



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 BRIAN C. CRAWFORD, DIRECTOR

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

Item No:	C2.	Application No:	EX 09-4
Applicant:	Jason Osborne	Owner:	Ken Rosenberg
Property Address:	100 Manzanita Ave, Novato (also known as 100 Phillip Terrace, Novato)	Assessor's Parcel:	157-091-45 and -05
Hearing Date:	January 29, 2009	Planner:	Scott Greeley

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	February 12, 2009
LAST DATE FOR ACTION:	February 9, 2009

PROJECT DESCRIPTION:

The applicant, Jason Osborne, a representative of Crown Castle International, in collaboration with Sprint Nextel, has submitted an application to renew a previously approved Use Permit (UP 97-123) for the continuing operation of an unstaffed, wireless Personal Communication Services (PCS) facility on an existing monopole. The existing monopole has a height of 32 feet 6 inches and is located approximately 10 feet from the westerly property line. Assessor's Parcels 157-091-05 and -45 comprise one legal lot of record.

GENERAL INFORMATION:

Countywide Plan:	AG3 (Agricultural, one unit per 1 to 9 acres)
Zoning:	A-2 (Limited Agricultural District, 2 acre minimum lot size)
Community Plan Area:	Black Point
Lot size:	3.2 acres
Adjacent Land Uses:	Residential
Vegetation:	Mature oak and bay laurel woodland
Topography and Slope:	±15 percent slope in vicinity of project
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

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

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property. No comments, adverse or otherwise have been received by staff in response to the public notice for the proposed project.

PROJECT ANALYSIS:

The proposed project is a renewal to Use Permit 97-123 for continued operation of the existing on-site telecommunications facility. No new changes are being proposed. Presently, based on the Assessor's records, the site is located on Assessor's Parcel 157-091-45, which has no recognized address. The telecommunications facility has been accessed by a 40 foot private road easement called Phillip Terrace, which is the site address referenced by a previous use permit renewal for this telecommunications facility approved on October 26, 2006. The surrounding community also knows this telecommunications facility by this address.

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

As a condition of approval, to prevent future confusion upon review of this or adjacent sites, the applicant is required to apply for a change of address.

RECOMMENDATION:

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

- Attachments:**
1. *Proposed Resolution recommending approval of the Rosenberg Design Review/Use Permit Renewal*
 2. *CEQA Exemption*
 3. *Assessor's Parcel Map*
 4. *Project Plans*
 5. *Department of Public Works memo, dated October 24, 2008*
 6. *Environmental Health Services memo, dated October 28, 2008*
 7. *North Marin Water District memo, dated October 21, 2008*
 8. *Novato Fire Protection District memo, dated October 14, 2008*
 9. *Deputy Zoning Administrator Resolution, dated October 26, 2006*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 09-
A RESOLUTION APPROVING THE ROSENBERG DESIGN REVIEW/USE PERMIT RENEWAL
ASSESSOR'S PARCEL 157-091-45 and -05

SECTION I: FINDINGS

- I. WHEREAS, Jason Osborne, the applicant, a representative of Crown Castle International, in collaboration with Sprint Nextel, is seeking a Use Permit renewal which will authorize the continued operation of an unstaffed, wireless Personal Communication Services (PCS) facility on an existing monopole. The existing monopole has a height of 32 feet 6 inches and is located approximately 10 feet from the westerly property line. Assessor's Parcels 157-091-05 and -45 comprise one legal lot of record. **The subject property is identified as Assessor's Parcels 157-091-45 and -05.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing January 29, 2009 to consider the merits of the project and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 of the CEQA Guidelines because it entails continuing a previously permitted use with no new expansion and would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project would be consistent with the AG3 (Agricultural, 1 unit per 1-9 acres) land use designation;
 - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. (CWP Policies Noise Policies NO-1.2, NO-1.3);
 - C. The project has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-3.1, EH-4.1, Community Design Policies DES-4.1, DES-5.1);
 - D. The project will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (Environmental Quality Policies EQ-2.19, EQ-2.20, Environmental Hazards Policy EH-8.6);
 - E. The project will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Novato Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers. (CWP Policies, Environmental Quality Policy EQ-3.9);

- F. No wetlands or stream conservation areas will be affected by the project (CWP Policies, Biological Resources BIO-3.1, BIO-4.1);
 - G. The project will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1, BIO-1.3, BIO-2.1);
 - H. The project will preserve community character (CWP Policies, Open Space OS-1.2, Agriculture and Food AG-1.6, Community Design DES-1.2, DES-4.c)
- V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the 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 project entails the continued operation of an existing Personal Communication Services (PCS) facility. No expansion of the existing facility is proposed, and the project would renew a previously approved use that would not result in any new significant visual presence at the site. In a letter dated August 21, 2006, from the previous Use Permit extension (EX 06-15) the project applicant at that time indicated that the existing monopole is designed for co-location and that it was the intent of applicant to encourage co-location and clustering wherever possible. A condition of approval will limit the term of this Use Permit and require that other telecommunications carriers co-locate new facilities at the existing facility in future development applications. Based on these factors, the facility is consistent with the location standards contained in the TFPP.
 - B. The facility would allow the applicant, Crown Castle International, to provide continued cellular coverage in the northern portion of the 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.
 - C. The applicant has submitted an Electromagnetic Energy Survey prepared by Hammett & Edison, Inc., dated September 25, 2008. The report evaluated the existing conditions and RF emissions at the site. The report concludes that the RF emissions of the existing telecommunications facility are well below the maximum permissible exposure standards established by the FCC. Additionally, the antenna area would not be publicly accessible and, therefore, would not require mitigation to protect the public from exposure limits. The applicant has posted signage at the site that warns of exposure levels directly in front of the telecommunication facility antennae while the antennae are in operation and warns persons (including maintenance workers) about potential health risks. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.
 - D. The facility does not create significant lighting impacts on surrounding areas because no lighting is proposed for the site.
 - E. Vehicular access and parking for the proposed project site is provided from an existing road right-of-way. No additional road or parking area construction would be required for the operation of the facility.

- F. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With exception to routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property, therefore, the proposed facility would neither generate significant levels of noise nor traffic.
 - G. The facility does not significantly impair the visual conditions on and surrounding the subject property because the facility is painted to blend in with the surrounding vegetation, and no expansion of the existing facility is proposed. Additionally, the project would not require removal of existing vegetation which partially screens the facility from off-site views.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Use Permit Renewal (Section 22.48.040 of the Marin County Code) as specified below.
- A. **The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter;**

The proposed project is a permitted conditional use for the A-2 zoning district and complies with all other applicable provisions of the Use Permit ordinance and, as noted above in Finding V, the project is consistent with the Marin County Telecommunications Facilities Policy Plan (TFPP).
 - B. **The proposed use is consistent with the Countywide Plan and any applicable Community Plan and Local Coastal Program;**

As noted above in Finding IV, the proposed project complies with the policies and permitted uses for the AG3 land use designation of the Countywide Plan.
 - C. **The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA);**

The proposed project has been determined to be Categorical Exempt from CEQA per Section 15301, Class 1 of the CEQA Guidelines because it entails no new expansion of the already permitted facilities.
 - D. **The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity;**

The existing telecommunications facility is well concealed from view due to the parcel size, location, and surrounding natural landscaping. In addition, no changes or additions have been proposed.
 - E. **The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located;**

The proposed project is to renew a use permit for an existing Personal Communication Services (PCS) facility. No changes in use or additions have been proposed. The proposed use is permitted with a Use Permit in the A-2 zoning district. In addition, the facility is in a secluded location and the existing natural landscaping and exterior coloring to have it blend with its location, conceal from the surrounding and larger community and

should therefore not impact the architectural integrity or character of the zoning district or the community in which it is in.

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

The project is a renewal of a previously approved Use Permit. No changes or additions have been proposed to the Personal Communication Services (PCS) facility. As noted above in Finding IV, the project complies with the Marin County Telecommunications Facilities Policy Plan (TFPP) and has previously been determined to have no significant potential health risks based on its location, coupled with the type of PCS facilities which do not result in the generation of hazardous levels of non-ionizing electromagnetic radiation.

SECTION II: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. The applicant, Jason Osborne, a representative of Crown Castle International, in collaboration with Sprint Nextel, has submitted an application to renew a previously approved Use Permit and Design Review (UP 97-123 and DR 97-122) for the continuing operation of an unstaffed, wireless Personal Communication Services (PCS) facility on an existing monopole. The existing monopole has a height of 32 feet 6 inches and is located approximately 10 feet from the westerly property line. Assessor's Parcels 157-091-05 and -45 comprise one legal lot of record. The project shall substantially conform to plans identified as "Exhibit A," entitled, "Blackpoint," consisting of four sheets prepared by TRK Engineering, dated November 13, 2008 and received November 20, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. The applicant shall apply for an address on Assessors Parcel 157-091-45.
3. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site returned to its preexisting conditions.
4. No exterior lighting is approved on or in the vicinity of the antennas, supporting tower, equipment cabinets, or fencing as part of this application.
5. 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-reference noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.
6. All utility connections and extensions serving the project shall be installed underground.

7. This Use Permit is subject to revocation procedures contained in Section 22.120.030 of the Marin County Code. In the event any terms and/or conditions of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the health, welfare of safety of persons residing or working in the neighborhood.
8. All relevant Conditions of Approval for EX 06-15 adopted by the Deputy Zoning Administrator under Resolution 06-172 shall apply.
9. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul approval of the project, for which action is brought within the applicable statute of limitations.
10. 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.

SECTION III: APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit/Design Review shall be valid until **January 29, 2019**, 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, no later than **4:00 p.m. on February 12, 2009**.

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 29th day of January 2009.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary