

MONTEREY COUNTY PLANNING COMMISSION

Meeting: October 10, 2007 Time: 9:00 a.m.		Agenda Item No.: 2
Project Description: Amendment to Use Permit (PLN97075) consisting of the deletion of Condition of Approval number 19 which states, "This permit shall expire on October 29, 2007" which results in an extension of PLN97075 in perpetuity.		
Project Location: Old Natividad Road, Salinas		APN: 211-041-013-000
Planning File Number: PLN070021		Name: Robert L. Williams, Property Owner
Plan Area: Greater Salinas		Flagged and staked: No, Existing Structure
Zoning Designation: ("F-40" [Farmland, 40 acres per unit])		
CEQA Action: Categorically Exempt per CEQA Section 15301		
Department: RMA - Planning Department		

RECOMMENDATION:

Staff recommends that the Planning Commission approve the amendment to PLN97075 consisting of the deletion of condition of approval number 19 which results in an extension of PLN97075 in perpetuity based on the Findings and Evidence (**Exhibit B**) and subject to the recommended Conditions (**Exhibit C**).

PROJECT OVERVIEW:

The Monterey County Planning Commission approved a Use Permit for the use and construction of four AM radio broadcasting towers and an equipment shed on October 29, 1997 (Resolution No. 97075) subject to 21 conditions. The applicant is requesting the deletion of condition of approval number 19 which will result in an extension of PLN97075 in perpetuity. The purpose of the expiration of the permit was to provide a safeguard to assure compliance with County procedure and policy if it were to change. Staff is supporting approval of an extension of the referenced permit in perpetuity based on the Findings and Evidence of Exhibit B and the recommended Conditions of Approval of Exhibit C. The following conditions assure continual compliance with County procedures and policies until the end of the use:

- Condition 4 requires the applicant to agree in writing that if future technological advances occur allowing for a reduction of visual impacts that the applicant will modify the facility to reduce the impacts (existing impacts are minimal, see photographs of Exhibit F).
- Condition 5 assures co-location of other wireless communication facilities (which includes cellular facilities).
- Condition 6 mandates that the applicant enter into a site restoration agreement when the use is abandoned.
- Condition 7 requires the facility to comply with Federal Communications Commission (FCC) requirements.
- Condition 8 speaks to 9 conditions of approval of PLN970161; it amends some of the conditions by requiring maintenance of the mandated infrastructure. Conditions of approval 1-5 of PLN970161 are not mentioned in condition 8 because they were previously complied with or are superseded by a new condition.

Since approval of PLN970161 there have been no violations on the subject property. The facility does not have a significant negative affect on the public view shed or any scenic corridors.

OTHER AGENCY INVOLVEMENT:

- ✓ Salinas Rural Fire Protection District
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency
- ✓ Airport Land Use Commission
- ✓ Monterey County Emergency Services

The above checked agencies and departments have reviewed this project. Conditions recommended have been incorporated into the condition compliance reporting plan (**Exhibit C**).

The project was not referred to the Greater Salinas Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15301.

Note: The decision on this project is appealable to the Board of Supervisors.

Brittany Nicholson

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September 25, 2007

cc: Planning Commission Members (10); County Counsel; Salinas Rural Fire Protection District; Public Works Department; Environmental Health Division; Water Resources Agency; Airport Land Use Committee, Monterey County Emergency Services, Bob Schubert, Planning & Building Services Manager; Brittany Nicholson, Planner; Carol Allen; Robert L. Williams, Applicant; Michael D. Cling, Agent; File PLN070021.

Attachments:	Exhibit A	Project Data Sheet
	Exhibit B	Recommended Findings and Evidence
	Exhibit C	Recommended Conditions of Approval
	Exhibit D	Resolution Number 97075
	Exhibit E	Site Plan, Floor Plan and Elevations
	Exhibit F	Photographs of site

This report was reviewed by Bob Schubert, Planning and Building Service Manager

EXHIBIT B

RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY** – The project, as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, Greater Salinas Area Plan, Greater Salinas Area Plan Inventory and Analysis, and the Monterey County Zoning Ordinance (Title 21), which designates this area as appropriate for development.

EVIDENCE: (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

(b) The property fronts Old Natividad Road (Assessor's Parcel Number 211-041-013-000), Greater Salinas Area Plan. The parcel is zoned Farmland, 40 acres per unit or ("F/40"). The subject property complies with all the rules and regulations pertaining to zoning uses and any other applicable provisions of Title 21, and is therefore suitable for the proposed development.

(c) The project planner conducted a site inspection on May 21st, 2007 to verify that the project on the subject parcel conforms to the plans listed above.

(d) The project was not referred to the Greater Salinas Land Use Advisory Committee (LUAC) for review. Based on the current review guidelines adopted by the Monterey County Board of Supervisors per Resolution No. 04-236, this application did not warrant referral to the LUAC because the project is exempt from CEQA per Section 15301.

(e) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN070021.

2. **FINDING: SITE SUITABILITY** – The site is physically suitable for the use proposed.

EVIDENCE: (a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Salinas Rural Fire Protection District, Public Works, Environmental Health Division, Airport Land Use Committee, Monterey County Emergency Services and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.

(b) Staff conducted a site inspection on May 21st, 2007 to verify that the site is suitable for this use.

(c) Materials in Project File PLN070021.

3. **FINDING: CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.
- EVIDENCE:** (a) California Environmental Quality Act (CEQA) Guidelines Section 15301 categorically exempts existing facilities.
(b) No adverse environmental effects were identified during staff review of the development application during a site visit on May 21st, 2007.
(c) See preceding and following findings and supporting evidence.
4. **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. Zoning violation abatement costs, if any, have been paid.
- EVIDENCE:** (a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
5. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the 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) Preceding findings and supporting evidence.
6. **FINDING: WIRELESS COMMUNICATION FACILITIES** – The proposed amendment and extension (PLN070021) as described in the staff report and associated plans complies with all of the applicable requirements and regulations of Section 21.64.310 of the Zoning Ordinance (Regulations for the Siting, Design and Construction of Wireless Communication Facilities). The project is consistent with the findings for wireless communication facilities including:
1. The proliferation of antennas, towers, and or satellite dishes could create significant, adverse visual impacts; therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to insure that the appearance and integrity of the wireless communication facilities to insure that the appearance and integrity of the community is not marred by the cluttering of unsightly facilities.
 2. While the licensing of wireless communication facilities is under the control of the Federal Communication Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning and environmental concerns.
- EVIDENCE:** (a) The existing wireless communications facility does not significantly affect the public view shed and or any scenic corridor.
(b) The following conditions assure continual compliance with County procedures and policies until the end of the use:
- Condition 4 requires the applicant to agree in writing that if future technological advances occur allowing for a reduction of visual impacts that the applicant will modify the facility to reduce the impacts (existing impacts are minimal, see photographs of Exhibit F).
 - Condition 5 assures co-location of other wireless communication facilities (which includes cellular facilities).

- Condition 6 mandates that the applicant enter into a site restoration agreement when the use is abandoned.
- Condition 7 requires the facility to comply with Federal Communications Commission (FCC) requirements.
- Condition 8 speaks to 9 conditions of approval of PLN970161; it amends some of the conditions by requiring maintenance of the mandated infrastructure. Conditions of approval 1-5 of PLN970161 are not mentioned in condition 8 because they were previously complied with or are superseded by a new condition.

(c) See preceding findings and supporting evidence.

7. **FINDING: APPEALABILITY** - The decision on this project is appealable to the Board of Supervisors.

EVIDENCE: Section 21.80.040.D Monterey County Zoning Ordinance (Title 21).

<p align="center">EXHIBIT C</p> <p align="center">Monterey County Resource Management Agency</p> <p align="center">Planning Department</p> <p align="center">Condition Compliance and/or Mitigation Monitoring Reporting Plan</p>	<p>Project Name: Williams</p> <p>File No: PLN070021</p> <p>APNs: 211-041-013-000</p> <p>Approved by: The Monterey County Planning Commission</p> <p>Date: October 10th, 2007</p>
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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.*

<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>
1.		<p>PD001 - SPECIFIC USES ONLY</p> <p>This application consists of an Amendment to Use Permit PLN97075 (PLN070021) resulting in deletion of Condition of Approval number 19 which results in an extension of PLN97075 in perpetuity. The property is located at Old Natividad Road in Salinas (Assessor's Parcel Number 211-041-013-000), Greater Salinas Area Plan. 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 the RMA - Planning Department. 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. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (RMA - Planning Department)</p>	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	

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2.		PD002 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Planning Commission for Assessor's Parcel Number 211-041-013-000 on October 10, 2007. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use. (RMA - Planning Department)	Proof of recordation of this notice shall be furnished to the RMA - Planning Department.	Owner/ Applicant	Prior to the issuance of grading and building permits or commencement of use.	
3.		PD039(A) – WIRELESS COMMUNICATION FACILITIES 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	Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County	Owner/ Applicant	Prior to the issuance of grading or building permits.	

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		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. (RMA – Planning Department)	Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA – Planning Department.			
4.		PD039(B) – WIRELESS COMMUNICATION FACILITIES 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. (RMA – Planning Department)	Submit, in writing, a declaration agreeing to comply with the terms of this condition the RMA - Planning Department for review and approval.	Owner/ Applicant	Prior to the issuance of grading or building permits.	

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5.		PD039(C) – WIRELESS COMMUNICATION FACILITIES 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 280 feet. (RMA – Planning 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 280 feet.	Owner/ Applicant	Ongoing	
6.		PD039(D) – WIRELESS COMMUNICATION FACILITIES 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 the RMA - Planning Department 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. (RMA – Planning Department)	If the applicant abandons the facility or terminates the use, a site restoration agreement shall be submitted to the RMA - Planning Department subject to the approval of the RMA - Director of Planning and County Counsel.	Owner/ Applicant	Prior to the issuance of grading or building permits/ Ongoing	
			Restore the site to its natural state.	Owner/ Applicant	Within 6 months of termination of use or abandonment of site.	
7.		PD039(E) – WIRELESS COMMUNICATION FACILITIES The facility must comply with Federal Communications Commission (FCC) emission standards. If the facility is in violation of FCC emission standards, the Director of	Submit documentation demonstrating compliance with the FCC emission standards.	Owner/ Applicant	Prior to the commencement of use/ Ongoing	

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		the RMA – Planning Department 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. (RMA – Planning Department)	If the facility is in violation of FCC emission standards, a public hearing shall be set before the Appropriate Authority to consider revocation or modification of the permit.	Director of the RMA – Planning Department	Ongoing	
8.		<p>PD001 – NON STANDARD – CONDITIONS OF APPROVAL</p> <p>Conditions of Approval numbers 6, 7, 8, 9, 10, 11, 12, 13 and 14 (with minor changes) of Resolution Number 97075 for Use Permit file number PLN970161 shall remain in full effect and read as follows:</p> <p>6. The applicant shall obtain any necessary approvals from the California Public Utilities Commission (CPUC) and/or the Federal Communications Commission (FCC) as necessary. A flashing red beacon shall be installed and <u>maintained</u> at the highest point of the structure.</p> <p>7. A Steady red obstruction light shall be installed and <u>maintained</u> at the intermediate level of the structure.</p> <p>8. Nine day-glow markers (20” minimum) shall be installed and <u>maintained</u> on the top level of the guide wires.</p> <p>9. As required by the FAA the applicant shall contact the FAA to publish a NOTAM (notice to airmen) in Monterey County about the location, etc. of the proposed structure.</p> <p>10. The standard marking (orange and white striping) shall be installed and <u>maintained</u> on the towers as defined in Chapter 3 of FAA AC 70/7460-1F.</p>	Comply with conditions of approval as stated.	Owner	Ongoing	

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		<p>11. All new and existing structures on the site shall have a minimum of a Class B roof.</p> <p>12. A 30 foot disc line shall be maintained within the perimeter and around the buildings. This clearance shall be maintained. Weeds shall be mitigated when they become dry, but not later than July 1 of every yea.</p> <p>13. The access driveway shall comply with the regulations of the Fire Code.</p> <p>14. A minimum of one 20A:60B:C portable fire extinguisher shall be mounted and maintained inside the equipment storage building.</p> <p>(RMA – Planning Department, Airport Land Use Commission and Salinas Rural Fire Department)</p>				