

Revised Wireless Communication Facility Use Permit Findings

1. The development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or there are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.

This finding can be made, in that the proposed 64 foot wireless facility and equipment enclosure will be located on the ground outside any mapped visual resources, environmentally sensitive habitat resources, or other significant county resources. Furthermore, although the property is restricted by a Williamson Act contract established in 1977, intended to protect agricultural activities on the subject property because this contract permits all uses allowed within the Agricultural Zone district and the Agricultural Preserve Combining district, the proposed wireless facility use is an allowed use. The proposed use will not affect agricultural uses as no agricultural development is taking place on the subject property. Furthermore, the proposed use does not preclude agricultural activity on this site. The proposed use is located in one of the few zone districts permitting wireless facilities and therefore is not required to provide alternative analysis. Notwithstanding, an alternative analysis confirms that the proposed facility is the most viable and least visually impacting site potentially available that meets the wireless objectives of the wireless carrier, as enumerated in the Project Support Statement included in the Zoning Administrator Staff Report. The proposed project minimizes visual impacts to surrounding properties by construction of a monopine structure, intended to camouflage the facility as a pine tree, and thus mitigates and minimizes the visual impacts to the surrounding area.

2. The site is adequate for the development of the proposed wireless communications facility and, for sites located in one of the prohibited and/or restricted areas set forth in Sections 13.10.661(B) and 13.10.661 (C), that the applicant has demonstrated that there are not environmentally equivalent or superior and technically feasible: (1) alternative sites outside the prohibited and restricted areas; and/or (2) alternative designs for the proposed facility as conditioned.

This finding can be made, in that pursuant to County Code Section 13.10.661 (B) and 13.10.661 (C), an alternative analysis is only required when a wireless facility is proposed in a prohibited zone district. The proposed wireless facility is not located within a prohibited or restricted area and therefore is not required to provide an alternative analysis and thus complies with the ordinance. Nonetheless, the applicant provided this alternative analysis, included in the Zoning Administrator Staff Report, to further substantiate that the proposed location is the most viable site for the project.

3. The subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this title (County Code 13.10.660) and that all zoning violation abatement costs, if any, have been paid.

This finding can be made, in that the proposed wireless facility is an allowed use within the Agriculture-Preserve zone district and Agriculture General Plan designation. The improvements are proposed at the 55 foot height level of the proposed wireless monopine and this does not exceed the maximum 90 foot height permitted for wireless facilities within the Agricultural Zone District.

Pursuant to County Code Section 13.10.662 Application requirements, "The Planning Director or his/her designee may release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility." The visual simulation provides adequate representation of the proposed facility to determine that the visual impacts of the facility would be minimized by the proposed project, thereby eliminating the requirement to provide an on-site visual mock-up.

No zoning violation abatement fees are applicable to the subject property.

4. The proposed wireless communication facility as conditioned will not create a hazard for aircraft in flight.

This finding can be made, in that the proposed wireless communications facility will be located at the 55 foot level of a proposed wireless monopine, which is approximately 64 foot tall, and this elevation is too low to interfere with an aircraft in flight.

5. The proposed wireless communication facility as conditioned is in compliance with all FCC and California PUC standards and requirements.

This finding can be made, in that the maximum ambient RF levels at ground level due to the existing wireless communications facilities and the proposed operation are calculated to be less than one percent of the most restrictive applicable limit.

6. For wireless communication facilities in the coastal zone, the proposed wireless communication facility as conditioned is consistent with the all applicable requirements of the Local Coastal Program.

This finding does not apply in that the proposed project site is not located within the coastal zone.

Revised Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for wireless facilities and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed improvements will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure will meet all current setbacks that ensure access to these amenities.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed location of the improvements and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the A-P (Agriculture-Preserve) zone district in that the proposed improvements meet all current site standards for the zone district including setbacks, maximum antenna height, etc. Furthermore, although the property is located within a P designated site and subject to a Williamson Agricultural Preservation Act contract established in 1977, intended to provide agricultural activities on the subject property. This contract permits all uses allowed within the Agricultural Zone district and Agricultural Preserve Combining district and the proposed wireless facility use is an allowed use specified in the Agricultural use chart in County Code 13.10.312. The proposed use will not affect agricultural operations as no agricultural development is currently taking place on the subject property. The proposed facility location does not preclude future agricultural uses. Section 13.10.661 et al was adopted to allow installation of wireless telecommunications facilities. The project does not affect existing or protected agricultural uses on site.

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the proposed wireless facility is consistent with the use and density requirements specified for the Agriculture (AG) land use designation in the County General Plan.

The proposed wireless project will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district, including setbacks.

The proposed wireless project will be compatible with adjacent property uses due to its small size and location and is properly proportioned to the parcel size and the character of the neighborhood as specified in General Plan Policy 8.5.2 (commercial compatibility with other uses) in that proposed monopine, antennas, and equipment enclosure will comply with the site standards for the A-P zone district (including setbacks, height) and will result in a structure consistent with a design that could be approved on any similarly sized Agriculture zoned parcel in the vicinity. Furthermore, the proposed facility is designed as a monopine surrounded by mature conifers, which minimizes the visual impacts of the facility to surrounding properties. Approval of the project will not interfere in the Williamson Act agricultural

preserve contract and will be located 260 feet from the nearest property line.

The project is not located within a special community or town plan.

An updated noise study (Exhibit 1D) was prepared by Bollard Acoustical Consulting, dated December 16, 2015 that was not included in the staff report considered by the Zoning Administrator on November 6, 2015. The revised noise study concludes that the proposed project would comply with the daytime average and maximum noise levels at the property line for both the proposed equipment cabinets and generator. The predicted noise level for the outdoor cabinets is 33 dBA at the property line and 47 dBA for the proposed generator, which meet the General Plan standard of 60 dBA at the property line. Noise levels are further reduced to the nearest residences.

The proposed generator noise level of 47 dBA would exceed the nighttime average of 45 dB by 2 decibels. A proposed 6 foot solid board fencing with overlapping slats would reduce project generator noise level to 41 dB Leq at the property line in compliance with the nighttime 45 dBA standard. An 8 foot tall wood fence with overlapping slats would reduce generator noise level to 38 dB Leq at the nearest property line, meeting the reduced ambient noise standard of 40 dBA.

On-site ambient levels were not taken by the study preparer. However, if the ambient noise levels are assumed to be reduced by more than 10 dB and the nighttime noise level required to be reduced to 40 dB, an 8 foot solid board fence with overlapping slats would be required to comply with the 40 dB Leq standard at the property line. The applicant provided revised plans (Exhibit 1C) that include the recommended 8 foot solid board fencing with overlapping slats so that the proposed generator complies with both the 45 dB General Plan nighttime noise threshold and an assumed reduced nighttime threshold of 40 dB.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the proposed monopine, antennas, and equipment enclosure is to be constructed on an existing undeveloped lot containing open space. The expected level of traffic generated by the proposed project is not anticipated to affect the traffic volumes because the only traffic generated by the proposal will be one utility truck periodically visiting the site for routine maintenance and thus will not adversely impact the existing roads or intersections in the surrounding area.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the proposed monopine, antennas, and equipment shelter are located in a rural area with limited development, and the proposed improvements are consistent with the land use intensity and density of the neighborhood and will result in no appreciable change in the character of the area or result in significant visual impacts. The proposed wireless facility complies with the requirements of the visual protection regulations of the Wireless Ordinance and the County Design Review Ordinance in that the proposed project has been designed to camouflage the facility as a pine tree with a branching height and pattern consistent with surrounding trees. Views of the facility are limited given the significant distance from the roadway and location in a wooded setting. The most prominent feature of the project is the fenced enclosure. The project includes landscape screening to better screen the enclosure from the roadway. As designed, the proposed project would minimize visual impacts of the proposed wireless equipment, meeting the ordinance objective to reduce visual impacts as much as technically feasible.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed improvements will be of an appropriate scale and type of design that will minimize visual impacts to surrounding properties and open space in the surrounding area by provision of a monopine tree, including a branching height and pattern, which will camouflage the facility from surrounding properties. The proposed equipment shelter would be screened from surrounding property by proposed fencing and landscaped screening. Only limited views of the proposed monopine and fenced enclosure are possible from Loma Prieta Avenue roadway and then the improvements are located within a backdrop of existing mature vegetation softening the views.

Revised Agricultural Development Findings

1. That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

This finding can be made in that the parcel is a wooded property that contains no current agricultural use except open space. The proposed wireless facility will not reduce, restrict or adversely affect current open space or future agricultural operations given the incidental nature of the proposed project. See finding 2 (a), incorporated by reference.

- 2 (a). That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel; or

The current use on the property is open space. The proposed project is incidental to a principal permitted agricultural use in that wireless facilities are specifically called out as an allowed use within the Agriculture Zone district and Agricultural Preserve Combining district pursuant to County Code Section 13.10.312. Typical principal permitted uses on agriculture zoned property include holiday tree farms, horse ranches, vineyards, family farming, animal raising activities, orchards, wineries, and the maintenance of open space. The proposed wireless use, requiring roadway construction and development of a forty by forty square foot construction pad, does not alter the maintenance of open space on this property or any other potential permitted agriculture use on this site as any number of agriculture uses meeting the purpose of the district could be developed on the property. Furthermore, agriculture zoned properties commonly include more roadways than most zone districts given the required access needs for agriculture management. Thus, the proposed construction pad and roadway development associated with the proposed project is considered incidental to open space.

- 2 (b). That no other agriculture use if feasible for the parcel; or

This finding does not apply to the project.

- 2 (c). That the use consists of an interim public use which does not impair long-term agricultural viability or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of SCCC 13.10.635; or

This finding does not apply to the project.

3. That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

The project does not include single family residential uses. The proposed wireless facility will not conflict with the open space on the property in that the proposed project is incidental to the existing open space use as detailed in finding 2 (a).

4. That the use will be sited to remove no land from production (or potential production) if

any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

The proposed project is incidental to the maintenance of open space, a principal permitted agricultural use allowed on the property, and given the limited extent of proposed improvements, removes as little potential agricultural land from production as feasible.

Revised Conditions of Approval

Exhibit C: Project Plans, prepared by MST Architects, dated December 3, 2015

- I. This permit authorizes construction of a 64 foot tall monopine wireless communication facility, including ground mounted equipment in a 40' by 40' fenced lease area. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
 - D. The applicant shall obtain approval from the California Public Utilities Commission and the Federal Communications Commission to install and operate this facility.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. One elevation shall indicate that colors match the color sample on file in the Planning Department, as applicable.
 2. Submit a detailed grading/drainage plan completed by a licensed civil engineer for review. The grading/drainage plan will need to include the

entire access road leading to the cell site and the parking space.

3. Details showing compliance with fire department requirements. If the proposed structure(s) are located within the State Responsibility Area (SRA) the requirements of the Wildland-Urban Interface code (WUI), California Building Code Chapter 7A, shall apply.
 4. Meet all requirements of and pay Zone 7 drainage fees to the County Department of Public Works, Storm water Management. Drainage fees will be assessed on the net increase in impervious area.
 5. Any new electric and telecommunications lines shall be placed underground.
 6. A lighting plan. All lighting must be manual and must not be visible from neighboring properties.
 7. Details showing compliance with the FCC occupational exposure guidelines and safety measures.
 8. Revised drought tolerant landscape species and reduced water storage to be reviewed and approved by Planning Staff. (Revised by the Zoning Administrator).
 9. *Plans shall include the type of equipment cabinet cooling equipment, including manufacturing noise level data specification sheets, generator model, and noise attenuation recommendations specified in the Noise Study, prepared by Bollard Acoustical Consultants, dated December 16, 2015.*
- B. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer. The soils report shall be reviewed and approved by Environmental Planning.
- C. Submit an erosion/sediment control plan for review.
- D. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services. To ensure that the storage of hazardous materials on the site does not result in adverse environmental impacts, the applicant shall submit a Hazardous Materials Management Plan for review and approval by the County Department of Environmental Health Services, if required.
- E. Meet all requirements and pay any applicable plan check fee of the County Fire District comments dated October 23, 2015.

- F. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
 - G. Pay the current fees for Child Care mitigation for proposed building footprint area. Currently, these fees are \$.23 per square foot.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The wireless communication facility may not be connected to a power source or operated until a final inspection and clearance from the Santa Cruz County Planning Department has been received.
 - D. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. *This shall include modified soil deposits (including trash pits older than 50 years).* The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.
- IV. Operational Conditions
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
 - B. The exterior finish and materials of the wireless communication facility must be maintained on an annual basis to continue to blend with the existing utilities infrastructure. Additional paint and/or replacement materials shall be installed as necessary to blend the wireless communication facility with the existing utilities infrastructure.
 - C. The operator of the wireless communication facility must submit within 90 days

of commencement of normal operations (or within 90 days of any major modification of power output of the facility) a written report to the Santa Cruz County Planning Department documenting the measurements and findings with respect to compliance with the established Federal Communications Commission (FCC) Non-Ionizing Electromagnetic Radiation (NEIR) exposure standard. The wireless communication facility must remain in continued compliance with the NEIR standard established by the FCC at all times. Failure to submit required reports or to remain in continued compliance with the NEIR standard established by the FCC will be a violation of the terms of this permit.

- D. If, as a result of future scientific studies and alterations of industry-wide standards resulting from those studies, substantial evidence is presented to Santa Cruz County that radio frequency transmissions may pose a hazard to human health and/or safety, the Santa Cruz County Planning Department shall set a public hearing and in its sole discretion, may revoke or modify the conditions of this permit.
 - E. If future technological advances would allow for reduced visual impacts resulting from the proposed telecommunication facility, the operator of the wireless communication facility must make those modifications which would allow for reduced visual impact of the proposed facility as part of the normal replacement schedule. If, in the future, the facility is no longer needed, the operator of the wireless communication facility must abandon the facility and be responsible for the removal of all permanent structures and the restoration of the site as needed to re-establish the area consistent with the character of the surrounding natural landscape.
- V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the

defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition; temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.