

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES**  
**Marin County Civic Center, Room #328 - San Rafael**  
**MEETING – December 11, 2008**

Hearing Officer      Johanna Patri, AICP

Staff Present:        Neal E. Osborne, Planner  
                             Johanna Patri, Senior Planner  
                             Lorene Jackson, Assistant Planner

Joyce Evans, Recording Secretary

Convened at 9:08 A.M.  
Adjourned at 10:09 A.M.

**December 11, 2008**

# Marin County Community Development Agency

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Brian C. Crawford, Director

## NOTICE OF DECISION

Applicant's Name: **TIMOTHY CROSBY**  
Application (type and number): Coastal Permit (CP 09-3)  
Assessor's Parcel Number: 199-205-01  
Project Location: 9 Ahab Drive, Muir Beach  
For inquiries, please contact: Neal E. Osborne, Planner  
Decision Date: December 11, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the December 11, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-33.

Marin County Community Development Agency

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Jeremy Tejrjian, AICP  
Hearing Officer

**C1. COASTAL PERMIT (CP 09-3): TIMOTHY CROSBY**

A proposal requesting construction of 1,589 square feet of additional floor area to an existing 2,058 square foot single-family residence on a 1.03-acre lot. The residence would have 3,647 square feet of floor area, resulting in an 8% Floor Area Ratio (FAR). The proposed additions would have a maximum height of 25 feet as measured from finished exterior average grade. The additions would have the following minimum setbacks from corresponding property lines: 30 feet front (north), 26 feet side (west), 20 feet side (east), and 138 feet rear (south). The additions would match the exterior of the existing residence with Cedar shingle siding and dark-brown and light-brown speckled composition shingle roofing. The subject property is located at **9 Ahab Drive, Muir Beach**, and is further identified as **Assessor's Parcel 199-283-09**.

In response to the Hearing Officer, planning staff, Neal Osborne, acknowledged receipt of additional comment letters and e-mails from neighbors included in his supplemental memorandum dated December 11, 2008. The neighbors commented regarding the proposed height and scale of the project, potential visual impacts, the large size of the residence on a steep property, and also requested a continuance to January 15, 2009 to allow for participation of a neighbor currently away on vacation.

The Environmental Coordinator changed the CEQA Categorical Exemption to the more appropriate Class 2 (Replacement or Reconstruction) instead of Class 1 (Existing Facilities) proposed to staff.

The public testimony portion of the hearing was opened.

The following project applicants spoke in favor of the project included:

Tim Crosby, owner; and  
Richard Beckman, project architect

Favorable elements of the project were noted including:

- No view impacts as demonstrated by photo's presented to the Deputy Zoning Administrator;
- Other views are blocked by plantings and houses rising above ridgeline;
- Section P4 Green Building Guidelines were used and the architect designed an addition for a multi-generational family and;
- The elevator will make it easier for older people who have trouble with stairs.

In response to the Hearing Officer, the applicant stated that he was not interested in a continuance to a future date.

Members of the public objecting to the project included:

Gordon Bennett, Sierra Club, Marin Group  
Dr. Deborah McDonald, neighbor  
Dr. Edward Hyman, neighbor

Detrimental elements of the project were noted including:

- A landscape screen should be required, with a long-term maintenance agreement to shield the project;
- Cumulative view impacts would substantiate the long-term views of the coastline and Pacific Ocean from the public trail on the west side of the property; and
- Redesign and dig into the hill or move the residence downslope to minimize view impacts to neighbors and from Ahab Drive.

The public testimony portion of the hearing was closed.

Staff responded to questions from the Deputy Zoning Administrator to clarify several points including, but not limited to the following:

- All legal noticing procedures have been followed through the newspaper and by mail United States Postal Service to surrounding property owners within 600 feet of the subject property.

The Deputy Zoning Administrator made several comments about the project, including but not limited to the following:

- The entitlement required for this project is only a Coastal Permit and therefore the local Coastal Program is the pertinent policy document and the Countywide Plan does not apply to this project;
- The Finding referring to consistency with the Countywide Plan policies will be removed;
- State law (Permit Streamlining Act) and County Code in Title 22 (Interim) require that a decision be made today unless the applicant asks for a continuance;
- The public views from the trail and Ahab Drive are a higher priority than personal views from neighboring homes; and
- The clerestory window is not absolutely necessary for light, and it should be removed from the western addition to reduce the height by 4 ½ feet.

The Deputy Zoning Administrator approved the project with the following modifications:

- SECTION 1: FINDINGS: IV. – Deleted;
- SECTION 2: CONDITIONS OF PROJECT APPROVAL: 1. Indicate that the project is being revised, except as modified herein; and
- SECTION 2: CONDITIONS OF PROJECT APPROVAL: New Condition of Approval 2 BEFORE ISSUANCE OF A BUILDING PERMIT, the project shall be revised to eliminate the clerestory window on the western addition and reduce the maximum height on the western addition by approximately 4 ½ feet.

The architect stated that the entire 33 feet of clerestory cannot be eliminated because there is a need for additional height where the stair and bathroom is proposed to accommodate vertical head clearance.

The Hearing Officer modified Condition of Approval 2 to allow a small portion of the clerestory window to be constructed, but only that area that is necessary to provide required vertical head clearance for the staircase, estimated to be 8 lineal feet.

The Hearing Officer concurred with staff's analysis including the modification of the Categorical Exemption to Class 2, and approved the Crosby Coastal Permit, based on the Findings and subject to the modified Conditions in the Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION 08-154**

**A RESOLUTION APPROVING THE CROSBY COASTAL PERMIT**

**ASSESSOR'S PARCEL 199-283-09**

**9 AHAB DRIVE, MUIR BEACH**

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**SECTION 1: FINDINGS**

- I. WHEREAS, the applicant is proposing to construct 1,589 square feet of additional floor area to an existing 2,058 square foot single-family residence on a 1.03-acre lot. The residence would have 3,647 square feet of floor area resulting with an 8% Floor Area Ratio (FAR). The proposed residence would have a maximum height of 25 feet as measured from finished exterior average grade. The additions would have the following minimum setbacks from corresponding property lines: 30 feet front (north), 26 feet side (west), 20 feet side (east), and 138 feet rear (south). The additions would match the exterior of the existing residence with Cedar shingle siding and dark-brown and light-brown speckled composition shingle roofing. The proposal includes a new Advantex septic system, and a 5,000 square foot geothermal energy storage field. The subject property is located at 9 Ahab Drive, Muir Beach, and is further identified as Assessor's Parcel 199-283-09.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 11, 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 15303, Class 3(a) of the CEQA Guidelines because it entails the construction of relatively large additions to a single-family residence and a upgraded septic system that would not result in significant grading or other adverse impacts on the environment.
- IV. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Muir Beach Community Plan because:
  - A. The project involves construction of additions and various improvements to an existing single-family residence, which is a principally permitted use on the property;
  - B. The project would not adversely impact the surrounding natural environment relative to vegetation, species habitats, or on-site drainage;
  - C. The project would maintain adequate off-street parking to accommodate the additions to the single-family residence as verified by the Marin County Department of Public Works; and

D. The project would not adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, access from Ahab Drive, and building design, and bulk.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Coastal Permit approval pursuant to the requirements and objectives of the Local Coastal Program, Unit I (§22.56.130I of the Marin County Code) as described below.

A. Water Supply:

The Muir Beach Community Services District will be able to serve water to the additions to the residence on the subject property, and has reviewed and recommended approval of the proposed project.

B. Septic System Standards:

Marin County Environmental Health Services regulates individual sewage disposal systems in the area of the subject property. Marin County Environmental Health Services has reviewed and recommended approval of the proposed project with a new Advantex system including abandonment of the existing concrete septic tank, installation of three fiberglass tanks, and multi-zone waste-flow pressure compensating looped dripline.

C. Grading and Excavation:

The subject property is 21% slope to 59% slope. The minor excavation for utility lines, foundation footings, piers, the septic system, and retaining walls would result in less than 100 cubic yards of excavation and fill. All grading and excavation work would be subject to the review and approval of the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements of Best Management Practices.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of archaeological sensitivity. However, the minor excavation proposed would not likely disturb cultural resources because most of the site has previously been developed. Project approval requires that in the event cultural resources are discovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate protection measures.

E. Coastal Access:

The project is located more than ¼-mile inland of the Pacific Ocean at an elevation of approximately 210 feet above sea level and would not impede coastal access.

F. Housing:

The proposed project would result in the addition of floor area to an existing single-family residence and would not result in removal of a building that provides housing opportunities for people of low or moderate income, and would not affect the availability of housing stock within the Muir Beach community.

G. Stream Conservation Protection:

The project site is not located near a creek or in an area subject to the streamside conservation policies of the Marin Countywide Plan or Local Coastal Program.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is located in an area of sensitive wildlife resources. Also, review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is located adjacent to the habitat area for the federally listed endangered Monarch Butterfly (*Danaus plexippus*). However, the project will have minimal impact to the value of the known habitat area because it involves the construction of additions to a single-family residence within the existing developed area of Muir Beach more than 1/2-mile from known nesting trees.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare, threatened, or endangered plant species. In addition, the relatively small-scale project on previously disturbed property would not have an adverse impact on the habitat of native plant communities.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline, and the proposed project would not result in adverse affects to the shoreline. The project would not require additional shoreline protection.



L. Geologic Hazards:

The project site is located within 3-miles of the San Andreas Fault Zone and would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building Inspection Division will determine seismic compliance with the Uniform Building Code. In addition, as a condition of project approval, the applicant shall execute and record a waiver of liability holding the County, other governmental agencies and the public, harmless of any matter resulting from the existence of geologic hazards or activities on the subject property or in the region.

M. Public Works Projects:

The proposed project does not entail expansion of public roads, flood control projects, or utility services.

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The project would be located in the upper portion of the property and would not result in adverse visual effects because a condition of approval modifies the project to reduce the length of the clerestory window on the western addition. The exterior materials would be unobtrusive brown natural cedar siding and trim, Forest Green and Chellea Blue window casing and door paint, and brown and tan speckled composition roof shingles. The lighting of the exterior would be of minimal lumen intensity for safety purposes only, and would be directed downward and hooded.

P. Recreation/Visitor Facilities:

The project site is not governed by VCR (Village Commercial Residential) zoning regulations, that would allow for a mixture of residential and commercial uses, and the project would have not affect on recreation or visitor facilities.

Q. Historic Resource Preservation:

The existing residence on the subject property was constructed within the last 30 to 40 years and is not historically significant.

## **SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Crosby Coastal Permit application as revised and modified herein, subject to the following conditions:

1. Pursuant to Marin County Coastal Zoning Code Sections 22.56.130I, this Coastal Permit approval permits the construction of 1,589 square feet of additional floor area to an existing 2,058 square foot single-family residence on a 1.03-acre lot. The residence would result in 3,647 square feet of floor area and an 8% Floor Area Ratio (FAR). The approval permits a residence with a maximum height of 25 feet as measured from finished exterior average grade (an elevation of 240 feet asl). The approval permits additions with the following minimum setbacks from corresponding property lines: 30 feet front (north), 26 feet side (west), 20 feet side (east), and 138 feet rear (south). The approval permits additions that would match the exterior of the existing residence with Cedar shingle siding and dark-brown and light-brown speckled composition shingle roofing. The approval permits a new Advantex septic system and a 5,000 square foot geothermal energy storage field. The subject property is located at 9 Ahab Drive, Muir Beach, and is further identified as Assessor's Parcel 199-283-09.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the project shall be revised to eliminate the clerestory window on the western addition and reduce the maximum height on the western addition by approximately 4 ½ feet, except where the clerestory provides necessary headroom above the staircase.
3. Except as modified herein, plans submitted for a Building Permit for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A, "Alterations and Additions to a Residence for Tim Crosby" consisting of 19 sheets prepared by Richard M. Beckman, Architect and eckman environmental, corp., date stamped October 17, 2008; and Exhibit B, "Exterior Building Material Samples".
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit Conditions of Approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by landslides, earthquakes, and other geologic actions. The Waiver of Public Liability shall be submitted to the Director for review and approval before recordation.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing trees to be saved in the vicinity of any area of trenching, excavation, grading, construction, materials storage, soil stockpiling, materials storage, or other construction activity. The construction fence is intended to protect existing trees during construction and shall remain in place until all construction activity is complete. To verify compliance with this condition, the applicant shall submit a copy of a plan of the temporary tree protection fence design and location, and site photographs confirming installation of the fencing to the Community Development Agency, Planning Division for review and approval.

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a "Certified" or better rating under the Marin Green Home: New Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Certified" or better rating.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front (north) property line and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building locations and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building locations in relationship to property lines.
9. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the building additions conform to the maximum roof ridge elevations (240 feet asl) that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans.
10. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: New Green Building Residential Design Guidelines.
11. All flashing, metal work and trim shall be an appropriately subdued, non-reflective color and all exterior lighting shall be the minimum lumen intensity for safety purposes only, downward directed, and hooded.
12. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
13. All soil disturbed by development of the project shall be reseeded with native, non-pyrophytic, groundcover or adequately stabilized with approved Best Management Practices to prevent soil erosion.
14. 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.
15. No trees, except those approved for removal with this project, shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent safety hazards to people and property.
16. Any new utilities proposed to serve the approved project shall be underground.
17. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified

archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

18. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. 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.
19. 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 an approval of (1,589 square feet of additional floor area to an existing 2,058 square foot single-family residence on a 1.03-acre lot, resulting in a 3,647 square foot residence with an 8% Floor Area Ratio [FAR]), for which action is brought within the applicable statute of limitations.
20. 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.
21. A defensible space zone (minimum of 30 feet to 100 feet) and Vegetation Management Plan (VMP) pursuant to the Wildland Urban Interface Ordinance is required. At a minimum, the VMP must contain a site plan showing the existing vegetation (including existing trees) and those proposed to be added and/or removed, the proposed structures with their defensible space zone delineated, plant types, and spacing. The VMP must also contain a list of proposed plants that are consistent with an approved (non-pyrophytic) plant list. Please see the Marin County Fire

Department Prevention Bureau Defensible Space Standard, which may be downloaded from our web site ([www.marincountyfire.org](http://www.marincountyfire.org)).

22. The defensible space stipulated in the Vegetation Management Plan must be provides and annual maintenance is required. Trees shall not be planted in a location that, when mature, said trees will contact overhead power lines. No pyrophytic plants shall be planted within 30 feet of the structure.
23. During the fire season, firewood must be stored inside a fully enclosed structure, or stored a minimum of 30 feet away from any building.
24. The LPG tank location must be approved by the Fire Department. Seismic bracing, seismic shutoff device or excess flow device per Marin County Building and Safety Division standards is required and must be maintained. The minimum defensible space requirement must be maintained – no combustible materials within 15 feet of any part of the tank.
25. Residential Sprinkler System (design approval and site inspection by the Marin County Building and Safety Division). As part of the sprinkler system installation, a spare sprinkler head cabinet containing two spare sprinkler heads, and the applicable sprinkler head wrench will be required prior to final approval of the sprinkler system.
26. Class “A” roofing design approval and site inspection by the Marin County Building and Safety Division.
27. Smoke detectors shall be installed in accordance with the Uniform Building Code.

#### Department of Public Works, Land Use and Water Resources

28. All Improvements shall conform to Title 24 of the Marin County code or as approved by DPW and the Fire Department.
29. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:
  - a. The plans shall be reviewed and approved by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer’s stamp and signature on the plans, or by stamp and signed letter.
  - b. A registered Engineer shall design all new site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer’s signature and stamp.
  - c. A separate Building Permit is required for site/driveway retaining walls with a height more than 4 feet (or 3 feet when backfill area is sloped, or has a surcharge).
  - d. Submit an Erosion and Siltation Control Plan. The Plan shall indicate the total acreage of site disturbance.
  - e. Plans must show any site work, such as grading, retaining walls, and drainage plan.
  - f. An Encroachment Permit shall be required for work within the road right-of-way.

Marin County Environmental Health Services

30. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall satisfy requirements of Chapter 18.06 in County of Marin Code to obtain an on-site sewage disposal construction permit from Environmental Health Services that is adequate for the proposed project pursuant to Septic Permit 08-14A.
31. The proposed technology for the alternative septic system will need to be monitored and maintained for the life of the system. A condition of the Permit-to-Install is that the property owner shall obtain an annual Operating Permit with the County of Marin Environmental Health Services Division.

Community Development Agency – Green Building Program

32. The applicants should attempt to maintain the natural drainage patterns on the site and utilize native, drought tolerant, and fire-resistant landscaping for erosion prevention due to the project's location on a steep hillside in the ecologically sensitive coastal zone. Plants native to northern coastal California shall constitute the landscaping palette.
33. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant must resubmit a signed copy of the New Green Building Design Guidelines Checklist marking each item with the point value claimed. Additionally, each item claimed on the Checklist should be indicated on the design plans where appropriate and applicable.

**SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Crosby Coastal Permit approval by obtaining a Building Permit and substantially completing all of the approved construction work before December 11, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it.

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, Marin County Civic Center, San Rafael, no later than 4:00 p.m. on December 18, 2008.

**SECTION 4: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 11th day of December, 2008.

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JEREMY TEJIRIAN  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary

# Marin County Community Development Agency

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Brian C. Crawford, Director

## NOTICE OF DECISION

Applicant's Name: **FRANCESCA VIETOR**

Application (type and number): Coastal Permit (CP 07-35) and Variance (VR 07-27)

Assessor's Parcel Number: 191-011-33

Project Location: 270 Laurel Road, Bolinas

For inquiries, please contact: Johanna Patri, Senior Planner

Decision Date: December 11, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the December 11, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-28.

Marin County Community Development Agency

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Jeremy Tejrjian, AICP  
Hearing Officer

## **C2. COASTAL PERMIT (CP 07-35) AND VARIANCE (VR 07-27): FRANCESCA VIETOR**

A proposal to legalize as-built remodeling of, and additions to, a 1,169 square foot permitted single-family residence, all built without County permits. The project consists of construction of approximately 978 square feet of additional living floor area on the main level, 212 square feet on the lower level and additional deck area. The project results in an approximately 2,147 square foot, four bedroom, three bath residence on the main level, with 1,173 square feet of deck area, 212 square feet of on the lower level and 149.3 square feet of understory. The project results in a floor area ratio (FAR) of 15% on the 15,330 square foot parcel. The resultant residence has a maximum height of 23.25 feet as measured from grade to the highest roof ridge. The project is proposed with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence and less than 1 foot to deck; and 9 feet rear (east). The project requires Variance approval for required yard setback exceptions because portions of the as-built living area is located as close as 9 feet from the rear (east) property line where 20 feet is required and a portion of the as-built deck area is located less than 1 foot from the side (north) property line where 7 feet is required. Sewage disposal is proposed to be provided by construction of a new alternative Class 1, four-bedroom on-site sewage disposal system. The subject property is located at **270 Laurel Road, Bolinas**, and is further identified as **Assessor's Parcel 191-011-33**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report

The public testimony portion of the hearing was opened.

Members of the public speaking included:

- Mark Hertzgaard, the applicant questioning the need to remove a portion of the pre-existing deck and requesting the name of the complainant.
- Gordon Bennett, requesting clarification of the alternative septic system design.

The public testimony portion of the hearing was closed.

The Deputy Zoning Administrator asked staff to respond to the public comments.

Staff response:

- All improvements done without permits by the previous owner were inherited by the new owner and, this application addresses and corrects preexisting conditions done without County approvals;
- Code Enforcements complaints are confidential and can not be divulged;
- The alternative design of the septic system was approved by the Board of Supervisors in January of 2008 and does not effect the Variance; and
- The Deputy Zoning Administrator clarified that the Variance can be granted for the entire structure including the legal non-conforming conditions and approved the project with the following modifications to the resolution:



- SECTION I: FINDINGS VII (A); Add “Due to existing lot size and soil conditions,” before “Construction of the new alternative drip dispersal on-site sewage disposal system.....”;
- SECTION I: FINDINGS VII (A); Add to the end of the sentence; “This Finding applies equally to the legal non-conforming portion of the residence.”;
- SECTION I: FINDINGS VII (D); Delete, and add “The granting of a Variance for the property does not authorize a use or activity, which is not otherwise expressly authorized by the particular zoning regulations governing such property as the use will remain a primary single-family residence, which is a principally permitted use allowed by the governing C-R0A:B-2 zoning district; and
- SECTION II; CONDITIONS OF PROJECT APPROVAL 1. Add to the end, “The Vietor Coastal Permit and Variance approvals apply to the 11-foot legal non-conforming rear yard setback exception for that portion of the residence approved by a County-issued building permit and constructed in 1959 and legalizes that portion of the residence that maintains an 11-foot rear (east) setback from the property line.”

In response to the applicant, staff stated that time is of the essence, and their request for a time extension can only be granted by Marin County Code Enforcement Division staff. A septic system has to be built as soon as possible.

The Hearing Officer concurred with staff’s analysis and approved the Vietor Coastal Permit and Variance, based on the modified Findings and subject to the modified Conditions in the Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION NO. 08-155**

**A RESOLUTION CONDITIONALLY APPROVING  
THE VIETOR COASTAL PERMIT AND VARIANCE  
270 LAUREL ROAD, BOLINAS**

**ASSESSOR'S PARCEL NO. 191-011-33**

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**SECTION 1: FINDINGS**

- I. WHEREAS Peacock Designs, on behalf of the owner Francesca Vietor, is requesting Coastal Permit and Variance approvals The applicant is requesting Coastal Permit and Variance approvals proposing to legalize “as-built” requesting Coastal Permit and Variance approvals proposing to legalize “as-built” remodeling of, and additions to, a 1,169 square foot single-family residence. The project consists of construction of approximately 978 square feet of additional living floor area on the main level, 212 square feet on the lower level and additional deck areas all built without County permits. The project results in an approximately 2,359 square foot residence consisting of 2,147 square feet of floor area (four bedrooms, three baths) on the main level, with 1,173 square feet of deck area, 212 square feet of floor area on the lower level and 149.3 square feet of understory (ceiling height less than 7.5 feet). The project results in a floor area ratio (FAR) of 15% on the 15,330 square foot parcel. The resultant residence has a maximum height of 23.25 feet as measured from grade to the highest roof ridge. The project is proposed with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence and less than 1 foot to deck; and 9 feet rear (east). The project requires Variance approval for exceptions to required yard setbacks because portions of the “as-built” residence is located as close as 9 feet from the rear (east) property line, where 20 feet is required by Code, and a portion of the “as-built” deck area is located less than 1 foot from the side (north) property line, where 7 feet is required. An existing propane tank and electrical meter, currently located on the adjacent property, will be relocated to the project site. Sewage disposal is proposed to be provided by construction of a new alternative Class 1, four-bedroom on-site sewage disposal system. The proposed sewage disposal design is alternative drip dispersal with pretreatment septic system approved by the Marin County Environmental Health Services. Water for the residence is provided by the Bolinas Community Public Utilities District (BCPUD) based upon an expanded water use permit that was approved by the BCPUD on June 20, 2007. The project includes a Landscape and Vegetation Management Plan. The property is located at **270 Laurel Road, Bolinas** and is further identified as **Assessor’s Parcel No. 191-011-33**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 11, 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(a) because it entails the legalization of additional square footage to an

existing single-family residence on a residentially developed parcel that required no tree removal and minimal excavation and resulted in no significant impacts on the environment.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent policies of the Marin Countywide Plan (CWP) that emphasize preservation of, and compatibility with, the surrounding natural resources and built environment as outlined below.
- A. The project is consistent with the governing *CWP Coastal Single-Family 5 (C-SF5) 2 – 4 dwelling units per acre land use designation (CWP Policy CD-8.6 and Community Development Map 7.11)*.
  - B. During the review process, environmental review pursuant to CEQA was conducted, including submittal of a “Geotechnical Evaluation” to assess the potential impact of the proposed development on natural resources and the environment and to assure protection of the sensitive woodland resources (*CWP Policy BIO-2.1*).
  - C. The project is consistent with *CWP* natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
  - D. The project complies with *CWP* natural systems policies supporting vegetation and wildlife disease management programs, limiting the impacts of Sudden Oak Death syndrome and other diseases harmful to native vegetation and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).
  - E. The project will not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
  - F. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the public open space east of the project site, or impact corridors for wildlife movement (*CWP Policies BIO-2.3 and BIO-2.4*).
  - G. No wetlands or stream conservation areas will be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
  - H. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
  - I. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application review (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
  - J. The project design and improvements ensure adequate fire protection (*CWP Policy EH-4.1*), removal of hazardous vegetation (*CWP Policy EH-4.2*), water for fire suppression (*CWP Policy EH-4.c*), defensible space and compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies*

*EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).

- K. The project will ensure that development in the rural area is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (*CWP Policy DES-1.2*).
  - L. The project will require energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
  - M. The project will preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).
  - N. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (*CWP Policy EN-1.c*).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Bolinas Community Plan and Gridded Mesa Plan for the reasons outlined below.
- A. The proposed project would not adversely impact the surrounding built environment relative to views from public viewing locations, access from Laurel Road, and building design, mass and bulk.
  - B. The subject property maintains adequate off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
  - C. The subject property would have adequate water supply and sewage disposal, as confirmed by the Bolinas Community Public Utilities District and the Environmental Health Services Division.
  - D. The project site is not located in an area of geologic hazards and as verified by a licensed geotechnical engineer, the proposed project is not subject to the provisions of the Bolinas Gridded Mesa plan's Bluff Erosion Zone policies.
- VI. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Coastal Permit (Section 22.56.130I of the Marin County Code) for the reasons outlined below.
- A. Water Supply:  
  
Water for the proposed residence would be provided by the Bolinas Community Public Utilities District (BCPUD), as confirmed by BCPUD staff.
  - B. Septic System Standards:  
  
The Marin County Environmental Health Services Division has reviewed and conditionally approved construction of a new septic permit for the proposed project.
  - C. Grading and Excavation:  
  
Construction of the "as built" project required minimal (less than 250 cubic yards) grading.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that much of Bolinas, including the subject property, is located in an area of archaeological sensitivity. However, the subject property was previously disturbed by the construction of the existing single-family residence, minimal grading is proposed, and the project is not likely to disturb cultural resources. Nonetheless, conditions of project approval would require that in the event cultural resources are discovered during site preparation or construction of this project, all work shall immediately be stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures to meet Local Coastal Program requirements.

E. Coastal Access:

The site is not located adjacent to a coastal area identified by the Local Coastal Program Unit I, where public access is desirable or feasible nor will the proposed project inhibit coastal access. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

F. Housing:

The proposed project consists of legalizing expansion of an existing single-family residence in a residential zone and would not result in the demolition or conversion of housing affordable to households of lower or moderate income.

G. Stream Conservation Protection:

This project site is not situated in an area subject to the streamside conservation policies as identified on the National Resources Map for Unit I of the Local Coastal Program.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area of sensitive wildlife resources. A review of the California Natural Diversity Database (NDDDB), prepared by the California Department of Fish and Game, indicates that the unlisted Ricksecker's Water Scavenger Beetle (*Hydrochara rickseckeri*) potentially exist within the vicinity of the subject property. The limited developments on the property, and minimal tree removal, would not result in significant impacts to Ricksecker's Water Scavenger Beetle habitat area. No significant or adverse impacts to the biological resources of the property would result from the project.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the NDDDB, prepared by the California Department of Fish and Game, indicates that the subject property is not located

in the habitat area for rare plant species. No significant or adverse impacts to the biological resources of the property would result from the project.

K. Shoreline Protection:

Marin County Code Section 22.56.130(K) restricts development within a certain distance of the bluff of Bolinas Mesa. However, the project site is not located adjacent to, or near, the shoreline or within the bluff erosion zone. The project site is located approximately 3/8 of a mile from the bluff. According to SalemHowes Associates Inc., Geotechnical Engineers and Geologists, based on a high and unrealistic bluff retreat rate of 1.25 feet per year, bluff retreat would not be expected to reach this location for an estimated 800 years.

L. Geologic Hazards:

The project site is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit I of the Local Coastal Program and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Earthquake (Alquist-Priolo) Special Studies Zone Map. The project site is approximately 3/4 mile west of the Earthquake (Alquist-Priolo) Special Studies Zone delineated along the San Andreas Fault Zone. The project site is not located within the Bluff Erosion Zone identified in the Bolinas Gridded Mesa Plan.

As with all properties in Bolinas, the project site would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building and Safety Division will determine seismic compliance with the Uniform Building Code during the plan check process.

M. Public Works Projects:

This proposed project does not entail expansion of public roads, flood control projects, or utility service and will not affect any public works projects.

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The height, scale, and design of the proposed structure would comply with the standards of the governing zoning and will be compatible with the established character of the surrounding community.

P. Recreation/Visitor Facilities:

The proposed project would not provide commercial or recreational facilities, and the project site is not governed by VCR (Village Commercial Residential) zoning regulations that require a mixture of residential and commercial uses.

Q. Historic Resource Preservation:

The subject parcel has been previously developed with a single-family residence that is in a state of disrepair. The proposed project is for an interior remodel and construction of a new rear yard deck and front porch that would be compatible the architectural character of the existing residence. Furthermore, the property is not located within the designated historic preservation boundaries for Bolinas as identified in the Marin County Historic Study for the Local Coastal Program.

VII. WHEREAS the Deputy Zoning Administrator finds: (a) mandatory findings to approve a Variance per Section 22.86.025(4)I of the Marin County Development Code (Title 22I) and Section 65906 of the California Government Code for the rear yard (east) setback of 9 feet, where 20 feet is required by County code can be made; but (b) mandatory findings to approve a Variance per Section 22.86.025(4)I of the Marin County Development Code (Title 22I) and Section 65906 of the California Government Code for the side yard (north) setback of less than 1 foot for a portion of the deck 18 inches above grade, where 7 feet is required by County code cannot be made as outlined below.

**A. Because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

This finding can be made for the rear (east) yard setback exception: The original residential development approved by the County in 1959 before current development standards with setbacks were established, is located 11 feet from the rear (east) property line, where 20 feet is required, resulting in a legal non-conforming condition as it relates to the rear yard setback. The soil conditions within the Bolinas area are such that require extensive land areas for primary as well as secondary leaching areas. Due to lot size and soil conditions construction of the new alternative drip dispersal on-site sewage disposal system, including leachfields, approved by the Marin County Environmental Health Services, can only be constructed in the front yard, immediately in front of the residence, thereby limiting additional square footage to be built at the front of the permitted 1,169 square foot residence. The additional floor area constructed at the rear of the residence with a setback of 9 feet and encroaching within the required 20-foot rear yard setback does not substantially result in altering the 11-foot legal non-conforming rear yard setback of the single-family residence approved by the County through the Building Permit process in 1959. Additionally, the current rear yard setback of approximately 9 feet provides ample setbacks from the uphill neighboring property and does not impact light, views, or privacy of the adjacent properties. This finding applies as well to the 11-foot legal non-conforming rear yard setback exception for that portion of the residence approved by a County-issued building permit and constructed in 1959.

This finding cannot be made for the side (north) yard setback exception: There is no unusual physical characteristic of the property or physical special circumstances associated with the property that would allow this finding to be made. The proposed "as-built" addition on the north side of the residence maintains a setback from property line of 11 feet with the side staircase extending 3 feet into the side yard setback, consistent with the required setbacks for the governing C-R-A-B-2 zoning district. However, the "as-built" deck is located less than one foot from the north side property line where the Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the

surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. Historically, the north side setback of that portion of the residence permitted in 1959 has been 17 feet. There is no special physical circumstance applicable to the project site that would allow the one-foot setback from the property line. There is a total square footage of approximately 1,173 square feet for the "as-built" deck and additional land area that would not require a Variance to setbacks is available for additional decking. Conditions of approval require that approximately 84 square feet of that portion of deck on the north side encroaching into the required 7-foot setback be removed, leaving approximately 1,089 square feet of decking, which is a substantial amount of deck area.

**B. The granting of a Variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.**

This finding can be made for the rear (east) yard setback exception: The granting of a Variance for the "as-built" portion of additional floor area with a rear yard setback of 9 feet, within the required 20-foot rear yard setback would not be detrimental to the adjacent property or other properties in the vicinity primarily. The legal, non-conforming setback of 11 feet has been in existence since 1959 and a portion of the addition with a setback of 9 feet has been in existence since 1999 with no apparent adverse impacts to surrounding properties. The legalization of these "as-built" encroachments into the rear yard setback do not result in significant additional bulk or mass to the existing residence. The granting of a Variance from the required rear yard setback results in the same setback plane as development that has historically existed on site, while allowing for modest improvements to the permitted residence.

This finding cannot be made for the side (north) yard setback exception: That portion of the "as-built" deck within the required side yard setback is excessive and is located only one foot from the property line, where Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. In addition, activities of the owners on this portion of the deck, this close to the neighboring property line, has the potential to impact the privacy of the neighboring property. In addition, for fire safety reasons, the Marin County Uniform Building Code mandates that any structures located closer than 3-feet to a property line be constructed using one-hour firewall rated materials. Therefore, the existing deck, located less than one-foot from the side property line will necessitate substantial armoring of the exterior façade and surface of the deck, and could also potentially require the construction of fire-proof underpinnings. Requiring removal of the deck encroachment will result in a structure that will not create negative visual or privacy impacts and would be in keeping with the rural character of the project site and surrounding area.

**C. The granting of a Variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.**

This finding can be made for the rear (east) yard setback exception: As discussed in Finding A above, the subject property has physical limitations and special circumstances that allow the required new septic system in accordance with Marin County Environmental Health Services requirements to be constructed only in the front yard, adjacent to the front of the residence, resulting in virtually the entire front yard area to be taken up by the septic system that is



needed to provide adequate sewage disposal. The Variance for the rear yard setback exception will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district. Granting this portion of the Variance would not constitute a granting of special privilege that is significantly inconsistent with the legal non-conforming condition. The existing County permitted residence with a legal non-conforming setback of approximately 11 feet has existed on site in its present location since 1959. The unpermitted portion of the residence that is 9 feet from the rear property line has been in existence since approximately 1999. The most recent addition (2006-2007) would maintain the same 11-foot legal non-conforming rear yard setback as the original 1959 residence.

This finding cannot be made for the side (north) yard setback exception: As discussed in Finding A above, there is no unusual physical characteristic of the property or physical special circumstances associated with the property that would demonstrate why this proposed setback exception would not constitute a grant of a special privilege as there is sufficient decking area without granting a Variance for additional square footage within the required setback. The “as-built” deck is located less than one foot from the north side property line where the Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. Historically, the north side setback of that portion of the residence permitted in 1959 has been 17 feet. There is no special physical circumstance applicable to the project site that would allow the one-foot setback from the property line.

**D. The granting of a Variance for the property does not authorize a use or activity which is not otherwise expressly authorized by the particular zoning district regulations governing such property.**

The granting of a Variance for the property does not authorize a use or activity, which is not otherwise expressly authorized by the particular zoning regulations governing such property as the use will remain a primary single-family residence, which is a principally permitted use allowed by the governing C-R-A:B-2 zoning district.

**SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Vietor Coastal Permit (CP 07-35) and Variance (VR 07-27) in accordance with the Marin County Development Code (Title 22I) Section 22.56.130 and Section 22.86.025(4)I respectively subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Vietor Coastal Permit and Variance approvals allow the legalization of “as-built” additions to a 1,169 square foot permitted single-family residence as follows:
  - a. Construction of approximately 978 square feet of additional living floor area on the main level;
  - b. Construction of approximately 212 square feet on the lower level;

- c. Construction of approximately 149.3 square feet of understory (ceiling height less than 7.5 feet); and
- d. Construction of approximately 1,089 square feet of deck area.
- e. The approved project shall result in a maximum 2,359 square foot residence resulting in a maximum floor area ratio (FAR) of 15.3% on the 15,330 square foot parcel, with a maximum height of 23.25 feet as measured from grade to the highest roof ridge.
- f. The project is approved with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence with a minimum setback of 7 feet to the deck; and 9 feet rear (east).
- g. The existing propane tank and electrical meter, currently located on the adjacent property, shall be relocated to the project site.
- h. Sewage disposal is approved for construction of a new alternative Class 1, four-bedroom on-site sewage disposal system with an alternative drip dispersal and pretreatment septic system approved by the Marin County Environmental Health Services.
- i. Water for the residence shall be provided by the Bolinas Community Public Utilities District (BCPUD) based upon an expanded water use permit that was approved by the BCPUD on June 20, 2007.
- j. The approved project includes the implementation of a Landscape and Vegetation Management Plan.

The Vietor Coastal Permit and Variance approvals apply to the 11-foot legal non-conforming rear yard setback exception for that portion of the residence approved by a County-issued building permit and constructed in 1959 and legalizes at portion of the residence that maintains an 11-foot rear (east) setback from the property line.

The property is located at **270 Laurel Road, Bolinas** and is further identified as **Assessor's Parcel No. 191-011-33**.

- 2. Except as modified herein, plans submitted for Building Permits shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as Exhibit A, received September 25, 2008 and entitled Vietor-Hertsgaard Residence, 270 Laurel Road, Bolinas, CA" prepared by Peacock Designs.
- 3. WITHIN 15 DAYS FROM THE DATE OF APPROVAL AND BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit one complete set of revised plans to the Director for review and approval, and incorporated as Exhibit A-1, that indicate the following modification:
  - a. Revised plan sets showing the removal of any components of the "as-built" deck structure (including piers and overhangs) closer than 7 feet to the side (north) property line.

4. WITHIN 30 DAYS FROM THE DATE OF APPROVAL, THE APPLICANT SHALL SUBMIT BUILDING PERMIT PLANS AND A BUILDING PERMIT APPLICATION FOR ALL WORK DONE ON THE APPROVED RESIDENCE WITHOUT BUILDING PERMITS, INCLUDING THE REMOVAL OF THE DECK AREA ENCROACHING INTO THE REQUIRED SIDE YARD SETBACK. THE SITE PLAN SHALL BE WET STAMPED BY A REGISTERED CIVIL ENGINEER VERIFYING THAT THE FINISHED DECK WILL BE A MINIMUM OF 7 FEET FROM THE NORTH PROPERTY LINE. AND THE REAR (EAST) SETBACK TO PROPERTY LINE IS A MINIMUM OF 9 FEET.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall:
  - a. Revise the Site Plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Variance Conditions of Approval as notes;
  - b. Show on the building permit plans all approved building setbacks indicating the minimum distance of the building from the nearest property line at the closest point; and
  - c. Submit a signed Statement of Conformance demonstrating that the project qualifies for "Gold" or better rating per Marin County Code Section 22.42.060. F., under the Marin Green Home: New Home Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Gold" or better rating. In addition, the Single Family Dwelling Energy efficiency Ordinance shall apply to this project.
6. Exterior lighting shall be permitted for safety purposes only, must consist of energy efficient, low lumen output, and low wattage fixtures, and must be directed downward and hooded to prevent glare for neighboring properties.
7. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. 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.
8. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.

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 roofing, siding, flashing, metal work and trim shall be an appropriately subdued, nonreflective color.
11. If archaeological resources are discovered during grading, trenching, or other construction activities all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director.
12. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
13. 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 an approval of the Schmidt Coastal Permit, for which action is brought within the applicable statute of limitations.
14. WITHIN 90 DAYS OF THE ISSUANCE OF THE BUILDING PERMIT, the applicant shall correct/complete all work in accordance with the approved building permit plans and the building permit application and call for a final inspection.
15. BEFORE FINAL INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a field survey of the side (north) and rear (east) property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks of 9 feet from the rear (east) property line and 7 feet to the deck at the side (north) property line and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked by stakes similar to batter boards that are installed at the foundation corners.
16. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a waiver of public liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic or flooding actions. The waiver of public liability shall be submitted to the Community Development Director for review and approval prior to recordation.

### Marin County Environmental Health Services

17. WITHIN 30 DAYS OF THE ISSUANCE OF THE BUILDING PERMIT, the applicant shall install the septic system, due to the fact the residence is currently operating with a substandard septic system. During the time of construction of the septic system, and until such time as the new septic system receives a final inspection from Environmental Health Services, the residence shall not be occupied. The septic contractor shall have the necessary licenses and experience in Marin County with installation of drip dispersal systems and also have the experience and knowledge to work in potential wet weather conditions, if necessary. BEFORE FINAL INSPECTION OF THE RESIDENCE, the property owner will be required to obtain an Operating Permit for the new septic system prior to calling for a final inspection by the Building Department.

### Marin County Department of Public Works

18. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and the Fire Department.
19. BEFORE ISSUANCE OF A BUILDING PERMIT the applicant shall comply with the following requirements:
  - a. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
  - b. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
  - c. A separate Building Permit is required for site/driveway retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge).
  - d. A registered Engineer shall design the drainage, and grading plans. Plans must have the engineer's signature and stamp.
  - e. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.

### Bolinas Fire Protection District

20. Address Sign: Street address to be posted where readily visible from Laurel Road. Sign to be of three inch minimum letters with 3/8" stroke and with background of contrasting color.
21. Fire Sprinklers: If required, design approval and site inspection completed by building department.
22. Smoke Detectors: Provide smoke detectors per UBC/UFC.
23. Roof: Design approval and site inspection completed by building department.
24. Vegetation: A defensible space zone (minimum 30-100 feet) is required. The defensible space zone must be in place prior to framing. Trees shall not be planted in a location that, when mature, will contact overhead power lines. Schedule site meeting with Fire Department prior to construction.

25. Structures: Construction and inspections per UBC and Marin County codes.
26. The LPG tank shall be secured to concrete foundation or by other methods to withstand failure of cylinder and associated plumbing which may cause propane release during a seismic event or land movement. Maintain thirty feet separation from all structures. It is recommended that propane tank be sited away from driveway so as not to interfere with access in the event of flame impingement which may cause tank to vent flames. Provide fifteen feet defensible space around propane tank.
27. Laurel Road shall remain open and accessible for emergency vehicles from project property to Alder Road year round and shall not be blocked by parking. Currently road is blocked with parking and overgrowth of vegetation.

Bolinas Community Public Utility District

28. The applicant shall comply with all District requirements prior to issuance of a final inspection

**SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Vietor Coastal Permit and Variance approval with the issuance of Building Permits and substantial completion of all the approved work in accordance with all required time frames contained in the Conditions of Approval, or all rights granted in these approvals shall lapse. The applicant may submit a written request for an extension of time for cause and the Director will review the request.

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 December 18, 2008.**

**SECTION IV: ADOPTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 11<sup>th</sup> day of December 2008.

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JEREMY TEJIRIAN, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Recording Secretary

# Marin County Community Development Agency

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Brian C. Crawford, Director

## NOTICE OF DECISION

Applicant's Name: **L. AND S. CORDA FAMILY LT**  
Application (type and number): Use Permit Renewal (EX 09-05)  
Assessor's Parcel Number: 125-130-04  
Project Location: 10300 Redwood Highway, Novato  
For inquiries, please contact: Lorene Jackson, Assistant Planner  
Decision Date: December 11, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the December 11, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-13.

Marin County Community Development Agency

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Jeremy Tejrjian, AICP  
Hearing Officer

### **C3. USE PERMIT RENEWAL (EX 09-05): L. AND S. CORDA FAMILY LT**

A proposal to renew a Use Permit for the continued operation of an existing unstaffed telecommunications facility on a portion of the Corda dairy farm. The existing facility is operating with two panel antennas located on a 15-foot high monopole. Each antenna currently measures 63 inches in height and 6 inches in width. The proposed project would replace these with two smaller and wider antennas measuring 51 to 53 inches in height and 11.8 to 6.8 inches in width respectively. Two existing Base Transmission Stations (BTS) located at the site are approximately 8 square feet in size and approximately 5-feet in height. A new MCPA signal amplifier that is approximately 26 inches wide, 25.8 inches high, and 9 inches deep will be flush mounted to the BTS Cabinet. All equipment is located within a cyclone and barbed wire fence enclosure that is approximately 6.5 feet in height. T-Mobile purchased the subject telecommunication facility from Cingular Wireless and has been operating the facility. With exception to the above, no other modifications are proposed for this facility. The subject property is located at **10300 Redwood Highway, Novato** and is further identified as **Assessor's Parcel 125-130-04**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer concurred with staff's analysis and approved the Corda Use Permit Renewal, based on the Findings and subject to the modified Conditions in the Resolution as noted below:

- SECTION I: FINDINGS VII: After "mandatory findings to....add, "renew the approved Use Permit...; and
- SECTION II: CONDITIONS OF APPROVAL in the first sentence, "NOW THEREFORE...." after Use Permit....add, "Renewal".

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.



MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 08-156

A RESOLUTION APPROVING THE RENEWAL OF THE  
CORDA (T-MOBILE) USE PERMIT (EX 09-5)  
10300 REDWOOD HIGHWAY, NOVATO  
ASSESSOR'S PARCEL 125-130-04  
\*\*\*\*\*

**SECTION I: FINDINGS**

- I. WHEREAS T-Mobile submitted an application to renew a Use Permit for the continued operation of an existing unstaffed telecommunications facility on a portion of the Corda dairy farm. The existing facility is operating with two panel antennas located on a 15-foot high monopole. Each antenna currently measures 63 inches in height and 6 inches in width. The proposed project would replace these with two smaller and wider antennas measuring 51 to 53 inches in height and 11.8 to 6.8 inches in width respectively. Two existing Base Transmission Stations (BTS) located at the site are approximately 8 square feet in size and approximately 5-foot in height. A new MCPA signal amplifier approximately 26 inches wide, 25.8 inches high, and 9 inches deep will be flush mounted to the BTS Cabinet. All equipment is located within a cyclone and barbed wire fence enclosure that is approximately 6.5 feet in height. With exception of the above, no other modifications are proposed for this facility. The subject property is located at **10300 Redwood Highway, Novato**, and is further identified as **Assessor's Parcel 125-130-04**.
- II. WHEREAS the original Corda Ranch Use Permit for the Cingular Wireless telecom facility was approved on September 26, 2002.
- III. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 11, 2008 to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15301, Class 1(b) of the CEQA Guidelines because the continued operation of an existing telecommunications facility would not result in environmental impacts. The applicant has submitted a report prepared by Hammett & Edison, Inc., dated October 1, 2008, which evaluates human exposure to radio frequency electromagnetic fields from the proposed modifications to existing telecommunications facility. The report concludes that the facility will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact to the public.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan due to the following factors:
  - A. The proposed project is consistent with the Agricultural (AG 1) land use designation for the project site and would not interfere with the existing agricultural uses of the property.
  - B. Pursuant to Public Facilities and Services Goal PFS-5, the proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan

and would ensure that the site and design of the proposed facility is compatible with other land uses, would provide protection from vandalism and fire hazards, would minimize visual impacts, and would minimize potential health risks to people. Additionally, as conditioned, the applicant is encouraged to share and consolidate to the greatest extent possible all needed facilities with other telecommunication site users, including buildings, access roads, parking areas, transmitters, towers, and antennas.

C. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

VI. WHEREAS 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. The telecommunications facility is located on a site currently used for agricultural purposes and is compatible with the rural character and use of the subject property and surrounding areas. The site is served by an existing access driveway, and the continued use of the facility would not require grading or tree removal, or result in other adverse environmental impacts. The project would not result in adverse visual impacts because existing landscaping and topography will screen the facility from off-site views and from U.S. Highway 101. Based on these factors, the facility is consistent with the location standards contained in the TFPP.

B. As part of a previous application, a Ridgeline Facility Plan was conducted to inventory existing wireless telecommunications facilities on the subject property and to explore opportunities to coordinate access, avoid signal interference, and consolidate facilities. The Plan found that the existing facilities have been clustered off a common driveway and would maintain ample separation to avoid interference of signals. The Ridgeline Facility Plan also explored alternative facilities configurations that involve resiting the facilities to achieve a tighter cluster and co-locating the facilities on one larger facility and concluded that the proposed shared use of the subject property for four separate and independent telecommunications facilities represents the preferred development scenario and would minimize the extent of visual and physical impacts on the environment. Specifically, co-location and/or consolidation of the facilities would result in larger and taller antennas (in order to minimize signal interference) which would be more visible from off-site locations, would potentially reduce the level of service by the individual carriers, or would require additional grading on the site. Continuation of the existing pattern of wireless telecommunications facilities on the subject property is consistent with the intent of the TFPP requirement by clustering the facilities in areas that are screened from off-site views, would be screened by existing landscaping, and would minimize signal interference.

C. The facility would allow T-MOBILE to continue to provide cellular coverage in the northern portion of the County near the County boundary with Sonoma County and would allow the carrier to continue to provide a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.

- D. The applicant has submitted reports prepared by Hammett & Edison, Inc., dated October 1, 2008, which concludes that the existing facility would not result in any significant risks with respect to human exposure to radio frequency fields because the existing facility, in conjunction with other telecommunication facilities on the property, would generate maximum ambient radio frequency levels that are below the applicable public exposure limit established by the Federal Communications Commission (FCC).
  - E. The facility does not create lighting impacts on surrounding areas because no exterior lights are proposed or required, either for the antennas or equipment building and adjoining areas.
  - F. Vehicular access for the proposed project site is provided from an existing private driveway which the facility shares with four other wireless telecommunications carriers on the subject property. Parking is available from relatively level areas off the driveway. No additional road or parking area construction would be required for the continued operation of the facility.
  - G. The project would not require removal of existing vegetation. Existing trees to the northwest of the facility provide the predominant screening of the facility from off-site views.
  - H. The facility is located in a rural area. 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. In addition, maintenance visits would occur no more than twice per month and would typically occur during the day, between 7:00 a.m. and 5:00 p.m. Therefore, the proposed facility would neither generate significant levels of noise nor traffic.
  - I. The facility does not significantly impair the visual conditions on and surrounding the subject property because the existing facility is painted in earth tones and is screened from off-site views by existing trees and the topography of the site.
- VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to renew an approved 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 the applicable provisions of this Chapter**

The proposed project would be incidental to the primary agricultural use of the subject property. Pursuant to Marin County Code Section 22.08.030, the construction and maintenance of communication facilities, such as the proposed project, are permitted in A-60 zoning districts.

Public utility and service uses may be approved in the governing Agricultural zoning district by Use Permit pursuant to Section 22.48.040(F) 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 T-Mobile network which provides wireless cellular and personal communication services to residents and businesses in Marin County and contribute to public safety, convenience, and welfare.

- B. The proposed use is consistent with the Countywide Plan and applicable Community Plans.**

Please see Section IV above.

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

Please see Section III above.

- 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 not result in significant adverse visual impacts because the existing facility would not be substantially modified and because: (1) the height of the monopole which supports two panel antennas would be limited to 15 feet above grade; (2) the facility would be screened by existing landscaping and topography; and (3) the antenna would be painted with an appropriate, non-reflective earth tone which blends with the predominant viewshed background.

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

Please see Section VI.D above.

- F. 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 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 set by the Federal Communications Commission (FCC). The grant of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood.

- VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from the requirements of Design Review as minor and incidental pursuant to Section 22.42.020(N) of the Marin County Code because the project consists of the continued operation of an existing facility replacing two existing antennas mounted on an existing 15-foot high monopole and would not require additional grading or tree removal, or result in adverse physical effects on the environment. The facility maintains large setbacks to all surrounding properties and would not interfere with the existing agricultural use of the property. In addition, the facility would be screened from off-site views by topography and existing landscaping.

## SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Corda (T-Mobile) Use Permit Renewal subject to the conditions as specified below:

### Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.48 (Use Permit) of the Marin County Code, the Corda (T-Mobile) Use Permit is approved for the continued operation of an existing wireless telecommunications facility on a portion of the Corda dairy farm. The existing facility is approved to consist of: 1) two panel antennas on a 15-foot high monopole (the new antenna will measure 51 to 53 inches in height and 11.8 to 6.8 inches in width respectively), 2) a Base Transceiver Station (BTS) that measures approximately 8 square feet and 5 feet in height, and 3) a new MCPA signal amplifier to be approximately 26 inches wide, 25.8 inches high, 9 inches deep, and flush mounted to the BTS Cabinet. All equipment shall remain located within a cyclone and barbed wire fence enclosure that is approximately 6.5 feet in height. With exception to the above, no other modifications are approved for this facility. The subject property is located at **10300 Redwood Highway, Novato**, and is further identified as **Assessor's Parcel 125-130-04**.
2. Development and use of the facility shall conform to plans identified as "Exhibit A," entitled "T-Mobile," consisting of 4 sheets prepared by Streamline Engineering, dated October 3, 2008, received October 7, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. The color of the new antenna, amplifier, and existing facility shall be maintained in a non-reflective earth tone which blends with the predominant viewshed background. Any future change to the approved exterior colors shall be submitted for review and approval by the Community Development Director.
4. The applicant shall continue to maintain an approved business plan or other required authorization for toxic and/or hazardous materials with the Department of Public Works - Office of Waste Management.
5. 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.

6. 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.
7. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. WITHIN 30 DAYS FROM THE DATE OF APPROVAL, the applicant shall enter into a standard performance agreement with the County and post a bond or other 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 preexisting conditions.
8. No exterior lights are permitted at the facility.
9. 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 or operation of telecommunications and maintenance equipment that is audible from nearby sensitive receptors 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.
10. This Use Permit Renewal approval does not preclude the future approval of other telecommunications facilities on the subject property. The applicant shall cooperate with County efforts 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.
11. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
12. The applicant shall hold harmless the County of Marin or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, and employees to attack, set aside, void, or annul, this approval by the County of the Corda (T-Mobile) Use Permit.
13. This Use Permit is subject to revocation procedures contained in Chapter 22.120 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

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

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit approval by complying with all conditions of approval by **December 11, 2010** or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Community Development Director approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid until **December 11, 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.

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, before **4:00 p.m. on December 29, 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 11th day of December 2008.

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JEREMY TEJIRIAN  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary