



# MARIN COUNTY

## COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

### STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Rosenberg Use Permit and Design Review

Item No:	C.2.	Application No:	UP 08-10 and DR 08-32
Applicant:	John Owens, Peacock Assoc., representing MetroPCS	Owner:	Ken Rosenberg
Property Address:	100 Phillip Terrace., Novato	Assessor's Parcel:	157-091-45
Hearing Date:	May 1, 2008	Planner:	Christine Gimmler

<b>RECOMMENDATION:</b>	Approve with Conditions
<b>APPEAL PERIOD:</b>	May 15, 2008
<b>LAST DATE FOR ACTION:</b>	June 2, 2008

### PROJECT DESCRIPTION:

The applicant, MetroPCS, is requesting Use Permit and Design Review approval to construct and operate a wireless telecommunications facility on the property at 100 Phillip Terrace, in the Blackpoint area of Novato. The proposal includes the co-location of two 56-inch long panel antennas mounted at a height of 40 feet on an existing 42-foot tall lattice tower which currently supports ham radio equipment. Also proposed is the installation of two associated equipment cabinets enclosed within a 150-square foot equipment area sited adjacent to the existing tower. As part of the project, an existing wooden ham radio pole located on the eastern portion of the property would be removed.

### GENERAL INFORMATION:

Countywide Plan:	AG-3 (Agricultural, one unit per 1 to 9 acres)
Zoning:	A-2 (Agriculture, Limited)
Lot size:	3.1 acres
Adjacent Land Uses:	Residential
Vegetation:	Mature oak and bay laurel woodland
Topography and Slope:	Moderately sloping
Environmental Hazards:	None identified

### ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15311, Class 11 of the CEQA Guidelines because the project entails the installation and operation of an unmanned telecommunications facility on an existing lattice tower that would not result in grading, tree removal, or other potentially significant impacts on the environment. Additionally, a report prepared by Hammett & Edison, Inc, dated January 15, 2008, concludes that the proposed project would not result in any significant risks with respect to human exposure to radio frequency fields emitted by the proposed telecommunications facility.

DZA Staff Report

**MAY 1, 2008**

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## **PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 750 feet of the subject property. To date, no adverse comments have been received by staff in response to the public notice for the proposed project.

## **PLAN CONSISTENCY:**

The proposed project, as modified by recommended conditions of approval, is consistent with the goals and policies of the *Marin Countywide Plan*, the *Blackpoint Community Plan*, the *Marin County Telecommunications Facilities Policy Plan* because the project consists of the installation and operation of an unstaffed telecommunications facility that is compatible with surrounding low density residential land uses. The proposed facility would be co-located on an existing lattice tower supporting ham radio equipment, would be well screened from off-site locations by surrounding mature trees, would be located approximately 200 feet from the nearest residences, and would not result in adverse health risks with respect to human exposure to radio frequency emissions. Please refer to the project analysis and recommended resolution for detailed findings.

## **BACKGROUND:**

The subject property is currently developed with an existing residence and associated accessory structures as well as a 32-foot high Sprint/Nextel telecommunications facility which was approved in 1998. The Use Permit for this facility was subsequently extended and is currently valid through October, 2008. In 2005, MetroPCS submitted an application proposing to construct a new telecommunications facility near the existing residence on the subject property. However, this application was ultimately denied because it did not take advantage of the opportunity to co-locate with the existing telecommunications facility on the site, and did not adequately address alternative sites elsewhere in the vicinity. In 2007, consistent with federal laws regulating amateur radio operators, the property owner obtained Building Permit approval to construct a 42 foot high ham radio lattice tower in the vicinity of the previously approved Sprint/Nextel facility. As noted above, the current application proposes to co-locate two MetroPCS antennas on this existing lattice tower at a height of 40 feet. Accordingly, no increase in tower height is proposed. It should be noted that in order for MetroPCS to achieve its coverage objectives, a height increase of approximately 10 feet would be necessary if MetroPCS was required to co-locate on the existing Sprint/Nextel site.

## **PROJECT ANALYSIS:**

On July 28, 1998, the Marin County Board of Supervisors adopted the update to the Marin County Telecommunications Facilities Policy Plan (TFPP) which establishes policies to guide the development of telecommunications facilities while protecting the natural resources, communities, and other land uses in Marin County. The proposed application is consistent with the policies contained in the TFPP and with the criteria for wireless communications facilities contained therein, as described below

### *Land Use Compatibility*

The TFPP states that wireless telecommunications facilities should be sited to avoid or minimize land use conflicts. Although TFPP policies establish a general preference for industrial or commercial properties, a residential property may be a preferred site when the facility can be designed to minimize effects related to land use compatibility, visual resources, public safety, and related environmental factors. Consistent with TFPP Programs LU 1.1.3 and LU 2.1.3, the proposed facility would be co-located on an existing lattice tower which current supports ham radio equipment owned and operated by the property owner. The nearest residence is located approximately 200 feet from the project site. The existing 42-foot high support tower has an adequate height to meet the service coverage requirements for MetroPCS, the associated equipment cabinets would be located on a level area immediately adjacent to the tower, and the site is served by an existing access road. Therefore, the project would not result in additional grading or tree removal or alter the visual character of the property. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property. Therefore, the proposed facility would not generate significant levels of noise or traffic. Based on the factors discussed above, the facility is consistent with the land use compatibility standards contained in the TFPP.

#### *Visual and Aesthetic Compatibility*

Visual and aesthetic compatibility policies contained in the TFPP specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. Whenever possible, a telecommunications facility should be co-located or clustered with existing facilities to minimize visual impacts and avoid the need for new support structures. As described above, the telecommunication antennas would be co-located on an existing lattice tower which currently supports ham radio equipment. Due to the coverage needs of MetroPCS, co-location of the proposed antennas would not require an increase in the existing tower height. In addition, visual simulations of the proposed project indicate that the addition of two antennas to the existing support tower would not result in any significant adverse effects related to visual and aesthetic compatibility. Accordingly, the proposed co-location would be preferable to construction of a new monopole elsewhere in the vicinity, or co-location on the existing Sprint/Nextel facility, which would require an increase in monopole height of approximately 10 feet. Finally, conditions of approval require that the antennas be painted a non-reflective, light gray color to blend with the sky against which they will be viewed, and associated equipment cabinets and fencing would be painted a dark green color to blend with surrounding vegetation. Based on these factors, the proposed project would be consistent with the visual and aesthetic standards contained in the TFPP and would not adversely impact views currently enjoyed from off-site locations.

#### *Electromagnetic Field Emissions*

The applicant has submitted a Radio Frequency Analysis report prepared by Hammett & Edison, Inc, dated January 15, 2008. The report evaluated the levels of RF emissions for the proposed project and existing conditions at the site. The report concludes that the proposed project will comply with the FCC's current prevailing standard for limiting human exposure to RF energy. Therefore, no significant public health risks with respect to human exposure to radio frequency radiation is expected.. Exposure levels from the proposed MetroPCS facility, in combination with existing Sprint/Nextel antennas, at all publicly-accessible ground level locations near the site are calculated to be less than 1 percent of the most restrictive ANSI/IEEE limit. The maximum calculated cumulative level on the second floor elevation an any nearby buildings is 2.5 percent of the public exposure. In addition, conditions of project approval specify that if, during the duration of the Use Permit, a more restrictive standard for permissible exposure to EMF is adopted by the FCC, the applicant shall be required to demonstrate that the continued operation of the facility, in combination with existing Sprint/Nextel antennas, would not exceed the newly adopted

standard. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.

#### *Public Safety and Operation Effects*

TFPP policies require that telecommunications facilities be constructed, maintained and operated in a manner that does not adversely affect public safety or result in noise or traffic impacts on surrounding land uses. The proposed antennae would be located on an existing lattice tower and would not be accessible to the public. The equipment cabinet would be located at grade, would be locked at all times, and would be located within a fenced area. In addition, recommended conditions of approval require that the facility be dismantled and removed if it has been inoperative or abandoned for over a year. As described above, noise levels associated with the operation of the facility would not exceed the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician, the facility would not generate traffic trips to the property. Therefore, the proposed facility would not result in noise or traffic impacts on surrounding properties. Based on these factors, the facility is consistent with public safety and operational standards contained in the TFPP.

#### **RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Rosenberg (MetroPCS) Use Permit and Design Review.

- Attachments:
1. Proposed Resolution recommending approval of the Rosenberg (MetroPCS) Use Permit and Design Review
  2. CEQA Exemption
  3. Location Map
  4. Overall Site Plan
  5. Enlarged Site Plan
  6. North and East Elevations
  7. Novato Fire Protection District letter, 1/30/08
  8. Department of Public Works, Land Use Division memo, 2/15/08
  9. Black Point Improvement Club letter, 2/12/08

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING THE ROSENBERG (METRO PCS) USE PERMIT AND DESIGN REVIEW  
ASSESSOR'S PARCEL 157-091-45  
100 PHILLIP TERRACE, NOVATO

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**SECTION I: FINDINGS**

- I. WHEREAS Metro PCS, is requesting Use Permit and Design Review approval to construct and operate a wireless telecommunications facility on the property at 100 Phillip Terrace, in the Blackpoint area of Novato. The proposal includes the co-location of two 56-inch long panel antennas mounted at a height of 40 feet on an existing 42-foot tall lattice tower which currently supports ham radio equipment. Also proposed is the installation of two associated equipment cabinets enclosed within a 150-square foot equipment area sited adjacent to the existing tower. As part of the project, an existing wooden ham radio pole located on the eastern portion of the property would be removed. The subject property is located at **100 Phillip Terrace, Novato**, and is further identified as Assessor's Parcel **157-091-45**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on May 1, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15311, Class 11 of the CEQA Guidelines because the project entails the installation and operation of an unmanned telecommunications facility on an existing lattice tower that would not result in grading, tree removal, or other potentially significant impacts on the environment. Additionally, a report prepared by Hammett & Edison, Inc, dated January 15, 2008, concludes that the proposed project would not result in any significant risks with respect to human exposure to radio frequency fields emitted by the proposed telecommunications facility.
- IV. WHEREAS, as modified by conditions of approval, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) and the Blackpoint Community Plan for the following reasons:
  - A. The proposed project is consistent with the Agricultural, one unit per 1 to 9 acres (AG3) land use designation for the project site because the proposed antennas would be co-located on an existing telecommunications tower and the unstaffed facility would not interfere with surrounding residential or open space uses in the vicinity.
  - B. The proposed project would not result in any grading or the removal of existing vegetation.
  - C. Mandatory Use Permit findings can be made pursuant to Section 22.48.040 of Marin County Code to allow public utility and service uses necessary for public safety, convenience, and welfare.
  - D. The proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan (TFPP) which ensures that the siting and design of the proposed facility does not interfere with other land uses, provides protection from vandalism and fire hazards, minimizes visual impacts, and minimizes potential health risks to people.

- E. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- V. WHEREAS, as modified by Conditions of Approval, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin County Telecommunications Facilities Policy Plan (TFPP) and with the criteria for wireless communications facilities contained therein, as follows:
- A. Consistent with TFPP policies encouraging the clustering and co-location of telecommunications facilities, the proposed facility would be co-located on an existing lattice tower which current supports ham radio equipment owned and operated by the property owner. The nearest residence is located approximately 200 feet from the project site. The existing 42-foot high support tower has an adequate height to meet the service coverage requirements for MetroPCS, the associated equipment cabinets would be located on a level area immediately adjacent to the tower, and the site is served by an existing access road. Therefore, the project would not result in additional grading or tree removal or alter the visual character of the property. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property. Therefore, the proposed facility would not generate significant levels of noise or traffic. Based on these factors, the facility is consistent with the land use compatibility standards contained in the TFPP.
  - B. The facility would allow MetroPCS to improve its cellular coverage in the northern portion of the County and would allow the carrier to provide a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.
  - C. The applicant has submitted a Radio Frequency Analysis report prepared by Hammett & Edison, Inc, dated January 15, 2008. The report evaluated the levels of RF emissions for the proposed project and existing conditions at the site. The report concludes that the proposed project will comply with the FCC's current prevailing standard for limiting human exposure to RF energy. Therefore, no significant public health risks with respect to human exposure to radio frequency radiation is expected.. Exposure levels from the proposed MetroPCS facility, in combination with existing Sprint/Nextel antennas, at all publicly-accessible ground level locations near the site are calculated to be less than 1 percent of the most restrictive ANSI/IEEE limit. The maximum calculated cumulative level on the second floor elevation on any nearby buildings is 2.5 percent of the public exposure. In addition, conditions of project approval specify that if, during the duration of the Use Permit, a more restrictive standard for permissible exposure to EMF is adopted by the FCC, the applicant shall be required to demonstrate that the continued operation of the facility, in combination with existing Sprint/Nextel antennas, would not exceed the newly adopted standard. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.
  - D. The facility would not create significant lighting impacts on surrounding areas because conditions of approval specify that exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, hooded, and directed downward to minimize visual effects on adjoining areas.
  - E. Vehicular access and parking for the proposed project site is provided from an existing road right-of-way. No additional road or parking area construction would be required for the operation of the facility.
  - F. The project would not require removal of existing vegetation.
  - G. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With exception to routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property, therefore, the proposed facility would neither generate significant levels of noise nor traffic.

H. The project does not significantly impair the visual conditions on and surrounding the subject property because the MetroPCS equipment would be co-located on an existing lattice tower which currently supports ham radio equipment. Due to the coverage needs of MetroPCS, co-location of the proposed antennas would not require an increase in the existing tower height. In addition, visual simulations of the proposed project indicate that the addition of two antennas to the existing support tower would not result in any significant adverse effects related to visual and aesthetic compatibility. Accordingly, the proposed co-location would be preferable to construction of a new monopole elsewhere in the vicinity, or co-location on the existing Sprint facility, which would require an increase in monopole height of approximately 10 feet. Finally, conditions of approval require that the antennas be painted a non-reflective, light gray color to blend with the sky against which they will be viewed, and associated equipment cabinets and fencing would be painted a dark green color to blend with surrounding vegetation. Based on these factors, the proposed project would be consistent with the visual and aesthetic standards contained in the TFPP and would not adversely impact views currently enjoyed from off-site locations.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.48.040 of the Marin County Code), as specified below.

**A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.**

Public utility and service uses may be approved by Use Permit pursuant to Section 22.48.040 of the Marin County Code when it is found to be necessary for public health, safety, convenience, or welfare. The telecommunications facility is part of the MetroPCS wireless communication network which provides wireless cellular and personal communication services to residents and businesses in Marin County and contributes to the overall public safety, convenience, and welfare.

**B. The proposed use is consistent with the Countywide Plan and applicable community plans.**

As described in Finding IV above, the proposed use is consistent with the Countywide Plan and the Black Point Community Plan.

**C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act.**

As described in Finding III above, the project complies with the California Environmental Quality Act and would not result in any significant, public health risks with respect to human exposure to radio frequency radiation because the facility will operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers.

**D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.**

The proposed project would be incidental to the primary residential use of the subject property and would not alter or impair the character of the site or the surrounding community.

**E. The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located.**

The proposed project would not alter or impair the character of the district in which it is located because the applicant proposes to co-locate the antennas on an existing lattice tower supporting ham radio equipment. Visual simulations of the proposed project indicate that the addition of two antennas to the

existing support tower would not result in any significant adverse effects related to visual and aesthetic compatibility. Accordingly, the project would not impair the architectural integrity and character of the governing zoning district.

**F. The granting of the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

As conditioned, granting the Use Permit on the subject property would not be detrimental to the public interest, health, safety, convenience, or welfare of the County of properties in the vicinity. The proposed project would be compatible with the existing low-density residential use of the property. As described above, the proposed facility would not exceed standards established by the FCC for human exposure to radio frequency emissions. Therefore, potential health impacts would be minimized. The project would maintain large setbacks to the nearest off-site residential uses and would not interfere with surrounding land uses, alter the character of the site, result in tree removal or significant grading, or create traffic or noise impacts on the community. In addition, the project would enhance public safety in the community by providing improved coverage for cellular phones, which are often utilized in emergency situations. The Findings in Section VI. A through E are also supportive of this finding.

**VII. WHEREAS, as modified by Conditions of Approval, the Marin County Deputy Zoning Administrator finds that the project is consistent with the mandatory findings to approve a Design Review, as specified in the Marin County Code Section 22.42.060 for the following reasons:**

The proposed telecommunications facility would not result in grading, tree removal, or other adverse physical impacts on the environment. The facility would be co-located with existing ham radio equipment on an existing 42-foot tall lattice tower on the subject property. Construction of the project would conform to a conditionally-permitted use in the governing zoning district as a public service use with public benefit, and would be situated solely on the subject property. Existing mature trees in the vicinity provide substantial screening for the support tower and would also screen the proposed equipment area from off-site views. In addition, conditions of approval require the two panel antennas to be painted a non-reflective, light gray color to blend with the sky against which they will be viewed, and associated equipment cabinets and fencing shall be painted a dark green color to blend with surrounding vegetation. It appears that the facility would not be readily visible from residences in the vicinity, which are generally located at lower elevations than the project site. Overall, the proposed facility would be compatible with existing low density residential uses in the area and would not conflict with the visual character of the subject and surrounding properties.

**SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Rosenberg (MetroPCS) Use Permit and Design Review (UP 08-10 and DR 08-32) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Sections 22.48 (Use Permit) and 22.42 (Design Review), the Rosenberg (MetroPCS) Use Permit and Design Review (UP 08-10 and DR 08-32) is approved to construct and operate a wireless telecommunications facility on a developed 3.1 acre property in the Blackpoint area of Novato. The project will include installation of two 56-inch panel antennas mounted on an existing 42 foot tall lattice tower which currently supports ham radio equipment owned and operated by the property owner. Also proposed is the installation of two associated equipment cabinets enclosed within a 150-square foot equipment area sited adjacent to the existing tower. As part of the project, an existing wooden ham radio pole located on the eastern portion of the property would be removed. The subject property is located at **100 Phillip Terrace, Novato**, and is further identified as Assessor's Parcel **157-091-45**.



2. Plans submitted for a Building Permit shall substantially conform to plans identified as “Exhibit A,” entitled, “Blackpoint Rosenberg, 100 Phillip Terrace, Novato” consisting of four sheets prepared by Baran Telecom and one sheet prepared by Hayes Land Surveying, received January 22, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall enter into a standard performance agreement with the County and post a suitable security in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site shall be returned to its pre-existing conditions.
4. PRIOR TO FINAL INSPECTION, the panel antennas shall be painted a non-reflective, light gray color to blend with the sky against which they will be viewed, and associated equipment cabinets and fencing shall be painted a dark green color to blend with surrounding vegetation. All metal work and fencing shall be an appropriately subdued, nonreflective color. Any changes to the approved exterior colors shall be submitted for review and approval by the Community Development Agency Director.
5. Exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, hooded, and directed downward to minimize visual effects on adjoining areas.
6. The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels which exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the Federal Communications Commission (FCC). In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law. The applicant shall demonstrate compliance by submitting a radio frequency report to the County within 90 days of the effective date of the standard or longer period as required by the applicant and subsequently approved by the Community Development Director. The radio frequency report shall determine conformance with the updated standard by calculating the EMF power levels of the approved facility in combination with other existing ambient sources.
7. This Use Permit may be revoked by the County should the approved facility, in combination with other existing ambient sources, exceed the updated EMF standard unless the location, design, and/or operation of the approved facility is modified to meet the updated standard. Modifications of the approved facility shall be submitted to the Community Development Agency to determine if amendments to these permit approvals are necessary. This condition shall not apply if the County is preempted by Federal and/or State law, rules or regulations from applying an updated EMF standard after the approved facility has been constructed.
8. The approved facility shall operate in compliance with the noise exposure standards contained in the Marin Countywide Plan. Normal testing and maintenance activities shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Sunday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use equipment that is audible from nearby locations may occur at all times. Back-up generators shall comply with the above-referenced noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.
9. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
10. All construction activities shall comply with the following standards:

A. Except for such non-noise generating activities, including but not limited to, painting, sanding, and sweeping, construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction shall be permitted on Sundays or the following holidays (New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving, Christmas). If the holiday falls on a weekend, the prohibition on noise-generating construction activities shall apply to the ensuing weekday during which the holiday is observed. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

B. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

11. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
12. This Use Permit/Design Review approval does not preclude the future approval of other telecommunications facilities on the subject property. The applicant shall cooperate with County effort to utilize the subject property for shared location or co-location in the future if it is technically feasible and would minimize adverse affects related to land use compatibility, visual resources, public safety, and other environmental factors addressed by CEQA.
13. This Use Permit is subject to revocation procedures contained in Section 22.120.030 of the Marin County Code in the event any terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the health, welfare of safety of persons residing or working in the neighborhood.
14. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant. Subject to prior written request by the applicant, the Director may administratively authorize changes or additions to the project that are determined to be minor and consistent with the findings herein.

### **SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit and Design Review approval by obtaining a Building Permit for the approved work and substantially completing all work before May 1, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit/Design Review shall be valid until **May 1, 2018**, unless the conditions of approval are violated, in which case the Use Permit may be revoked. **The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit.** Should the Use Permit expire without benefit of a renewal, all equipment, structure, and antennas shall be removed and the site shall be returned to its preexisting conditions. In the event that the terms of this Use Permit are violated or the approved use is carried on in such a manner as to adversely affect the health, welfare, or

safety of persons residing in the neighborhood, this Use Permit and Design Review approval could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on May 15, 2008.

**SECTION IV: ACTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 1st day of May, 2008:

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JOHANNA PATRI, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary