



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 ALEX HINDS, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Oxfoot Associates LLC (Verizon Wireless) Coastal Permit, Use Permit and Design Review

Item No:	C1	Application No:	CP 08-39, UP 08-10, DR 08-37
Applicant:	NSA Wireless (for Verizon Wireless)	Owner:	Oxfoot Associates
Property Address:	37 Cypress Ave, Dillon Beach	Assessor's Parcel:	100-050-42
Hearing Date:	March 12, 2009	Planner:	Veronica Corella-Pearson

RECOMMENDATION:	Approve With Conditions
APPEAL PERIOD:	5 calendar days to Planning Commission
LAST DATE FOR ACTION:	May 12, 2008

PROJECT DESCRIPTION:

The applicant, NSA Wireless, has applied on behalf of the owner, Oxfoot Associates (Verizon Wireless), for approval to install a wireless facility at Lawson's Resort. The mechanical equipment for the facility would be located within an existing shed in the southern portion of the café. The antennas would be disguised within a faux chimney on the southern most portion of the roof ridge. The chimney would reach a maximum height of 33.75 feet above grade, five feet above the roof ridge height of the building. Also proposed is: 1) a new 60-kilowatt generator on an 11 foot by 15 foot concrete slab with a 6 foot tall chain link fence, and 48 inch tall concrete bollards surrounding the outside; 2) relocation of an existing 30 square foot shed approximately 8 feet south of the proposed generator; and 3) an electrical trench from the wireless facilities to a new wireless utility pull box in the southeast corner of APN 100-141-01, which would be approximately 150 feet long.

GENERAL INFORMATION:

Countywide Plan:	C-RC (Coastal, Recreational Commercial)
Zoning:	C-RCR (Coastal, Resort and Commercial)
Lot size:	100-141-01: 0.36 acres 100-141-12: 4.42 acres
Adjacent Land Uses:	Single-family residential and recreation
Vegetation:	Non-native ornamentals, Eucalyptus, and native perennial shrubs
Topography and Slope:	Level gradient on APN 100-141-01 to steeply sloping on APN 100-141-12
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because the project entails the installation and operation of a new telecommunications facility, within an existing structure, which would not result in grading, tree removal, or other potentially significant impacts on the environment. Additionally, a report prepared by Hammett and Edison, Inc. dated October 26, 2007 concludes

that the proposed project would not result in any significant risks with respect to human exposure to radio frequency fields emitted by the proposed telecommunications facility.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accordance with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. Since notification, staff has received one call from a nearby neighbor with concerns regarding potential visual impacts from the proposed chimney. Staff visited the site on February 27, 2009, to view the erected storey poles and found that the chimney is located next to an existing vent that is similar in height and size, and would occupy an insignificant amount of the viewshed from neighboring residences. Further, as proceeding along Beach Avenue, towards or away from the site, there are no views of the beach or Tomales Bay. Therefore, the proposed location of the chimney would not result in significant visual impacts from public lands, or rights of way, nor would it significantly impair views of Tomales Bay and Dillon Beach from nearby residences,

PLAN CONSISTENCY:

The project is consistent with the goals and policies of the Marin Countywide Plan, and the Marin County Telecommunications Facilities Policy Plan. Please refer to the plan consistency findings contained in the attached Resolution.

BACKGROUND:

Existing Condition

Verizon Wireless is a public utility licensed by the Federal Communications Commission to operate wireless communication facilities in California. As described above, the proposed project entails the construction of a new telecommunications facility within an area of existing development. According to carrier coverage area maps submitted by the applicant, the proposed facility would serve an existing gap in Verizon Wireless' coverage area in the town of Dillon Beach, and approximately 2.5 miles south and 1.3 miles to the north.

History

The project would be located at Lawson's Resort, which is developed with an existing structure that has historically been used for commercial and residential purposes. In 1992, approval was obtained for the conversion of existing living space on the lower level to a café and in 2004 for a walk-in cooler on the existing lower deck. The property also contains 25 mobile homes situated along the northwestern end of APN 100-141-12. Staff has been unable to locate permits for these structures and is unsure of the adequacy of the existing water supply and septic system. Because the proposed project is independent of the non-permitted mobile home use of the property, staff recommends that the hearing officer approve this project with a condition which notes that these mobile homes may not be legal and are not permitted by this action. In addition, the telecommunication facilities would be located within the café store, on the southern portion of the building which spans across APN's 100-141-01, and 100-141-12, for which original planning or building permits have not been located. The proposed project would result in the proposed antenna being bisected by the property line, while the equipment shed with the proposed wireless equipment would be located on Assessor's Parcel 100-141-12.

Therefore it is recommended that a condition of approval be added requiring that prior to issuance of a building permit for the proposed project, the applicant receive Lot Line Adjustment approval to adjust the property lines of APN 100-141-01 and -12, so that the café with the proposed antenna, and the attached shed are located entirely on APN 100-141-01.

PROJECT ANALYSIS:

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

Land Use Compatibility

The Marin County Telecommunications Facilities Policy Plan states that wireless telecommunications facilities should be sited to avoid or minimize land use conflicts and establishes a general preference for the location of wireless facilities in commercial properties or industrial area, in a manner that minimizes or avoids land use conflict. The TFPP also recommends using stealth design to minimize or avoid visual effects by integrating antennas and other telecommunication equipment into the design of existing buildings and other structures so they are essentially invisible or not readily recognizable to the casual observer. Further, the TFPP encourages minor facilities in commercial zones where they are located and designed in a manner that does not substantially diminish the built and natural environments.

The proposed project is located on a site that is zoned C- RCR (Coastal, Resort Commercial) and the project would be located within an existing building. All equipment would be located within an existing shed on the southern portion of the building, and would be flanked by the parking lot on the eastern and western sides, with the rear (south) facing a grove of Eucalyptus trees. The wireless equipment would be mounted on a new concrete slab placed within an existing shed and the antennas would be mounted on the roof and would be contained within a new faux chimney, which would be finished in lap siding to match the materials of the building. Visits to the site would be on a monthly or bi-monthly basis by a cellular site technician for routine maintenance. The project would be conditioned so that any maintenance or testing activities would occur between the hours of 7:00 am to 5:00 pm, excluding emergency repairs. Therefore, the proposed facility would not generate significant levels of noise or traffic. Based on these factors, the facility is consistent with the location and land use compatibility standards contained in the TFPP.

Visual and Aesthetic Compatibility

Visual and aesthetic compatibility policies contained in the TFPP specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. As described above, the project locates all wireless equipment within the shed of the existing building and the applicant has utilized a stealth design by locating the antennas within a faux chimney, which would have a maximum height of 5 feet above the ridge height of the existing building, and would have a width of 5 feet by 4 feet, and would be finished with lap siding, similar to that on the building. The new generator, pad, and fencing will be to the rear (south) of the building and has minimal visibility to the public. The project would maintain large setbacks to adjacent residences as follows: 115 feet from the nearest residence to the north, 200 feet from the nearest residence to the south, 160 feet from the residence to the east, and the project is backed by the beach to the west, and as mentioned above the chimney is located next to an existing vent that is similar in height and size, and would occupy an insignificant amount of the viewshed from neighboring residences. Further, as proceeding along Beach Avenue, towards or away from the site, there are no views of the beach or Tomales Bay. Therefore, the proposed location of the chimney would not result in significant visual impacts from public lands, or rights of way, nor would it significantly impair views of Tomales Bay and Dillon Beach to nearby residences,

Electromagnetic Field Emissions

The TFPP states that telecommunication facilities should be sited and designed to minimize potential health risks from electromagnetic (EMF) radiation. To ensure compliance with adopted public health standards, telecommunications facilities shall not generate EMF radiation in excess of the standards for permissible human

exposure to EMF as adopted by the Federal Communications Commission. As part of their application, the applicant has submitted a report prepared by Hammett & Edison Inc., dated October 27, 2007, which concludes that the facility would not result in any significant risks, with respect to human exposure to radio frequency, because at the nearest ground level locations on the property, the proposed Verizon Wireless antennas would generate maximum ambient radio frequency levels that are 2.7% of the applicable public exposure limit established by American National Standards Institute and the Institute of Electrical and Electronic Engineers. The maximum calculated level at the second-floor elevation of the building is 32% of the public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence is 6.8% of the public limit. Since radio frequency levels decrease with distance, the levels expected at off-site locations would be even less. Therefore, the proposed facility would be consistent with standards contained in the TFPP regarding electromagnetic field emissions.

Public Safety and Operation Effects

TFPP policies require that telecommunications facilities be constructed, maintained and operated in a manner that does not adversely affect public safety or result in noise or traffic impacts on surrounding land uses. The proposed facility would be surrounded by fencing to prevent unauthorized access or vandalism. In addition, conditions of approval require that the facility be dismantled and removed if it has been inoperative or abandoned for over a year. As described above, noise levels associated with the operation of the facility would not exceed the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician on a monthly or bi-monthly basis, the facility would not generate traffic trips to the property. Therefore, the proposed facility would not result in noise or traffic impacts to surrounding properties. Based on these factors, the facility is consistent with public safety and operational standards contained in the TFPP

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Oxfoot Associates (Verizon Wireless) Coastal Permit (CP 08-39), Use Permit (UP 08-10) and Design Review (DR 08-37) subject to the recommended conditions of approval.

- Attachments:
1. Proposed Resolution recommending approval of the Oxfoot Associates (Verizon Wireless) Coastal Permit, Use Permit and Design Review
 2. CEQA Exemption
 3. Location Map
 4. Site Survey
 5. Overall Site Plan 1
 6. Site Plan
 7. Project Area Plan
 8. Elevations
 9. Generator Specifications
 10. Visual Simulation (view looking west from Beach Road)
 11. Visual Simulation (view looking east from Beach Road)
 12. Map of all Marin County Cell Sites
 13. Map of Existing Coverage of Dillon Beach
 14. Map of Proposed Coverage of Dillon Beach
 15. Department of Public Works, Land Development memo, 3/2/08
 16. Department of Public Works, Radio Shop, email, 3/5/09

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE
OXFOOT ASSOCIATES (VERIZON WIRELESS) COASTAL PERMIT (CP 08-39), USE PERMIT (UP 08-10),
AND DESIGN REVIEW (DR 08-37)
ASSESSOR'S PARCEL 100-141-01, AND 100-141-12
37 CYPRESS AVENUE, DILLON BEACH

SECTION I: FINDINGS

- I. WHEREAS, The applicant, NSA Wireless, has applied on behalf of the owner, Oxfoot Associates (Verizon Wireless), for approval to install a wireless facility at Lawson’s Resort. The mechanical equipment for the facility would be located within an existing shed in the southern portion of the café. The antennas would be disguised within a faux chimney on the southern most portion of the roof ridge. The chimney would reach a maximum height of 33.75 feet above grade, five feet above the roof ridge height of the building. Also proposed is: 1) a new 60-kilowatt generator on an 11 foot by 15 foot concrete slab with a 6 foot tall chain link fence, and 48 inch tall concrete bollards surrounding the outside; 2) relocation of an existing 30 square foot shed approximately 8 feet south of the proposed generator; and 3) an electrical trench from the wireless facilities to a new wireless utility pull box in the southeast corner of APN 100-141-01, which would be approximately 150 feet long. The subject property is located at **37 Cypress Avenue, Dillon Beach**, and is further identified as Assessor's Parcel **100-141-01 and 100-141-12**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 12, 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 this project is Categorical Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines, because the project entails the installation and operation of a new telecommunications facility which would not result in a significant amount of grading, tree or vegetation removal, or other potentially significant impacts on the environment. Additionally, a report prepared by Hammett and Edison, Inc. dated October 26, 2007 concludes that the proposed project would not result in any significant risks with respect to human exposure to radio frequency fields emitted by the proposed facility.
- 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 is consistent with *CWP* natural systems policies and proposes no work that requires 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*).
 - B. The project complies requires no work that proposes the removal of vegetation and therefore complies with *CWP* natural systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).

- C. The project will not result in impacts to special-status species since the site was visited by a biologist and no habitat supporting listed species would be removed, nor where the species themselves found (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - D. 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 private open space adjacent to the project site, or impact corridors for wildlife movement since it proposes no vegetation removal and proposes minor construction (*CWP Policies BIO-2.3 and BIO-2.4*).
 - E. No wetlands or stream conservation areas will be affected by the project since there are none within the project site (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - F. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff since no major grading or excavation is proposed (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - G. 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*).
 - H. The project design and improvements ensure adequate fire protection (*CWP Policy EH-4.1*), water for fire suppression (*CWP Policy EH-4.c*), defensible space, and will be reviewed during the building permit process to be in 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*).
 - I. The project has been designed to be 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*).
 - J. The project as conditioned will minimize exterior lighting to reduce light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
 - K. 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*).
- V. 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 TFPP policies require that telecommunications facilities be constructed, maintained and operated in a manner that does not adversely affect public safety or result in noise or traffic impacts on surrounding land uses. The proposed facility would be surrounded by fencing to prevent unauthorized access or vandalism. Noise levels associated with the operation of the facility would not exceed the ambient noise levels, and as conditioned the site would only be visited during the hours of 7:00 am to 5:00 pm, except during emergency situations, and the site would only be visited for routine maintenance visits by a cellular site technician on a monthly or bi-monthly basis. Therefore, the proposed facility would not result in noise or traffic impacts on surrounding properties.
 - B. The facility would allow Verizon Wireless to provide improved cellular coverage in the Dillon Beach area 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 a report prepared by Hammett and Edison, Inc., dated October 26, 2007, which concludes that the proposed project would not result in any significant risks, with respect to human exposure to radio frequency fields. Radio frequency emissions of the proposed telecommunications facility would be 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. 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, and conditions of approval specify that exterior lighting shall be permitted for safety purposes only and shall be manually operated, low wattage, hooded, and directed downward to minimize visual effects. Based on these factors, the project would be consistent with the visual or aesthetic compatibility standards contained in the TFPP.
- E. Vehicular access is available off of Beach Avenue, and parking is available on site, and no additional road or parking area construction would be required for the operation of the facility.
- G. The project does not significantly impair the visual conditions on and surrounding the subject property because the facility maintains large setbacks to property lines and adjacent neighbors and the chimney is located next to an existing vent that is similar in height and size, and would occupy an insignificant amount of the viewshed from neighboring residences. Further, as proceeding along Beach Avenue, towards or away from the site, there are no views of Tomales Bay or Dillon Beach. To ensure that the facility would not result in lighting impacts on surrounding areas, conditions of approval specify that exterior lighting shall be permitted for safety purposes only and shall be manually operated, low wattage, hooded, and directed downward to minimize visual effects. Based on these factors, the project would be consistent with the visual or aesthetic compatibility standards contained in the TFPP.

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

A. Water Supply:

The proposed telecommunications facility would not need water service and therefore would not impact existing water supply to the subject property.

B. Septic System Standards:

The proposed telecommunications facility would not need septic service and therefore would not impact existing septic systems on the subject property.

C. Grading and Excavation:

The only grading required is minor excavation for the electrical lines from the existing building to the joint pole, which has been reviewed by the Marin County Department of Public Works, Land Use and Water Resources. Therefore, the project would not result in significant grading or excavation.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. A historical report was provided, which compiled information from a ½ mile radius search around the project, conducted by the Northwest Information Center (NWIC), at Sonoma State University on June 4, 2007 and no known recorded prehistoric resources within the project site were found, nor were any within a half-mile radius around the project area. However in the event that cultural resources are discovered, 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 not located between the sea and the first public road or adjacent to a coastal area as identified by the Local Coastal Program, Unit II where public access is desirable or feasible. The site is located above a steep slope and during routine field inspection staff found no evidence of historic public use of this site, and found that the site is not located near any tidelands or submerged lands subject to the public trust doctrine, and therefore this section is not applicable.

F. Housing:

The proposed telecommunications facility would not affect the availability of housing stock within the Dillon Beach community since there project does not propose to eliminate or add additional housing.

G. Stream Conservation Protection:

The proposed project site is not located in an area subject to the streamside conservation policies of the Marin Countywide Plan and Local Coastal Program, Unit II, and therefore this section is not applicable.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit II of the Local Coastal Program, and therefore this section is not applicable.

I. Wildlife Habitat:

Review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, and a review by a consulting biologist indicates that the subject property has potential habitat for bumblebee scarab beetle, monarch butterfly, black swift, myrtles silverspot, great blue heron, and great egret. However, after a review of available data, and a site visit, it was determine that the project would not result in any adverse impacts to listed or rare species.

J. Protection of Native Plant Communities:

Review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, and a review by a consulting biologist indicates that the subject property has potential habitat for Blasdale's bent grass, Point Reyes bird's beak, wooly-headed spineflower, San Francisco Bay spineflower, and Tidestrom's lupine. However, after a review of available data, and a site visit, it was determine that the project would not result in any adverse impacts to listed or rare species.

K. Shoreline Protection:

The project site is not located adjacent to the shoreline or within a bluff erosion zone.

L. Geologic Hazards:

The project site has a Slope Stability Rating of 1 and is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit II of the Local Coastal Program. Further, the subject property is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Alquist-Priolo Special Studies Zone Map.

M. Public Works Projects:

The proposed project does not entail expansion of public roads, flood control projects, or utility services, therefore this section is not applicable.

N. Land Division Standards:

No land division is proposed as part of this project, therefore this section is not applicable.

O. Visual Resources:

The proposed project would not adversely impact visual resources on and surrounding the subject property because the project locates all wireless equipment within the shed of the existing building and the applicant has utilized a stealth design by locating the antennas within a faux chimney, which would have a maximum height of 5 feet above the ridge height of the existing building, and would have a width of 5 feet by 4 feet, and would be finished with lap siding similar to that on the building. The equipment shed is flanked by the parking lot on the eastern and western sides, with the rear (south) facing a grove of Eucalyptus trees, and would have minimal visibility. Further, conditions of approval specify that any future exterior lighting shall be permitted for safety purposes only and shall be manually operated, low wattage, hooded, and directed downward to minimize visual effects.

P. Recreation/Visitor Facilities:

The proposed telecommunications facility would improve cellular phone coverage for both residents and visitors in the Dillon Beach area.

Q. Historic Resource Preservation:

The project is not located within the designated Historic Preservation Area, and therefore is consistent with Historic Resource Policies of the Local Coastal Program.

R. Fire Protection:

Project approval requires that prior to final inspection, the applicant shall comply with all requirements of the Marin County Fire District.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88I of the Marin County Code), as specified below.

- A. Public utility and service uses may be approved by Use Permit pursuant to Section 22.88.020I 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 Verizon Wireless communication network which provides wireless cellular and personal communication services to residents and businesses in Marin County and contributes to the overall public safety, convenience, and welfare.
- B. The proposed project would be consistent with policies of the Marin Countywide Plan and TFPP Plan as described in Section V above.
- C. The project complies with the California Environmental Quality Act and would not result in any significant, public health risks with respect to human exposure to radio frequency radiation because the facility will operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers.
- D. The proposed project would not result in significant adverse visual impacts since it would maintain large setbacks to property lines and to adjacent residences as follows: 115 feet from the nearest residence to the north, 200 feet from the nearest residence to the south, 160 feet from the residence to the east, and is backed by the beach to the west.
- F. The proposed facility would be surrounded by fencing to prevent unauthorized access or vandalism. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician on a monthly or bi-monthly basis, the facility would not generate traffic trips to the property. Therefore, as conditioned, granting the Use Permit on the subject property would not be detrimental to the public interest, health, safety, convenience, or welfare of persons working or residing in the surrounding neighborhood.

IX. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the following mandatory findings to approve a Design Review application (Marin County Code Section 22.82.040) for the following reasons:

A. It is consistent with the countywide plan and any applicable community plan and local coastal program;

Section 22.57.153I for the C-RCR (Coastal Resort and Commercial Recreation District) requires Design Review for the design, site preparation and use of the project to implement the goals and policies of the Local Coastal Plan, the Marin Community Plan and any applicable community Plan. Therefore, there are not height, size, or setback requirements for which the chimney and antenna addition needs to comply with, nevertheless Marin County Interim Code 22.70.040I, allows for exceptions to the height limit to allow for chimneys, and radio and utility towers. Therefore, the project complies with the requirements of the C-RCR zoning district. The project also complies with the requirements of the Countywide Plan and Telecommunications Facilities Policy Plan as mentioned in Section IV and V above.

B. The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood;

The project locates all wireless equipment within the shed of the existing building and the applicant has utilized a stealth design, by locating the antennas within a faux chimney, which would have a maximum height of 5 feet above the ridge height of the existing building, and would have a width of 5

feet by 4 feet, and would be finished with lap siding, similar to that on the building. The equipment shed and generator are flanked by the parking lot on the eastern and western sides, with the rear (south) facing a grove of Eucalyptus trees, and would have minimal visibility. To ensure that the facility would not result in lighting impacts on surrounding areas, conditions of approval specify that exterior lighting shall be permitted for safety purposes only and shall be manually operated, low wattage, hooded, and directed downward to minimize visual effects.

- C. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;**

The project would maintain large setbacks to adjacent residences as follows: 115 feet from the nearest residence to the north, 200 feet from the nearest residence to the south, 160 feet from the residence to the east, and is backed by the beach to the west and would therefore not result in the loss of light or privacy to adjacent neighbors. In addition all development would be contained within the parcel and would not impact development on public lands or rights-of-way.

- D. The proposed development will not directly, or cumulatively fashion, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;**

The proposed project is located entirely within the subject parcel and as conditioned would not result in development which would impact future improvements to the surrounding properties.

- E. The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural materials;**

The proposed project entails no tree or landscape removal, and proposes a minimal amount of new construction.

- F. The proposed development will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or juxtaposition. Adverse effects may include, but are not limited to, those produced by the design and location characteristics of:**

- 1. The area, heights, mass, materials, and scale of structures;**

Please see B, C and F above.

- 2. Drainage systems and appurtenant structures;**

The proposed project proposes a minimal amount of excavation, which has been reviewed by the Department of Public Works for conformance with applicable regulations

- 3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads);**

The proposed project does not propose retaining walls or bulkheads.

- 4. Areas, paths, and rights-of-way for the containment, movement or safe circulation of animals, conveyances, persons, vehicles, and watercraft; and**

The proposed project is located entirely on the subject parcel and would not be located within rights-of-way or affect the movement of people or vehicles.

5. Other development or improvements which may result in a diminution or elimination of significant sun and light exposure, views, vistas, and privacy.

As noted in B and C above, the project would not result in the loss of light, views, or privacy to adjacent residences.

G. It may contain roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.

The project entails locating all wireless equipment within an existing structure and the only new construction entails the new faux chimney which would house the wireless antennas.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Oxfoot Associates (Verizon Wireless) Coastal Permit 08-39, Use Permit 08-10, and Design Review 08-37 subject to the following conditions.

Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Sections 22.56I (Coastal Permit), 22.88I (Use Permit) and 22.82I (Design Review), the Oxfoot Associates(Verizon Wireless) Coastal Permit 08-39, Use Permit 08-10, and Design Review 08-37 are approved, subject to the following conditions, to install a wireless facility on the subject property. The project shall be located at Lawson's Resort, where the mechanical equipment for the facility shall be located within an existing shed in the southern portion of the café/caf  store. The antennas will be disguised as a fake chimney on the southern most portion of the roof ridge. The chimney is approved to reach a maximum height of 33.75 feet above grade, five feet above the roof ridge height of the building. Also approved is: 1) a new 60-kilowatt generator on an 11 foot by 15 foot concrete slab with a 6 foot tall chain link fence, and 48 inch tall concrete bollards surrounding the outside; 2) relocation of an existing 30 square foot shed approximately 8 feet south of the proposed generator; and 3) an electrical trench from the wireless facilities to a new wireless utility pull box in the southeast corner of APN 100-141-01, which would be approximately 150 feet long. The subject property is located at 37 Cypress Avenue, Dillon Beach, and is further identified as Assessor's Parcel 100-141-01 and 100-141-12.
2. EXCEPT AS MODIFIED BY CONDITIONS OF APPROVAL, plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A," entitled, "Site 15702 Dillon Beach" consisting of 5 sheets, prepared by MSA Architecture and Planning, Inc, dated August 21, 2008 and received August 22, 2008, and on file in the Marin County Community Development Agency.
3. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall receive Lot Line Adjustment approval to adjust the lot line between Assessor's Parcel 100-141-01 and 100-141-12, to locate the southern property line of APN 100-141-01 so that the caf , attached shed and approved generator are located within APN 100-141-01.
4. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall enter into a standard performance agreement with the County and post a suitable security in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site shall be returned to its preexisting conditions.
5. This Use Permit shall be valid until **March 12, 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.

6. No exterior lighting is proposed or approved on or in the vicinity of the antennas, supporting monopoles, or fencing as part of this application. Any exterior lighting proposed in the area of the equipment shelter shall be permitted for safety purposes only and must be manually operated, low wattage, hooded, and downward directed to minimize visual effects.
7. The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with any other existing ambient sources of EMF, shall not expose the 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 any other existing ambient sources.
8. 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.
9. The existing 25 mobile home park located to the northwest of the subject property has not been authorized by the Planning department and is not approved by this action. The property owner is responsible for correcting any existing violations.
10. The approved facility shall operate in compliance with the noise exposure standards contained in the Marin Countywide Plan. Normal testing and maintenance activities shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Sunday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use equipment that is audible from nearby locations may occur at all times. Back-up generators shall comply with the above-referenced noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.
11. 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.
12. All construction activities shall comply with the following standards:
 - A. Except for such non-noise generating activities, including but not limited to, painting, sanding, and sweeping, construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 p.m. on Saturday. No construction shall be permitted on Sundays or the following holidays (New Year's Day, Martin Luther King Day,

Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving, Christmas). If the holiday falls on a weekend, the prohibition on noise-generating construction activities shall apply to the ensuing weekday during which the holiday is observed. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

- B. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
13. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
14. This Coastal Permit/Use Permit/Design Review approval does not preclude the future approval of other telecommunications facilities on the subject property. The applicant shall cooperate with County effort to utilize the subject property for shared location or co-location in the future if it is technically feasible and would minimize adverse affects related to land use compatibility, visual resources, public safety, and other environmental factors addressed by CEQA. Verizon Wireless (or subsequent telecommunications provider) shall allow co-location on their approved support pole for a marketable rate.
15. This Use Permit is subject to revocation procedures contained in Section 22.120.030 of the Marin County Code in the event any terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the health, welfare of safety of persons residing or working in the neighborhood.
16. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant. Subject to prior written request by the applicant, the Director may administratively authorize changes or additions to the project that are determined to be minor and consistent with the findings herein.

Marin County Fire Department

17. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Marin County Fire Department have been met.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit, Use Permit and Design Review approval by obtaining a Building Permit for the approved work and substantially completing all work before March 12, 2011, 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 Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.82.130I and 22.88.050I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Coastal Permit/Use Permit/Design Review shall be valid until **March 12, 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. In the event that the terms of this Use Permit are violated or the approved use is carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, this Use Permit approval could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on March 19, 2009.

SECTION IV: ACTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 12th day of March, 2009:

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary