

MONTEREY COUNTY PLANNING COMMISSION

Meeting: January 28, 2009 Time: 10:00 A.M.	Agenda Item No.:
Project Description: Combined Development Permit (PLN070257, Panziera) consisting of: 1) a Use Permit to allow construction of two wind energy electrical turbines, 600 cu. yds. of grading for footings and trenching and the construction of appurtenant electrical facilities; 2) a Use Permit to allow development on slopes of 30% or greater; 3) a Variance to increase both wind energy electrical turbines' height (system height) from 100 ft to 214 ft; and 4) a Variance to allow installation of wind turbine systems without the required orange safety coloring on the wind turbine blades.	
Project Location: 1290 River Road, Salinas	APN: 167-041-005-000
Planning File Number: PLN070257	Name: William J. Panziera
Plan Area: Central Salinas Valley Area Plan	Flagged and Staked: N/A
Zoning Designation: "F/40, PG/40(D)" (Farmland, 40 acre minimum, Permanent Grazing, 40 acre minimum, Design Control)	
CEQA Action: To be determined – see report below.	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission receive a presentation and project update from staff, receive comments from the applicant and public and give direction for completing the environmental review.

PROJECT SUMMARY:

The project is the installation and operation of two wind energy electrical turbines on an agricultural property in the Salinas Valley that would require a Combined Development Permit. The Conundrum Winery facility currently relies on energy from the electric power grid, which is operated and maintained by Pacific Gas and Electric (PG&E). The proposed wind turbines would offset a variable percentage of the total power consumed from the grid and anticipate supplying up to 116 percent of the power required to run the facility depending on available wind speeds. Excess power generated would be fed back into the electric power grid in a contractual net-metering relationship with PG&E. This project would be the first renewable energy system on the site and the first of its nature in Monterey County, which has not yet approved wind turbines of this size and operational capacity. Please refer to the attached Initial Study for a more complete and expanded project description (**Exhibit E**).

ENVIRONMENTAL REVIEW:

An Initial Study was prepared and circulated and concluded that *most* environmental impacts could be mitigated to less than significant levels. After receiving comment from the U.S. Fish and Wildlife Service and California Department of Fish and Game (see **Exhibits F and G**), staff has concluded that additional information for Biological Resources (raptor/condor mortalities associated with operation of wind turbines) is needed. The California Condor that has been reintroduced to the Big Sur coastal areas and Pinnacles National Monument areas is documented and known to fly between these areas. By virtue of the project's location in an area between both the Big Sur and Pinnacles Monument Areas, there is concern by the U.S. Fish and Wildlife Service and California Department of Fish and Game, of potential harm or mortality to the California Condor. As a "fully-protected" specie, any impact to the California Condor is significant.

Subject to additional information (that the applicant must obtain), additional analysis on Condor presence and flight pattern data will need to be incorporated into the Initial Study and then recirculated. With the additional information, the Initial Study may conclude that a Mitigated Negative Declaration will be a sufficient environmental document to protect the California Condor or that an Environmental Impact Report must be prepared. Other than the Condor issue, the earlier version of the Initial Study concluded that other potential environmental impacts from the installation and operation of two wind energy electrical turbines at this location in the Salinas Valley will be less than significant with mitigation incorporated for Aesthetics and Hazards and Hazardous Materials.

This report was prepared by Taven M. Kinison Brown, Planning Services Manager and by Pacific Municipal Consultants (PMC) for the RMA - Planning Department. **Exhibit B** includes a full Project Discussion. While Findings and Evidence (**Exhibit C**) and Conditions of Approval and Mitigation Measures (**Exhibit D**) have been included, they are considered to be in draft form and subject to change depending on the additional information needed from the applicant to complete the Biological Review. The previously circulated Initial Study (**Exhibit E**) has been attached as well as comment letters from the U.S. Fish and Wildlife Service (**Exhibit F**) and California Department of Fish and Game (**Exhibit G**).

OTHER AGENCY INVOLVEMENT:

- ✓ Pacific Gas and Electric
- ✓ Public Works Department
- ✓ Environmental Health Division
- ✓ Water Resources Agency
- ✓ Department of Fish and Game
- ✓ Agricultural Commissioner
- ✓ Airport Land Use Commission
- ✓ Gonzalez Fire Department

The above checked agencies and departments have reviewed this project. Conditions recommended by these agencies were incorporated into the condition compliance and mitigation monitoring reporting plan (**Exhibit D**).

The project was not referred to a 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 since the project is not located within a LUAC area.

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

Taven M. Kinison Brown, Planning Manager
(831) 755-5173, kinisonbrowntm@co.monterey.ca.us
January 20, 2009

cc: Front Counter Copy; Planning Commission Members (10); County Counsel; Gonzalez Fire Department; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; Taven M. Kinison Brown, Planning Services Manager; Jeff Main, Planning Services Manager; Michael McCormick, PMC Project Planner; William J. Panziera, Property Owner; Lynne H. Mounday, Applicant; File PLN070257.

Attachments: Exhibit A Project Data Sheet
Exhibit B Project Discussion
Exhibit C **DRAFT** Findings and Evidence
Exhibit D **DRAFT** Conditions of Approval
Exhibit E Previously Circulated Initial Study – Expecting Revisions
Exhibit F Comments from the U.S. Fish and Wildlife Service
Exhibit G Comments from the California Fish and Game Department
Exhibit H Vicinity Map

This report was prepared by Taven M. Kinison Brown, Planning Services Manager and by Pacific Municipal Consultants (PMC) for the RMA - Planning Department

EXHIBIT A

PROJECT DATA SHEET

Project Title:	Panziera	Primary APN:	167-041-005-000
Location:	1290 River Road, Salinas	Coastal Zone:	No
Applicable Plan:	Central Salinas Valley Area Plan	Zoning:	F(40) and PG
Permit Type:	N/A	Plan Designation:	F and PG
Environmental Status:	Initial Study and Mitigated Negative Declaration Prepared	Final Action Deadline (884):	
Advisory Committee:	N/A		
Project Site Data:			
Lot Size (sq ft):	19,602,000	Coverage Allowed (%): Coverage Proposed (%):	5 .05
Existing Structures (sq ft):	103,727	Height Allowed (ft): Height Proposed (ft):	100 214
Proposed Structures (sq ft):	1,800	FAR Allowed: FAR Proposed:	Class E Class E
Total (sq ft):	105,527		
Resource Zones and Reports:			
Environmentally Sensitive Habitat:	No	Erosion Hazard Zone:	Low-Mod
Biological Report #: Forest Management Report #:	IS/MND N/A	Soils Report #:	IS/MND
Archaeological Sensitivity Zone: Archaeological Report #:	Low IS/MND	Geological Hazard Zone: Geologic Report #:	Low-Mod IS/MND
Fire Hazard Zone:	Moderate	Traffic Report #:	N/A
Other Information:			
Water Source:	N/A	Sewage Disposal (method):	N/A
Water Dist/Co:	N/A	Sewer District Name:	N/A
Fire District:	Gonzales Fire Protection District	Grading (cu yds): Trenching (linear feet):	600 1,900
Tree Removal:	None		

EXHIBIT B PROJECT DISCUSSION

PROJECT BACKGROUND:

This project would be the first renewable energy system on the proposed project site and the first of its nature in Monterey County, which has not yet approved wind turbines of this size and operational capacity. Conundrum Winery has been operating a vineyard and winery on the 450-acre project site for almost twenty years and was recently expanded to include a much larger wine storage and bottling facility (PLN040702). The facility currently relies on energy from the electric power grid, operated and maintained by Pacific Gas and Electric (PG&E). The applicant/owner is proposing the project in order to reduce the energy consumed from the electric grid by the winery facility by establishing a self-sustaining energy source for project site operations through installation and operation of wind power to displace grid usage. The proposed wind turbines would offset a variable percentage of the total power consumed from the grid and anticipate supplying up to 116 % of the power required to run the facility depending on available wind speeds. Any excess power generated would be fed back into the electric power grid in a contractual net-metering relationship with PG&E.

PROJECT DESCRIPTION:

The applicant/owner proposes to construct and operate two wind energy electrical turbines on the proposed project property to serve the existing facility (including the winery, vineyard, and associated uses), requiring a Combined Development Permit consisting of: 1) Use Permit to allow construction of two wind energy electrical turbines, 600 cu yds of grading for footings and trenching and the construction of appurtenant electrical facilities; 2) Use Permit to allow development on slopes of 30% or greater; 3) Variance to increase both wind energy electrical turbines' height (system height) from 100 ft to 214 ft; and 4) Variance to allow installation of wind turbine systems without the required orange safety coloring on the wind turbine blades. The property is located at 1290 River Road, Salinas (Assessor's Parcel Number 167-041-005-000), Central Salinas Valley Area.

PROJECT ANALYSIS:

Use Permit – Noncommercial Wind Energy Conversion System:

A Use Permit to allow construction of two wind energy electrical turbines, 600 cu yds of grading for footings and trenching and the construction of appurtenant electrical facilities in compliance with Section 21.30.050.E-Uses Allowed, Use Permit Required under Regulations for Farmlands Zoning Districts or "F" Districts of the Monterey County Zoning Ordinance(Title 21).

Renewable Energy. Each proposed turbine is capable of producing, depending on wind availability, an average of 600,000 kilowatt hours per year (kWh/yr) of renewable energy. As the project proposes two turbines, the total potential energy generation would be 1,200,000 kWh/yr. Assuming an approximate electrical load of 1,035,321 kWh/yr for the facility, the turbines could generate up to 116 % of the electrical load of the facility, leaving a potential excess of 164,679 kWh/yr to go back into the grid.

Turbine Model Specifications. Each wind turbine consists of two-part conical tubular steel towers with hub heights of 164 ft. Each tower rotor has two blades that are a linear taper shape and extend from the point of attachment to the hub/nacelle via the main shaft. The rotor position is upwind, the diameter of the rotational area is 100 ft, the swept area is 7,610 square feet (sq ft), the rotor speed is between 35 and 70 revolutions per minute (RPM), the blades turn clockwise, and the cone angle formed by rotor movement ranges from 183°-170.5°. The turbines begin moving at wind speeds of 6.68 miles per hour (mph) and stop at wind speeds of 55.9 mph. Nominal power is 250 kilowatts (kW), grid voltage is 400 volts (V) ±10%, grid frequency is 50/60 Hertz (Hz) ±3 Hz, and expected lifetime is 20 years, with standard maintenance estimated once every two years. The footprint of each wind turbine would be approximately 900 sq ft.

Electrical Equipment. Both turbines would have their own generator, weighing 3,400 pounds each. Both turbines would be connected by underground utility lines to the proposed Step-up transformer to be located approximately 200 linear feet (l.f.) south of Turbine #2. The utility line would then connect to a second Step-Down transformer that would be located to the southeast of the existing winery building.

Grading/Trenching. A total of approximately 600 cu yds of grading would be required and the maximum cut and fill depths would be 6 ft for the turbine pads with eight 35 ft bore holes for each turbine, for a total of 41 ft. After the turbine foundations have been backfilled, leftover spoils would be spread on-site at depths of less than 12 inches with the sandy soils from the deeper portions of the borings spread on the vineyard access roads. All disturbed areas would be

stabilized after construction in accordance with the Erosion Control Plan. Existing access roads, currently used by vineyard staff, would be used for short-term construction and long-term operation and maintenance. A total of approximately 1,900 l.f. of trenching would be required for undergrounding of the utility lines. Approximately 900 l.f. of trenching would be required for the undergrounding of utility lines from Turbine #1 and 200 l.f. from Turbine #2 to the proposed Step-up transformer. Another 800 l.f. would be required for the undergrounding of the utility line from the Step-up transformer to the Step-Down transformer that would be located to the southeast of the existing winery building.

Use Permit – 30% Slope Development:

A Use Permit for development on slopes of 30 percent or more for a small section of trenching from Turbine #2 to the Step-Up Transformer as outlined in Section 21.64.230.C-Regulations For Development on Slopes in Excess of 30 percent of the Monterey County Zoning Ordinance.

Variance – Height:

A 114 ft Height Variance for the proposed 214 ft wind turbines to exceed the maximum height limit of 100 ft as outlined in Section 21.64.120.C.3.a-Height of the Monterey County Zoning Ordinance which states that the maximum total height for Noncommercial Wind Energy Conversion Systems, located on parcels 10 acres or larger, may be up to 100 ft. As currently defined in Title 21, the proposed project is defined as a “non-commercial wind energy conversion system,” which is “a wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.” (Section 21.06.1380) Due to the interpretation of the proposal as “non-commercial”, the maximum height limit of the proposed turbines would be 100 ft, and not 200 ft as would be allowed for a “commercial wind energy conversion system” (Section 21.64.120.C.3) The applicant and the County discussed alternatives to the Height Variance on several occasions and found that, if approved with the variance, the benefits derived from the energy generation provided at the production level and infrastructure cost afforded by the two 250kW 214 ft turbines would outweigh the increased amount of potential impacts (aesthetics/agricultural resources/hazards and hazardous materials) caused by an alternative option equivalent of fifty 10kW, 100 ft tall turbines, which would not require a Height Variance.

Variance – Wind Energy Systems Siting and Design:

A Wind Energy Systems Siting and Design Variance to allow installation of the wind turbines without requiring the rotor tips to be painted with an international orange color as outlined in Section 21.64.120.C.4 – Wind Energy Systems Siting and Design Standards of the Monterey County Zoning Ordinance. The FAA provides two marking/lighting options for structures applicable to the proposed turbines, one of which would require a variance by the County of Monterey, the other which would comply with Monterey County Zoning Code requirements, but may cause additional daytime impact as follows:

Option #1: *Red Obstruction Lighting Standards* (FAA Style A)

Daytime protection = Aviation Orange/White Paint.

Nighttime protection = 2,000 candela Red Beacon and sidelights.

Option #2: *Medium Intensity Dual Obstruction Lighting Standards* (FAA Style E)

Daytime Protection = 20,000 candela White Strobe lights.

Nighttime Protection = 2,000 candela Red Strobe and sidelights.

Both options have tradeoffs in regards to aesthetic impacts only, as the FAA has deemed both options to be comparable for safety purposes. While Option #1 may have more of an aesthetic impact caused by the use of orange markings, the Monterey County Zoning Code includes requirements in preference of Option #1. (Section 21.64.120.C.4.d) Option #2 could have less of a visual impact as the turbines would be painted a solid white color and would not have any patterns or other markings, but this option is not outlined by the County as an alternative to Option #1. However, Section 21.64.120.C.4.c states, “Colors and surface treatment of the Wind Energy Conversion Systems and supporting structures shall to the greatest extent feasible minimize disruption of the natural characteristics of the site,” in which case, Option #2 may be preferred.

Aesthetics:

Although there would be minimal impacts to the viewshed from Highway 101 and most public viewing areas surrounding the project site, the project would be prominent from specific locations south of the project site along River Road. The prominence of the wind turbines is reduced by the presence of other visual intrusions such as telephone poles, houses, barns, trees, and the sloping topography, there would still be a potentially significant impact to visual resources from River Road south of the project site. As discussed above, FAA required

obstruction lighting/markings would be required on the turbines as well. However, through the mitigated minimization of required lighting and eliminating any markings, logos, or writing on the wind turbine itself when not required by the FAA or the County, potentially significant impacts would be reduced to a less than significant level.

Biological Resources:

Wind energy facilities may have direct and indirect effects on birds and their habitats. Direct impacts generally include mortalities associated with collisions and the loss or modification of suitable habitat. Indirect impacts may include habitat fragmentation leading to behavioral avoidance or attraction to wind energy facilities due to prey base availability. Because raptors were observed in the immediate areas where the turbines would be located, there is some potential for raptors to be killed or injured by collisions with the proposed turbines. Specific GPS (Global Positioning Systems) flight data is needed to ascertain the elevations and proximate flight paths to the proposed wind turbines. Additional analysis of this data will be necessary.

Hazards and Hazardous Materials:

As the proposed project is a wind turbine project, implementation of the proposed project would not create a hazard to the public or the environment through the routine storage, transport, use or disposal of hazardous materials. The project could have a potentially significant impact to public safety in regards to wind turbine specific hazards which are not specifically called out in the CEQA checklist. Common hazards to the public relating to the operation of wind turbines in the past have been issues including shadow flicker, electrocution, and blade throw. In addition to the turbine's safety features, compliance with FAA regulations and compliance with the Zoning Ordinance regulations, the initial study included a mitigation measure requiring routine maintenance and repair if necessary to ensure that any potentially significant impacts associated with wind turbine related hazards are reduced to a less than significant level.

If the Planning Commission decides to delete or revise any mitigation measures, the revised Mitigated Negative Declaration may need to be re-circulated for public comment.

EXHIBIT C
RECOMMENDED FINDINGS AND EVIDENCE

- 1. FINDING: CONSISTENCY** – The Partial Conditional Use Permit (PLN070257), as described in Condition No. 1 and as conditioned, conforms to the policies, requirements, and standards of the Monterey County General Plan, the Central Salinas Valley Area Plan, and the Monterey County Zoning Ordinance (Title 21). The parcel is zoned “F(40),PG/40(D)” (Farmland, 40 acre minimum, and Permanent Grazing, 40 acre minimum, Design Control), which allows the installation and operation of wind energy conversion systems with a Use Permit.

- EVIDENCE:**
- (a) The text, policies, and regulations in the above referenced documents have been evaluated during the course of review of applications. Conflicts found to exist have been conditioned and mitigated to be consistent with the above referenced documents. 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 project proposes the installation and operation of two wind energy electrical turbines, 600 cu. yds. of grading and appurtenant electrical facilities. The property is located at 1290 River Road, Salinas (Assessor’s Parcel Number 167-041-005-000), Central Salinas Valley Area Plan.
 - (c) The proposed installation and operation of two wind energy electrical turbines, 600 cu. yds. of grading and appurtenant electrical facilities is consistent with the development standards of Section 21.30.020, 21.34.020 and 21.64.120.B of the Monterey County Zoning Ordinance (Title 21).
 - (d) The project planner conducted a site inspection on March 14, 2008 to verify that the project on the subject parcel conforms to the plans listed above.
 - (e) The project was not referred to a 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 since the project is not located within a LUAC area.
 - (f) The applicant provided the Monterey County Planning Department with a Design Approval Request, drawings, and a statement of materials and colors to be used.
 - (g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County Resource Management Agency - Planning Department for the proposed development found in Project File PLN070257.

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

- EVIDENCE:**
- (a) The project (PLN070257) was reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Gonzalez Fire Department, Parks Department, Public Works Department, Environmental Health Division, Water Resources Agency, Pacific Gas and Electric, Agricultural Commission, and California Department of Fish and Game. Conditions recommended have been incorporated where appropriate.
 - (b) ~~Technical reports by outside cultural and biological consultants determined that there are no significant physical or environmental constraints that would indicate that the site is not suitable for the use proposed. County staff concurs.~~ The reports are part of the Mitigated Negative Declaration prepared for the project. Copies of the following reports and Mitigated Negative Declaration are contained in the original Project File (PLN070257):
 - “Archaeological Survey/Waiver” prepared by Lynne Mounday, M.A. Anthropology, dated August 25, 2007.
 - “1290 River Road Wind Turbine Raptor Assessment” prepared by H.T. Harvey & Associates dated November 19, 2007.
 - (c) Site inspections conducted by staff on March 14, 2008 to verify that the site is suitable for this use.
 - (d) Materials in Project File PLN070257.

Draft

3. **FINDING: CEQA (Initial Study and Mitigated Negative Declaration)** – The project is subject to environmental review pursuant to the requirements of the California Environmental Quality Act (CEQA). ~~On the basis of the 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 proposed project is not exempt from environmental review due to the potential for significant effects pursuant to CEQA Guidelines Section 15300.2 (Exceptions).
 - (b) Potentially adverse environmental effects were identified during staff review of the development application.
 - (c) The RMA - Planning Department prepared an Initial Study pursuant to CEQA. The Initial Study identified potentially significant effects relative to aesthetics, biological resources, and hazards and hazardous materials. Evidence supports the conclusion that impacts will be less than significant with mitigation incorporated for aesthetics, **biological resources**, and hazards and hazardous materials; and less than significant for agriculture resources, air quality, geology/soils, hydrology/water quality, land use/planning, noise, transportation/traffic, and utilities/service systems; and no impact on cultural resources, mineral resources, population/housing, public services, and recreation. Impacts to aesthetics will be mitigated to a less than significant level through lighting/marketing restrictions. Impacts to biological resources will be mitigated to a less than significant level through protection and monitoring. Impacts to hazards and hazardous materials will be mitigated to a less than significant level through routine maintenance checks and remedy of any hazards. The Initial Study is on file in the office of the RMA - Planning Department and is hereby incorporated by reference (File No. PLN070257). ~~All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval.~~
 - (d) A Mitigation Monitoring and Reporting Program (MMRP) has been prepared in accordance with Monterey County regulations and is designed to ensure compliance with conditions and mitigation measures during project implementation. The applicant must enter into an “Agreement to Implement a Mitigation Monitoring and Reporting Program” as a condition of project approval.
 - (e) For purposes of implementing Section 735.5 of Title 14, California Code of Regulations, the amount of grading, site disturbance, and habitat disturbance associated with the project will cause changes to the resources listed under Section 753.5. Therefore, payment of the Fish and Game Document Filing Fee is required.
 - (f) Evidence that has been received and considered includes the application, plans, materials, and technical reports, which are listed under Section IX (References) of the Mitigated Negative Declaration and contained in project file PLN070257.
 - (g) The Mitigated Negative Declaration was circulated for public review from July 17, 2008 to August 15, 2008.
 - (h) During the Mitigated Negative Declaration public review period, County staff received comment letters from [REDACTED]. ~~Staff has reviewed these comments and determined that no substantial issue has been raised regarding the adequacy of the information contained in the Initial Study and the mitigation measures proposed under the Mitigated Negative Declaration. Therefore, no revisions to the Mitigated Negative Declaration are required.~~
 - (i) The RMA - Planning Department, located at 168 W. Alisal Street, 2nd Floor, Salinas, CA, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decision to adopt the Mitigated Negative Declaration is based.

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 Monterey County Zoning Ordinance (Title 21). No violations exist on the property. Zoning violation abatement costs, if any, have been paid.

EVIDENCE: Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on the subject property.

Draft

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: VISUAL SENSITIVITY** – The proposed project, as described in Condition No. 1 and as conditioned, will not create a substantially adverse visual impact when viewed from a common public viewing area.

EVIDENCE: (a) The project site abuts the Sierra De Salinas Mountain Range and the Ventana Wildlife Society wilderness, areas designated as visually sensitive according to RMA-Planning Department resource maps. Based on staff's site visit and photo-documentation, the proposed turbines would not cause a significant adverse visual impact once mitigated. This is an agricultural area that, when viewed from Hwy 101 and River Road, is already visually-degraded since other structures, such as buildings, fences, and telephone poles are visible from both roadways. The project site is not visible from any other common public viewing area.

(c) Staff's site visit, materials in the file and photo-documentation, including visual simulations, of the project area and proposed turbines, when viewed from Hwy 101 and River Road.

(d) Analysis prepared by staff to determine if an Initial Study is required in file PLN070257.

7. **FINDING: VARIANCE (SPECIAL CIRCUMSTANCES AND NO GRANT OF SPECIAL PRIVILEGES)** – There are special circumstances applicable to the subject property, including size, shape, topography, location or surroundings. As a result, the strict application of Title 21 would deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Combined Development Permit and Design Approval described in Condition No. 1 do not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification in which such property is situated. Variances are granted on a case-by-case basis and the findings and evidence for this project do not necessarily apply to other parcels.

EVIDENCE: (a) **Special Circumstances:** The requested turbine heights of 214 ft are essential to the electrical generation capacity of the proposed project. An alternative option is for the project to be approved within the 100 ft height limit. However, this option would decrease the efficiency of energy production of the turbines to a point where it would require approximately fifty turbines at the nominal power generation rate of 10 kW standard for 100 ft tall turbines in order to equal the amount of energy that the two 250 kW 214 ft tall turbines could generate. This number of wind turbines, associated with a lower height of 100 ft, would have considerably more potential impacts on aesthetic and agricultural resources. The implementation of fifty 100 ft wind turbines on the project site versus two 214 ft wind turbines would take up a much larger amount of viewshed and vineyard, even at lower heights. With the installation of two 214 ft tall turbines, approximately .04 acres of land currently used for vineyard would be required, in comparison to the 2.0 acres associated with the two 214 ft tall turbines.

(b) **Special Privilege:** Approval of the Combined Development Permit and Design Approval, as described in Condition No. 1 and Finding No. 1, will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and identical zoning classification. Other properties in the area have not received a Variance for exceeding the 100 ft maximum height for noncommercial wind turbines, as this would be the first wind energy conversion system, commercial or noncommercial, in Monterey County.

(c) The proposed use is expressly authorized, with a use permit, by the zone regulation governing the parcel of property as indicated in Section 21.30.050.E of the Monterey County Zoning Code (Title 21).

- (d) There are no known violations of the Monterey County Code on the proposed project site (See finding 4).
- (e) The application and plans submitted for the Combined Development Permit and Design Approval, including the Environmental Impact Report, in project file PLN070257 at the RMA Planning Department.
- (f) Staff's site visit and analysis of other properties in the vicinity and under identical zone classification.
- (g) Preceding findings and supporting evidence.

8. FINDING: VARIANCE (NO GRANT OF UNAUTHORIZED USE) – The Variance does not grant a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.

EVIDENCE: The use is allowed per Section 21.30.050.E, Uses Allowed, Use Permit Required in Each case in the Farmlands zoning district.

9. FINDING: WIND ENERGY CONVERSION SYSTEM – The proposed wind energy system, as conditioned, is consistent with the regulations for the siting, design, and construction of wind energy conversion systems as provided in Section 21.64.120 of the Monterey County Zoning Ordinance (Title 21). Pursuant to Section 21.64.120.D, the project is consistent with the following:

- (1) That the proposed use is not detrimental to the public health and safety, and
- (2) That the use of the property for such purposes will not result in material damage, or prejudice to other property in the area, and
- (3) Installation of the Wind Energy Conversion System does not have the potential to create a substantially adverse visual impact when viewed from a common public viewing area, and
- (4) That the subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions, and any other applicable provisions of Title 21 and that all zoning violation abatement costs have been paid.

EVIDENCE:

- (a) The project was found to be less than significant with mitigation incorporated in the Mitigated Negative Declaration with regards to public health and safety.
- (b) The proposed site is the most adequate and appropriate for the proposed systems for the following reasons:
 - (i) The subject site is elevated topographically, which has been shown to allow for greater wind speeds.
 - (ii) The subject site is not considered Prime Farmland, and therefore, the proposed project would not result in any loss to Prime Farmland.
- (c) The project, as proposed and conditioned complies with all of the regulations found in Section 21.61.120 of Title 21.
- (d) There are no known violations of the Monterey County Code on the proposed project site (See finding 4).
- (e) Preceding findings and supporting evidence.

10. FINDING: 30 PERCENT SLOPE – There is no feasible alternative which would allow development to occur on slopes of less than 30%; or that the proposed development better achieves the goals, policies and objectives of the Monterey County General Plan and Central Salinas Valley Area Plan than other development alternatives.

EVIDENCE:

- (a) According to the site plan prepared by Renewable Energy Resources, Inc. (November 14, 2007), areas of new development on slopes in excess of 30 percent include: 1) a small section of trenching from Turbine #2 to the Step-Up Transformer.
- (a) There is no feasible alternative which would allow development to occur on slopes of less than 30%.
 - (i) There is an alternative to trenching on the proposed slope, which would entail undergrounding utility lines down an existing access road located on a slope less than 30%; however, this alternative would require much more cubic yards of trenching and fill.
 - (ii) As the development proposed is the undergrounding of utility lines, typical concerns associated with development on slopes greater than 30% are not anticipated.
 - (iii) Above ground placement of utility lines would add to aesthetic impacts caused by implementation of the proposed project.

- (b) The proposed development better achieves the goals, policies, and objectives of the Monterey County General Plan and applicable area plan than other development alternatives.
- (i) The proposed undergrounding of utility lines achieves Monterey County General Plan Policies 7.2.1, 56.1.1, 56.1.2 and 56.2.1 and 56.2.2.
- (ii) The proposed trenching would total approximately 200 cubic yards of excavation and fill.
- (iii) The proposed trenching would not exceed six (6) feet in depth.
- (c) Staff's analysis concludes that the project avoids development on slopes in excess of 30 percent to the maximum extent practicable considering the objectives of the proposal.
- (d) The application and plans submitted for the Combined Development Permit in project file PLN070257 at the Monterey County RMA-Planning Department.
- (e) Preceding findings and supporting evidence.

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

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

EXHIBIT D

**Monterey County Resource Management Agency Planning Department
Condition Compliance and/or Mitigation Monitoring Reporting Plan**

Project Name: Panziera
 File No: PLN070257 APNs: 167-041-005-000
 Approved by: _____ Date: January 28, 2009

Draft

**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>The Panziera Combined Development Permit (PLN070257) consists of (1) Use Permit to allow for the construction of two wind energy electrical turbines, 600 cu. yds. of grading and appurtenant electrical facilities; (2) Use Permit to allow trenching on slopes greater than 30%; and (3) Variance to increase both wind energy electrical turbines' height (system height) from 100 ft to 214 ft The property is located at 1290 River Road, Salinas (Assessor's Parcel Number 167-041-005-000), Central Salinas Valley Area.</p> <p>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	

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)
2.		<p>PD002 - NOTICE-PERMIT APPROVAL</p> <p>The applicant shall record a notice which states: "A permit (Resolution _____) was approved by the Planning Commission for Assessor's Parcel Number 167-041-005-000 on <u> Date </u>. The permit was granted subject to 21 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)</p>	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.		<p>PD003(A) – CULTURAL RESOURCES – NEGATIVE ARCHAEOLOGICAL REPORT</p> <p>If, during the course of construction, cultural, archaeological, historical 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 a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning 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. (RMA - Planning Department)</p>	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. 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.	Owner/ Applicant/ Archaeologist	Ongoing	
4.		<p>PD004 - INDEMNIFICATION AGREEMENT</p> <p>The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the county for any court costs and attorney's fees which the County may be</p>	<p>Submit signed and notarized Indemnification Agreement to the Director of RMA – Planning Department for review and signature by the County.</p> <p>Proof of recordation of the Indemnification Agreement, as</p>	Owner/ Applicant	Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the	

Draft

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)
		required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the county harmless. (RMA - Planning Department)	outlined, shall be submitted to the RMA – Planning Department.		final map, whichever occurs first and as applicable.	
5.		<p>PD005 - FISH AND GAME FEE-NEG DEC/EIR</p> <p>Pursuant to the State Public Resources Code Section 735.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (RMA - Planning Department)</p>	<p>The applicant shall submit a check, payable to the <i>County of Monterey</i>, to the Director of the RMA - Planning Department.</p> <p>If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the <i>County of Monterey</i>, to the Director of the RMA - Planning Department.</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>Within 5 working days of project approval.</p> <p>Prior to the recordation of the final map, the start of use or the issuance of building or grading permits</p>	
6.		<p>PD006 - MITIGATION MONITORING PROGRAM</p> <p>The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring and/or Reporting Plan in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed mitigation monitoring agreement. (RMA - Planning Department)</p>	Enter into agreement with the County to implement a Mitigation Monitoring Program.	Owner/ Applicant	Within 60 days after project approval or prior to the issuance of grading and building permits, whichever occurs first.	

Draft

<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>
			Fees shall be submitted at the time the property owner submits the signed mitigation monitoring agreement			
7.		PD007 - GRADING-WINTER RESTRICTION No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services Department. (RMA – Planning Department and Building Services Department)	Obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.	Owner/ Applicant	Ongoing	
8.		PD009 - GEOTECHNICAL CERTIFICATION Prior to final inspection, the geotechnical consultant shall provide certification that all development has been constructed in accordance with the geotechnical report. (RMA – Planning Department and Building Services Department)	Submit certification by the geotechnical consultant to the RMA – Building Services Department showing project’s compliance with the geotechnical report.	Owner/ Applicant/ Geotechnical Consultant	Prior to final inspection	
9.		PD010 - EROSION CONTROL PLAN AND SCHEDULE The approved development shall incorporate the recommendations of the Erosion Control Plan as reviewed by the Director of RMA – Planning and Director of Building Services. All cut and/or fill slopes exposed during the course of construction be covered, seeded, or otherwise treated to control erosion during the course of construction, subject to the approval of the Director of RMA - Planning and Director of RMA - Building Services. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of RMA - Planning and Director of RMA - Building Services. ((RMA – Planning Department and Building Services Department)	An Erosion Control Plan shall be submitted to the RMA - Planning Department and the RMA - Building Services Department prior to issuance of building and grading permits.	Owner/ Applicant	Prior to the issuance of grading and building permits	
			Comply with the recommendations of the Erosion Control Plan during the course of construction until project completion as approved by the Director of RMA - Planning and Director of RMA - Building Services.	Owner/ Applicant	Ongoing	
			Evidence of compliance with the Implementation Schedule shall	Owner/ Applicant	Prior to final inspection	

Draft

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 (yes/no/draft)
			be submitted to the RMA - Planning Department and the RMA - Building Services Department.			
10.		<p>PD014(A) – LIGHTING – EXTERIOR LIGHTING PLAN (NON-STANDARD) All exterior lighting, not related to FAA Required Lighting, shall be unobtrusive, down-lit, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. The applicant shall submit 3 copies of an exterior lighting plan which shall indicate the location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations, Title 24, Part 6. The exterior lighting plan shall be subject to approval by the Director of the RMA - Planning Department, prior to the issuance of building permits. (RMA – Planning Department)</p>	Submit three copies of the lighting plans to the RMA - Planning Department for review and approval. Approved lighting plans shall be incorporated into final building plans.	Owner/ Applicant	Prior to the issuance of building permits.	
			The lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Prior to Occupancy/ Ongoing	
11.		<p>PDSP01 – GENERAL DEVELOPMENT PLAN (NON-STANDARD) The applicant shall submit a revised General Development Plan to the Planning Department for review and approval which provides specific design details of the project and its consistency with all the standards described in the Carmel Valley Village Development criteria. (RMA – Planning Department)</p>	Submit a revised General Development Plan to the Planning Department for review and approval.	Owner/ Applicant	Prior to issuance of grading or building permits	
			Adhere to approved revised General Development Plan.	Owner/ Applicant	Ongoing	
12.		<p>PDSP02-AESTHETICS-TECHNOLOGICAL ADVANCES (NON-STANDARD) The applicant shall agree in writing that if future technological advances allow for reducing the visual impacts of the wind energy electrical turbines, 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)</p>	Submit, in writing, a declaration agreeing to comply with the terms of this condition of the RMA – Planning Department for review and approval.	Owner/ Applicant	Prior to issuance of grading or building permits	

Draft

<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>
13.		EH28 – HAZMAT 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.	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Ongoing	Draft
14.		EH30 – HAZARDOUS WASTE CONTROL Comply with Title 22, Division 4 .5 of the California Code of Regulations and Chapter 6 .50 of the California Health and Safety Code (Hazardous Waste Control) as approved by the Director of Environmental Health.	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Ongoing	
15.	1-1	PDSP03 -LIMIT MARKING AND LIGHTING TO FAA/COUNTY REQUIREMENTS, MITIGATION MEASURE #1-1 (NON-STANDARD) In order to prevent impacts to scenic vistas and to the visual character to the project site and surrounding areas, the applicant/owner shall comply with the following: A. Should Option 1 be applied to the proposed turbines, with Option 1 being included as, Red Obstruction Lighting Standards (FAA Style A) for structures 151 to 350 ft in height: 1. Daytime protection = Aviation Orange/White Paint 2. Night protection = 2,000cd ¹ Red Beacon and sidelights ² , model A-1. Then the following shall be complied with, in accordance with specifications in the FAA's AC 70/7460-1K Obstruction Marking and Lighting Advisory Circular, Change 2: a. The applicant/owner shall ensure that both turbines shall have prominent markings on the rotor blade tips of an international orange color. b. The applicant/owner shall only install synchronized L-864 red flashing omnidirectional beacons and L-810 red steady burning sidelights for nighttime obstruction lighting. -or- B. Should Option 2 be applied to the proposed turbines, with Option 2 being included as,	Submit three copies of the marking/lighting plans to the RMA - Planning Department for review and approval. Approved marking/lighting plans shall be incorporated into final building plans. The marking/lighting shall be installed and maintained in accordance with the approved plan.	Owner/ Applicant	Ongoing	

¹ cd = Candela

² Includes L-864 Red Flashing Beacon and L-810 Obstruction Light, as displayed in Figure 22 of the Initial Study.

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)
		<p>Medium Intensity Dual Obstruction Lighting Standards (FAA Style E) for structures 200 to 350 ft in height:</p> <ol style="list-style-type: none"> 1. Day/Twilight Protection = 20,000cd White Strobe 2. Night Protection = 2,000cd Red Strobe and sidelights <p>Then the following shall be complied with, in accordance with specifications in the FAA's AC 70/7460-1K Obstruction Marking and Lighting Advisory Circular, Change 2:</p> <ol style="list-style-type: none"> a. The applicant/owner shall only install medium intensity flashing white L-865 lights for daytime and twilight use only, whereas: <ol style="list-style-type: none"> (i) Twilight-to-Night. This should not occur before the illumination drops below 5 foot-candles (53.8 lux) but should occur before it drops below 2 foot-candles (21.5 lux). (ii) Night-to-Day. The intensity changes listed in subparagraph 83 a above should be reversed when changing from the night to day mode. b. The applicant/owner shall only install synchronized L-864 red flashing omnidirectional beacons and L-810 red steady burning sidelights for nighttime obstruction lighting. (RMA – Planning Department) 			Draft	
16.	1-2	<p>PDSP04 -LIMIT MARKING AND LIGHTING TO FAA/COUNTY REQUIREMENTS, MITIGATION MEASURE #1-2 (NON-STANDARD)</p> <ol style="list-style-type: none"> a. Any ground level safety lighting shall be minimal in nature, shielded to minimize offsite glare, and directed towards the ground to reduce potential sky-glow; b. No markings, logos or writing shall be allowed on the exterior of the wind turbine's blades, nacelle, or tower unless required by the FAA or the County. c. The exterior paint of all visible components of the project included in this permit shall be white in color, unless otherwise prohibited by the County of Monterey, the FAA, or other agency responsible for air traffic safety. d. The applicant/owner shall install marking and lighting on turbines only for aviation warning in accordance with FAA requirements; the turbines shall not be lighted for other reasons. e. All proposed painting schemes and colors for all visible components of the project shall be submitted to the Monterey County Resource Management Agency for review and approval prior to issuance of building permits. (RMA – Planning Department) 	<p>Submit three copies of the marking/lighting plans to the RMA - Planning Department for review and approval. Approved marking/lighting plans shall be incorporated into final building plans.</p>	Owner/ Applicant	Ongoing	
			<p>The marking/lighting shall be installed and maintained in accordance with the approved plan.</p>	Owner/ Applicant	Ongoing	

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)
17.	4-1	<p>PDSP05 -AVIAN SPECIES PROTECTION, MITIGATION MEASURE #4-1 (NON-STANDARD)</p> <p>The Applicant/owner shall provide on-site mitigation for avian species, as outlined below:</p> <p>a. Maintain a 500-foot setback from groves of mature trees, which contain known or observed active or historic golden eagle nests. Maintain a 500-foot setback from groves of mature trees, which contain active nests for other raptors protected by CDFG until nests are not outside a minimum 500-foot buffer zone for historic golden eagles nests. For other raptor species nests, construction activities shall not take place within the 500-foot buffer until the nests are no longer active.</p> <p>(i) Prior to start of construction, pre-construction surveys shall be conducted for nesting birds within 300 feet of proposed construction activities if construction is to be initiated between February 15 and August 1. If nesting raptors (or any other nesting birds) are identified during the pre-construction surveys, CDFG shall be contacted for an appropriate buffer that will be imposed within which no construction activities or disturbance can take place (generally 300 feet in all directions for raptors; other avian species may have species specific requirements) until the young of the year have fledged, as determined by a qualified biologist. Alternatively, construction activities that may affect nesting raptors or other protected avian species can be timed to avoid the nesting season.</p> <p>(ii) The biologist shall also clearly mark (e.g., fence and/or flag) the 500-foot distance from the identified groves as avoidance areas for the construction crews, excluding existing vineyard access roads. The existing vineyard roads within the 500 foot setback may be used to provide access to the project site. The Applicant/owner shall monitor and maintain (e.g., repair or replace) installed fencing and/or flagging regularly throughout construction.</p> <p>B. In order to reduce potential impacts to golden eagles and other raptors, and prior to project construction any rock piles or mammal habitat, as determined by a qualified biologist, shall be moved 500 feet beyond the base of each of the towers. Proof of compliance with this mitigation shall be submitted to the Monterey County Resource Management Agency for review and approval prior to the start of constructions. (RMA – Planning Department)</p>	<p>Evidence of compliance with the setback requirement shall be submitted to the RMA - Planning Department and the RMA - Building Services Department.</p> <p>Evidence of completion of preconstruction survey shall be submitted to the RMA - Planning Department and the RMA - Building Services Department.</p> <p>Evidence of rock pile/animal habitat 500 feet beyond the base of each of the towers shall be submitted to the RMA - Planning Department and the RMA - Building Services Department.</p>	<p>Owner/ Applicant</p> <p>Owner/ Applicant</p> <p>Owner/ Applicant</p>	<p>Prior to final inspection/ Ongoing</p> <p>Prior to start of construction</p> <p>Prior to start of construction</p>	
18.	4-2	<p>PDSP06 -AVIAN SPECIES PROTECTION, MITIGATION MEASURE #4-2 (NON-STANDARD)</p> <p>a. Once the project begins operation, the Applicant/owner shall conduct annual avian</p>	<p>Evidence of completion of annual avian mortality rates shall be submitted to the RMA -</p>	<p>Owner/ Applicant/ Qualified Ornithologist</p>	<p>Annually for 3 years following project</p>	

Draft

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)
		<p>mortality surveys to determine avian mortality rates and the causes of mortality associated with the project installations for a period of three years, as follows:</p> <p>(i) The monitoring shall be conducted by qualified ornithologists (a person with at least an undergraduate degree in ornithology, biology, wildlife ecology, or a related field and either a minimum of three years' professional field experience within the region or working under the direction supervision of a professional wildlife biologist with at least six years of field experience in the region) and annual monitoring reports shall contain sufficient information to allow evaluation of turbine design characteristics and location effects that contribute to mortality (such as but not limited to species, number, location, and distance from turbines, availability of raptor prey species, and cause of avian mortalities).</p> <p>(ii) All results shall be provided to the Wildlife Response and Reporting System (WRRS) database.</p> <p>(iii) Monitoring shall follow standardized guidelines outlined by the National Wind Coordinating Committee (Anderson et al. 1999) for a minimum of three years following commencement of wind turbine operation.</p> <p>(iv) The applicant/owner shall prepare and provide annual reports from the monitoring to the County, USFWS, and CDFG every 12 months for review and approval.</p> <p>(v) If a carcass with a band is found in the project area, the applicant/owner shall report the banding information to the USFWS Bird Banding Laboratory and shall coordinate with the laboratory to include any information provided by the USFWS and pertinent to avian mortality at the project site, if any, in the monitoring reports.</p> <p>b. After three years of post-construction monitoring, the County will review the data and, in consultation with the CDFG and the USFWS, determine which, if any, specific turbines generate disproportionately high levels of avian mortalities and the appropriateness of mitigation measures implemented by the applicant for the benefit of ongoing operations on the property and future wind energy projects in the region. Mitigation measures may be modified or new mitigations may be proposed if unreasonable avian mortality is found to occur. Due to ongoing studies associated with the "Statewide Guidelines for Reducing Wildlife Impacts To Birds and Bats From Wind Energy Development," alternatives to the post-construction monitoring requirements in (a) through (b) above may be available or found to be preferable and thus required by the County at the three year review. (RMA – Planning Department)</p>	<p>Planning Department and the RMA - Building Services Department.</p>		<p>installations</p>	
			<p>The County will review the data and, in consultation with the CDFG and the USFWS, determine which, if any, specific turbines generate disproportionately high levels of avian mortalities.</p>	<p>Owner/Applicant</p>	<p>After three years of post-construction monitoring</p>	
			<p>Alternatives to the post-construction monitoring requirements in (a) through (b) above may be available or found to be preferable and thus required by the County at the three year review.</p>	<p>Owner/Applicant</p>	<p>Every three years of post-construction monitoring</p>	

Draft

<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>
19.	7-1	<p>PDSP07 -MAINTENANCE CHECKS, MITIGATION MEASURE #7-1 (NON-STANDARD)</p> <p>Routine maintenance checks shall be required for both turbines at a minimum of once every two years by a certified engineer specialized in wind turbine engineering, based on the maintenance needs estimated by WES. If any structural, electrical, or mechanical hazards are identified, the operation of the turbine affected shall immediately cease and the hazard remedied. If reconstruction, demolition and/or movement of any component of the wind turbine is required to remedy the hazard, Monterey County RMA shall be contacted to determine whether permits would be necessary to complete the work. (RMA – Planning Department and Building Services Department)</p>	<p>Evidence of completion of routine maintenance checks shall be submitted to the RMA - Planning Department and the RMA - Building Services Department.</p> <p>Evidence of remedied hazard shall be submitted to the RMA - Planning Department and the RMA - Building Services Department.</p> <p>Contact the RMA - Building Services Department.</p>	<p>Owner/ Applicant/ Certified Engineer</p> <p>Owner/ Applicant/ Certified Engineer</p> <p>Owner/ Applicant/ Certified Engineer</p>	<p>At a minimum of once every two years</p> <p>Upon identification of any structural, electrical, or mechanical hazards</p> <p>Upon need for reconstruction, demolition and/or movement of any component of the wind turbine to remedy a hazard.</p>	
20.		<p>PDSP08 -LIABILITY INSURANCE (NON-STANDARD)</p> <p>The Wind Energy Conversion System operator shall maintain a current insurance policy which will cover installation and operation of the Wind Energy Conversion Systems. The amount of said policy shall be established as a condition of permit approval. (RMA – Planning Department)</p>	<p>Evidence of current insurance policy shall be submitted to the RMA - Planning Department.</p>	<p>Owner/ Applicant</p>	<p>Prior to the issuance of building permits.</p>	

Draft

<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>
21.		<p>PDSP09 -SYSTEM ABATEMENT (NON-STANDARD)</p> <p>1. If any Wind Energy Conversion System remains non- functional or inoperative for a continuous period of one year, the Permittee shall remove said system at their expense. Removal of the system includes the entire structure including foundations, transmission equipment, and fencing from the property.</p> <p>2. Non-function or lack of operation may be proven by reports to the State Energy Commission or by lack of income generation. The applicant, permit holder, and successors shall make available to the Director of Planning and Building Inspection all reports to and from the purchaser or purchasers of energy from individual Wind Energy Conversion Systems or from the wind form, if requested.</p> <p>3. The applicant, or successors, shall continuously maintain a fund payable to the County of Monterey for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Director of Planning and Building Inspection for the period of the Use Permit. This fund may consist of a certificate of deposit in a State of California financial institution (as approved under Government Code Section 66499). Interest on said certificate of deposit shall be paid to the applicant, or its successors, but the terms of the certificate shall require that it remain on deposit during the period of the Use Permit.</p> <p>4. If removal of towers and appurtenant facilities is required and the applicant, permit holder, or successors fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Director of Planning and Building Inspection, the Director of Planning and Building Inspection may contract for such removal and pay for removal from the fund. The permit holder shall then have 90 days within which to replenish the fund. Failure to replenish the fund shall be a breach of the condition of the Use Permit and as such, voids the permit.</p> <p>5. If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal. By the acceptance of a Use Permit, the Permittee or grantor grants a license to the County of Monterey to enter the property to remove a tower pursuant to the terms of the Use Permit and to assure compliance with the other conditions set forth in the permit. (RMA – Planning Department and RMA-Building Services Department)</p>	Contact the RMA – Planning Department.	Owner/ Applicant	Should the turbines remain non- functional or inoperative for a continuous period of one year	

Draft

Vicinity Map

