to PBI subject to the approval of the Director of Planning and Building Inspection and County Counsel.	Applicant/ Owner	Ongoing	

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7.		FCC EMISSION STANDARDS: 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 Department)	None	Applicant/ Owner	Ongoing	
8.		TELECOMUNICATION TOWER HEIGHT AND SURFACE APPEARANCE: The faux windmill tower shall not exceed 70 feet in height and shall have a non-reflective surface. (Planning and Building Inspection)	Prior to issuance of building permits the applicant shall submit 3 copies of an elevation plan which shall indicate the maximum height and surface treatment of the tower to Planning and Building Inspection.	Owner/ Applicant	Prior to issuance of building permits.	
			Director of Planning and Building Inspection shall review and, if appropriate, approve the proposed elevation and surface treatment prior to issuance of building permits.	Owner/ Applicant	Prior to issuance of building permits	
9.		TREE AND ROOT PROTECTION AND MAINTENANCE: The applicant shall retain the existing landscape that serves to screen the equipment shelter and about 40 feet of the lower portion of the tower. Trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by fencing off the canopy driplines and/or critical root zones (whichever is greater) with protective materials, 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	Submit evidence of tree protection to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
			All landscaped areas and fences shall be continuously maintained by the applicant; all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition.		Ongoing	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
		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)				
10.		LIGHTING: The Monterey County Airport Land Use Commission (ALUC) and Agricultural Commissioner require a red signal light located on the top of the tower as shown on sheet number A-2 of the project plans by Verizon, dated 5/3/04. Exterior lighting for the equipment building shall be hooded and shall be located no higher than 10 feet above ground level. Lighting for the equipment buildings shall be operated by means of an on-off switch and shall be used only during maintenance checks or emergencies. To ensure compliance, applicant shall submit 3 copies of a lighting plan prior to issuance of a building permit illustrating and listing the location and type of lighting fixtures and wattage. Said plan shall also include the red light located on top of the tower. The applicant shall also submit photo-documentation to the Director of Planning and Building Inspection after the lighting has been installed. (Planning and Building Inspection)	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	

<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
ENVIRONMENTAL HEALTH DIVISION CONDITIONS OF APPROVAL						
11.		HAZ MAT BUSINESS RESPONSE PLAN: Comply with Title 19 of the California Code of Regulations and Chapter 6.95 of the California Health and Safety Code (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. (Environmental Health)	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continu- ous	
SALINAS RURAL FIRE PROTECTION DISTICT CONDITIONS OF APPROVAL						
12.		AUTOMATIC GENERATOR LABEL: The electrical panel shall be labeled to indicate that the equipment facility has backup power from an automatic generator.	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Owner/ Applicant	Prior to issuance of a building permit	