



MARIN COUNTY  
 COMMUNITY DEVELOPMENT AGENCY  
 ALEX HINDS, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR  
 COOLEY USE PERMIT RENEWAL**

Item No:	C1.	Application No:	EX 09-02
Applicant:	KTLN	Owner:	Porter Irrevocable Trust
Property Address:	O Mount Burdell, Novato	Assessor's Parcel:	125-120-03
Hearing Date:	October 16, 2008	Planner:	Scott Greeley

<b>RECOMMENDATION:</b>	<b>Approve with Conditions</b>
<b>APPEAL PERIOD:</b>	<b>October 30, 2008</b>
<b>LAST DATE FOR ACTION:</b>	<b>October 21, 2008</b>

**PROJECT DESCRIPTION:**

The applicant is requesting a Use Permit renewal to authorize the continued operation of the television broadcasting facility atop Mount Burdell. From this location KTLN broadcasts the digital channel DT 47 and analog station TV 68. No changes to the facilities are being considered at this time.

**GENERAL INFORMATION:**

Countywide Plan:	AG1 (Agriculture, 31-60 acre minimum lot size)
Zoning:	A-60 (Agriculture and Conservation, 60-acre minimum lot size)
Community Plan Area:	N/A
Lot size:	460-acres
Adjacent Land Uses:	Parkland and Agricultural
Vegetation:	Native grasslands and vegetation
Topography and Slope:	Moderately sloping
Environmental Hazards:	None

**ENVIRONMENTAL REVIEW:**

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15301, Class 1 of the CEQA Guidelines because it entails continuing a previously permitted use with no new expansion and would not result in potentially significant impacts to the environment.

**PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all

property owners within 600 feet of the subject property. No comments, adverse or otherwise have been received by staff in response to the public notice for the proposed project.

**PLAN CONSISTENCY:**

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan and Titles 22 (Zoning) and 24 (Development Standards) of the Marin County Code, because it will not result in tree removal, significant grading, or other adverse impacts on the environment and surrounding property owners. Please refer to the plan consistency findings contained in the attached resolution.

**RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Cooley Use Permit Renewal.

- Attachments:**
1. *Proposed Resolution recommending approval of the Cooley Use Permit Renewal*
  2. *CEQA Exemption*
  3. *Location Map*
  4. *Assessor's Parcel Map*
  5. *Project Plans*
  6. *Planning Commission Resolution, dated October 2, 1992*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 08-  
A RESOLUTION APPROVING THE COOLEY USE PERMIT RENEWAL  
0 MOUNT BURDELL, NOVATO  
ASSESSOR'S PARCEL 125-120-03

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**SECTION I: FINDINGS**

- I. WHEREAS, KTLN, the applicant, is seeking a Use Permit renewal which will authorize the continued operation of the television broadcasting facility atop Mount Burdell. From this location KTLN broadcasts the digital channel DT 47 and analog station TV 68. No changes to the facilities are being considered at this time. **The subject property is located at 0 Mount Burdell in Novato, and is further identified as Assessor's Parcel 125-120-03.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing October 16, 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 the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 of the CEQA Guidelines because it entails continuing a previously permitted use with no new expansion and would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
  - A. The project would be consistent with the AG1 (Agriculture, 31-60 acre minimum lot size) land use designation;
  - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. (CWP Policies Noise Policies NO-1.2, NO-1.3);
  - C. The project has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-3.1, EH-4.1, Community Design Policies DES-4.1, DES-5.1);
  - D. The project will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (Environmental Quality Policies EQ-2.19, EQ-2.20, Environmental Hazards Policy EH-8.6);
  - E. The project will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Bolinas Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers. (CWP Policies, Environmental Quality Policy EQ-3.9);

- F. No wetlands or stream conservation areas will be affected by the project (CWP Policies, Biological Resources BIO-3.1, BIO-4.1);
  - G. The project will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1, BIO-1.3, BIO-2.1);
  - H. The project will preserve community character (CWP Policies, Open Space OS-1.2, Agriculture and Food AG-1.6, Community Design DES-1.2, DES-4.c)
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Use Permit Renewal (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;**

The proposed project is a permitted conditional use for the A-60 zoning district and complies with all other applicable provisions of the Use Permit ordinance.
  - B. **The proposed use is consistent with the Countywide Plan and applicable Community Plans;**

The proposed project complies with the policies and permitted uses for the AG1 land use designation of the Countywide Plan.
  - C. **The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA);**

The proposed project has been determined to be Categorically Exempt from CEQA per Section 15301, Class 1 of the CEQA Guidelines because it entails no new expansion of the already permitted facilities.
  - 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 existing telecommunications facility sits atop Mount Burdell and is well concealed from view due to the parcel size, exterior colors utilized, and the satisfaction of the landscaping requirements made part of the original Use Permit conditions. No changes or additions have been proposed.
  - 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 is to renew a use permit for an existing facility. No changes in use or additions have been proposed. The proposed use is permitted with a Use Permit in the A-60 zoning district and mitigation measures to conceal the facility with location, landscaping, and exterior coloring to have it blend with its location were made part of the original Use Permit Conditions of Approval.
  - F. **That granting 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;**

The project is located at the top of Mount Burdell in Novato. The adjacent properties are parklands and similarly zoned, large lot, low density agriculturally-based properties. No changes or additions have been proposed to the telecommunications facility. The project has been determined to have no potential health risks based on its location, coupled with the type of telecommunications facilities which do not result in the generation of hazardous levels of non-ionizing electromagnetic radiation. Additionally, these facilities can be utilized to provide information during emergencies.

## **SECTION II: CONDITIONS OF PROJECT APPROVAL**

### Marin County Community Development Agency, Planning Division

1. The project shall substantially conform to plans identified as "Exhibit A.1," entitled, "Mount Burdell Telecommunications Facility Marin County," consisting of nine sheets prepared by Kenneth E. Carr & Associates, Civil Engineering Services, dated June 26, 1997 and received July 25, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. No trees shall be removed from the project site other than those identified for removal on the originally Planning Commission approved, October 12, 1992 landscape plan without prior authorization from the Planning Director.
3. All on-site tree trimming, cropping, and similar activities shall be conducted only under the on-site inspection of a licensed landscape architect or certified arborist.
5. All utility connections and extensions serving the project shall be installed underground.
6. Exterior lighting shall be directed downward, and located and/or shielded so as not to cast glare on nearby properties.
7. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul approval of the project, for which action is brought within the applicable statute of limitations.
8. 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.
9. Approval of the Mount Burdell Telecommunications Facility Use Permit and Design Review shall expire ten years from the date of project approval. Interim compliance inspections shall be conducted by the Planning Director in three and six years from project approval.

## **SECTION III: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the 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 October 30, 2008.**

**SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 16<sup>th</sup> day of October 2008.

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JOHANNA PATRI  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary