

Monterey County Zoning Administrator

Meeting: April 27, 2006 at 10:35 a.m	Agenda Item #1
Project Description: The Sherar Use Permit to allow for a new 50 ft. high telecommunications facility to replace an existing 40 ft. high flag pole; and Design Approval. The project is located 1/2 mile south of 916 Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 416-511-012-000), Carmel Valley Master Plan Area..	
Project Location: 916 Carmel Valley Road, Carmel Valley APN: 416-511-012-000	
Planning Number: PLN050122	Name: Sherar, Rbt. and T-Mobile
Plan Area: Carmel Valley Master Planning Area	Flagged and Staked: Yes
Zoning Designation: PG/40-D-S-RAZ (Permanent Grazing, 40 acre minimum, Design and Site review, in the residential allocation zone.)	
CEQA Action: Exempt per Section 15303 e which exempts accessory structures	
Department: Planning and Building Inspection	

RECOMMENDATION:

Staff recommends approval of the described project based on Findings and Evidence (Exhibit C) and subject to proposed conditions (Exhibit D).

OVERVIEW OF PROPOSED ACTION:

See Exhibit "B" Discussion

OTHER AGENCY INVOLVEMENT:

- o Water Resources
- o Environmental Health
- o Public Works
- o Carmel Valley Fire District

All have reviewed and some have recommended conditions of approval (Exhibit D).

The Carmel Valley Land Use Advisory Committee reviewed the project and recommended approval by a vote of 3-0, with recommendations. Please see Discussion in Exhibit "B."

Note: This project is appealable to the Planning Commission.

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CC: File; Zoning Administrator; Carmel Valley Fire Department; Public Works; Parks Department; Environmental Health Division; Water Resources Agency; Jody Lyons; Lynne Mounday; owner; and agent.

List of Exhibits

Exhibit "A" Project Data Sheet

Exhibit "B" Discussion

Exhibit "C" Recommended findings and evidence

Exhibit "D" Recommended conditions of approval

Exhibit "E" Carmel Valley Land Use Advisory Committee Recommendations.

Exhibit "F" Site plan/elevations

Exhibit "G" Vicinity Map

This report reviewed by David Lutes, Senior Planner

Exhibit “A”

EXHIBIT “B”

Discussion

THE SETTING. The project site is on a knoll in the mid to lower Carmel Valley. The valley floor bends, hinged on this knoll, such that the line of site connects the mouth of the valley and Highway 1 with the upper portion of the valley near Carmel Village.

The project site is on a shoulder of Snively’s Ridge, which is on the south side of Carmel Valley. The ridge peaks behind the site, at an 1,800 foot elevation. The parcel is 800 feet above the valley floor and faces the northeast. It is a 40-acre parcel and part of the six parcels completely surrounded by Garland Park and open space. The open space encompasses three of the four sides of the subject parcel.

THE PARCEL. The subject site is considered by staff as visually sensitive because of its topological character. The slope ranges from 40+% down to 15 % at the project site. It is visible from a large portion of Carmel Valley. Additionally it is surrounded by a public viewing area, open space and park. In keeping with the guidelines to preserve the natural beauty, while allowing development in the Carmel Valley area, it is an appropriate cell site. The site is zoned Permanent Grazing “PG” that allows for development (21.34.010) including flag poles over height subject to a Use Permit (21.62.030 B). However, this parcel is not zoned Visually Sensitive.

The parcel is served by one driveway averaging 12’ wide, accessing the site from Carmel Valley Road, through the parcel.

THE PROJECT. The proposed flag pole will be 40-foot tall, and 20 inches at the base. The cellular antennae will be enclosed within the 20 inch diameter pole on a concrete base. The antennae will be supported by a 15 by 20 foot enclosure for the ground mounted equipment cabinets. The cabinets will be shielded from view by the 20 foot high trees planted on either side of the concrete base. The new flag pole antennae will replace an existing 27 foot flag pole. This proposed use is consistent with the zoning, Area Plan Designation and surrounding uses.

Project Review

The project has been reviewed by the Division of Environmental Health, Public Works, Carmel Valley Fire Department and Water Resource Agency, and they have found the project consistent with Monterey County Code. They have applied conditions of approval where appropriate.

Surrounding Land Uses

Of the six parcels surrounded by the open space, four are developed according to the Monterey County Assessor’s database), and two are undeveloped. The Monterey Peninsula Regional Park District is to the north and east, with Adamo (Carmel Valley Ranch) property on the west and south. They are zoned PQP or PG (Public-Quasi-Public or Permanent Grazing. The proposed project is compatible with these surrounding uses.

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Carmel Valley LUAC review-

While the Carmel Valley Land Use Advisory Committee did recommend approval the proposed project, they offered two concerns: there should be no night lighting and no reflection from the flag pole. However, California Government Code Section 434.5 (1) b specifically denies the right of the local government to deny the private individual from displaying the U.S. flag except in connection with an advertisement. Additionally, 434.5 Section 2 d states: “No restrictions solely to promote aesthetic considerations shall be imposed pursuant to (this) paragraph...” Therefore, the Government Code limits the requirements to be placed on the flying of the national flag, unless used in advertising. This installation does not include any trade mark or product identification, nor involve any offer that might be considered “advertising.” So the recommendations of the committee can not be imposed as a condition on this project.

One Carmel Valley resident (letter on file) described the flag as [serving](#) “...to blight the scenic viewshed.” [Given the above referenced Government Code Section](#), the flying of the U.S. flag [cannot be denied based on aesthetic considerations](#). Thus, we can request the recommended changes, but we can not require them as conditions to the proposed project.

EXHIBIT "C"
RECOMMENDED FINDINGS AND EVIDENCE

1. **FINDING: CONSISTENCY, SITE SUITABILITY AND PUBLIC ACCESS -**
The subject Combined Development Permit as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County General Plan, Carmel valley Master Plan, and the Monterey County Zoning Ordinance (Title 21). The property is located at 916 Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 416-511-012-000). The parcel is zoned "PG/40-D-S-RAZ" (Permanent Grazing, 40 acres per unit, Design Review and Site Plan Review in the Residential Allocation Zone). The site is physically suitable for the use proposed. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21, and any zoning violation abatement costs have been paid.
- EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:
- a) The Monterey County General Plan;
 - b) The Carmel Valley Master Plan; and
 - c) Chapter 21.34 of the Monterey County Zoning Ordinance (Title 21) for the "PG" Zoning District.
 - d) Chapter 21.45 for the "D" Zoning District.
 - e) Chapter 21.46 for the "S" Zoning District.
 - f) Chapter 21.62.030 B for the Exception to Height for over the development standard PG/40-D-S-RAZ limit as discussed above.
- EVIDENCE:** The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, and Environmental Health Department. There has been no indication from these agencies that the site is not suitable for the proposed use. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property, as conditioned. Each agency has reviewed the application and some have recommended conditions of approval.
- EVIDENCE:** Written and verbal public testimony submitted at public hearings before the Zoning Administrator.
- EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in file PLN050122.
- EVIDENCE:** The on-site inspection by the project planner on June 16, 2005 to verify that the proposed project complies with the plan policies and County Code regulations.

2. **FINDING: CEQA** - The proposed project is categorically exempt from the California Environmental Quality Act.
- EVIDENCE:** Section 15303 e of the CEQA Guidelines categorically exempts the proposed development from environmental review. The subject property is situated within an existing, developed area, surrounded by suburban residential uses.
- EVIDENCE:** Materials within the project file, PLN050122.
3. **FINDING: NO VIOLATIONS** – The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and other applicable provisions of Title 21. Zoning violation abatement costs, if any, have been paid.
- EVIDENCE:** Section 21.14.040a of the Monterey County Zoning Ordinance. Staff verification of the Monterey County Planning and Building Inspection Department records indicates that no violations exist on subject property.
4. **FINDING: HEALTH AND SAFETY** - The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.
- EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.
- EVIDENCE:** Site inspection by Planner on June 16, 2005.
- EVIDENCE:** Materials in file PLN050122.
- EVIDENCE:** Preceding findings and supporting evidence.
5. **FINDING: APPEAL ABILITY** -The project is appealable to the Planning Commission.
- EVIDENCE:** Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21).

Exhibit "D" Monterey County Planning and Building Inspection Condition Compliance and/or Mitigation Monitoring Reporting Plan	Project Name: Sherar File No: PLN050122 APNs: 416-511-012-000 Approval by: _____ Date: _____
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*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsibl e Party for Complianc e	Timing	Verific ation of Compli ance (name/ date
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1	PBD029 - SPECIFIC USES ONLY The Sherar Use Permit to allow for a new 50 ft. High telecommunications facility to replace an existing 40 ft. high flag pole; and Design Approval. The project is located 1/2 mile south of 916 Carmel Valley Road, Carmel Valley (Assessor's Parcel Number 416-511-012-000), Carmel Valley Master Plan Area. This permit was approved in accordance with county ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the director of planning and building inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of county regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning And Building Inspection)	Adhere to conditions and uses specified in the permit.	Owner/ Applicant	Ongoing unless otherwise stated	
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2		PBD025 - NOTICE-PERMIT APPROVAL The applicant shall record a notice which states: "A permit (Resolution 040591) was approved by the Zoning Administrator of Monterey County for Assessor's Parcel Number 416-511-012-000 on April 27, 2006. The permit was granted subject to 24 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. (Planning and Building Inspection)	Proof of recordation of this notice shall be furnished to PBI.	Owner/ Applicant	Prior to Issuance of grading and building permits or start of use.	
3		PBD030 - STOP WORK - RESOURCES FOUND 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 Planning and Building Inspection 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. (Planning and Building Inspection)	Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County Planning and Building Inspection 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		PBD021 – LIGHTING – EXTERIOR LIGHTING PLAN All exterior lighting shall be unobtrusive, harmonious with the local area, and constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. 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 exterior lighting plan shall be subject to approval by the Director of Planning and Building Inspection, prior to the issuance of building permits. (Planning and Building Inspection)	Submit three copies of the lighting plans to PBI for review and approval.	Owner/ Applicant	Prior to issuance of building permits.	
5		EH28 - HAZ MAT BUSINESS RESPONSE PLAN Comply with Title 19 of the California Code of Regulations and Chapter 6.95 of the California Health and Safety Code (Hazardous Material Registration and Business Response Plans) as approved by the Director of Environmental Health. (Environmental Health)	Contact the Hazardous Materials Program of the Division of Environmental Health.	Owner/ Applicant	Continuous	
6		FIRE007 - DRIVEWAYS Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside	Applicant shall incorporate specification into design and enumerate as “Fire Dept. Notes” on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	

		radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. (Carmel Valley Fire District)				
7		FIRE008 - GATES All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. (Carmel valley Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection.	

8		FIRE019 - DEFENSIBLE SPACE REQUIREMENTS - (STANDARD) Remove combustible vegetation from within a minimum of 100 feet of structures. Limb trees 6 feet up from ground. Remove limbs within 10 feet of chimneys. Additional and/or alternate fire protection or firebreaks approved by the fire authority may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by Reviewing Authority and the Director of Planning and Building Inspection. (Carmel Valley Fire District)	Applicant shall incorporate specification into design and enumerate as "Fire Dept. Notes" on plans.	Applicant or owner	Prior to issuance of grading and/or building permit.	
			Applicant shall schedule fire dept. clearance inspection	Applicant or owner	Prior to final building inspection	
9		FIRE 030-RESPONSE REQUIREMENTS - (NON-STANDARD) Applicant shall provide to the Carmel valley fire District detailed description and map(s) reflecting fire district access from a public right of way. (Carmel Valley Fire District)	Applicant shall provide fire district with access information	Applicant or owner	Prior to issuance of grading and/or building permit.	
		<i>End of conditions</i>				

SRZAa_PLN050122 Sherar- flag pole cell tower.