



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
CATHOLIC CHARITIES DESIGN REVIEW AND USE PERMIT**

Item No:	C3	Application No:	DR09-41 & UP09-18
Applicant:	Verizon Wireless	Owner:	Catholic Charities
Property Address:	1 Saint Vincent's Drive, San Rafael	Assessor's Parcel:	155-011-28
Hearing Date:	April 16, 2009	Planner:	Scott Greeley

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	April 30, 2009
LAST DATE FOR ACTION:	May 19, 2009

PROJECT DESCRIPTION:

The applicant is requesting Design Review and Use Permit approval for a Personal Communication Services (PCS) facility on three new 20 foot tall monopoles and a new equipment shelter with a standby 60kW diesel generator and 210 gallon fuel tank. The proposed telecommunications facility will include 9 panel antennas, 4 foot 6 inches in height. Six of these panel antennas will be installed at approximately 17 ½ feet above ground on the three proposed monopoles. The remaining 3 panel antennas will be mounted on top of the proposed equipment shelter. In addition, 2 GPS antennas will also be mounted on the proposed equipment shelter. The proposed telecommunications site is located approximately 48 feet from the northwesterly property line.

GENERAL INFORMATION:

Countywide Plan:	PD (Planned Development, Agricultural and Environmental Resource)
Zoning:	A-2 (Limited Agricultural District, 2 acre minimum lot size)
Community Plan Area:	N/A
Lot size:	72.66 acres
Adjacent Land Uses:	Religious school, open spaces, and suburban residential subdivision
Vegetation:	Mature oak and grasses
Topography and Slope:	Moderate to steep slopes
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 15303, Class 3 of the CEQA Guidelines because the project entails the installation and operation of new equipment and

facilities and would not result in grading, tree removal, or other potentially significant impacts on the environment. Additionally, a report prepared by William Hammett, Engineer, of Hammett and Edison, Inc, dated September 29, 2008, concludes that the proposed project would result in no significant impact on the environment or general population with respect to 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 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 new telecommunications facility at 1 Saint Vincent's Drive in San Rafael. The project site is a 73 acre site, which is presently vacant and off the Saint Vincent's Drive exit off Highway 101, is surrounded by open space and a catholic school on an adjacent parcel. The proposed project site is approximately 48 feet from the northwestern property line. The rationale for the proposed project is that there is weak signal reception in the area for Verizon Wireless which the proposed plan will improve. The applicant has indicated that they have sacrificed the possibility for co-location of additional service providers for a series of smaller, stealth design monopoles.

The Federal Telecommunications Facilities Act does not permit rejections of telecommunications facilities based on the arguments that such facilities may result in potential health impacts to neighboring communities if a radio frequency study is able to demonstrate that proposed safety precautions are undertaken and radio emissions are less than federally established health and safety exposure standards. The project is subject to the Marin Countywide Plan, the Marin County Telecommunications Facilities Policy Plan (TFPP), and the regulations of the Marin County Code.

The site is within the Ridge and Upland Greenbelt (RUG) area as described by the Countywide Plan. These areas were designated and determined to be of high aesthetic and community value and need to be more carefully scrutinized.

The applicant has provided a radio frequency study which shows the project to be within federally established health and safety exposure standards. The TFPP has policies which encourage co-location to minimize the number of new telecommunications facilities and to consolidate them. Additionally, there are also stealth design policies in the TFPP which encourage the hiding of new such facilities from view.

The applicant states in the alternative site analysis that other considered sites were either denied by the land owner, Marin Municipal Water District, or otherwise, on the nearby Sprint and JPA monopole sites, did not have adequate capacity to address the coverage need by Verizon Wireless individually. An alternative to building three 20-foot monopoles on-site would be to build a single larger monopole, otherwise disguised as a tree, which would stand at 45 to 55 feet above grade. The applicant has verbally stated that co-location would have only been possible with this new pole if it were built at the 55-foot height.

A 55-foot monopole, disguised as a tree, which complies with the co-location policies of the TFPP would not comply with the stealth policies called for by the TFPP and the Countywide Plan, with regards to developing within the RUG. The alternative scenario would result in a structure that does not look like a natural part of its surroundings, far surpassing the scale of other trees in the area, and would stand well above the natural tree and ridgelines found on the site.

The proposed telecommunication facility is to be three 20 foot tall monopoles which are painted green to match the tree line behind it when looking northeast from Highway 101 (North) and sits below the established tree line. To have the proposed telecommunications facility further blend with the existing landscape, staff is conditioning the project to have additional native landscaping stand in front of the monopoles which are to be maintained by the applicant and is to be first reviewed and approved by staff at building permit submittal. The landscaping should include shrubs or trees which stand 8-12 feet above grade from where the proposed telecommunications facility is to sit in order to screen the lower half of the monopoles when viewed from Highway 101 (North).

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, and the TFPP 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.

Based on this, staff is recommending conditional approval of the proposed telecommunications facility project.

RECOMMENDATION:

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

- Attachments:**
1. *Proposed Resolution recommending approval of the Catholic Charities Design Review/Use Permit Renewal*
 2. *CEQA Exemption*
 3. *Assessor's Parcel Map*
 4. *Project description*
 5. *Project Plans*
 6. *Photosimulations and Existing/Proposed Coverage maps*
 7. *Radio frequency study*
 8. *Department of Public Works memo, dated January 7, 2009*
 9. *Las Galinas Valley Sanitary District memo, dated January 9, 2009*
 10. *Marin Municipal Water District memo, dated January 20, 2009*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 09-
A RESOLUTION APPROVING THE CATHOLIC CHARITIES DESIGN REVIEW/USE PERMIT
ASSESSOR'S PARCEL 155-011-28

SECTION I: FINDINGS

- I. WHEREAS, NSA Wireless, the applicant, is seeking Design Review and Use Permit approval which will authorize the construction of an unstaffed, wireless Personal Communication Services (PCS) facility on three new 20 foot tall monopoles along with a new equipment shelter with a standby 60kW diesel generator and 210 gallon fuel tank. The proposed telecommunications facility will include 9 panel antennas, 4 foot 6 inches in height. Six of these panel antennas will be installed at approximately 17 ½ feet above ground on the three proposed monopoles. The remaining 3 panel antennas will be mounted on top of the proposed equipment shelter. In addition, 2 GPS antennas will also be mounted on the proposed equipment shelter. The proposed telecommunications site is located approximately 48 feet from the northwesterly property line. **The subject property is located at 1 Saint Vincent's Drive in San Rafael and is further identified as Assessor's Parcel 155-011-28.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing April 16, 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 15303, Class 3 of the CEQA Guidelines because the project entails the installation and operation of new equipment and facilities and would not result in grading, tree removal, or other potentially significant impacts on the environment. Additionally, a report prepared by William Hammett, Engineer, of Hammett and Edison, Inc, dated September 29, 2008,, concludes that the proposed project would result in no significant impact on the environment or general population with respect to exposure to radio frequency fields emitted by the proposed telecommunications 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 would be consistent with the PD (Planned Development, Agricultural and Environmental Resource) land use designation;
 - B. The project will comply with CWP policies minimizing air, water, and noise pollution. (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 is of a healthful, safe, quiet, and good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-3.1, EH-4.1, Community Design Policies DES-4.1, DES-4.a, DES-4.c, DES-4.d, DES-4.e);
 - 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. (CWP Policies, Biological Resources BIO 3-1 and BIO-5.2,);

- 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 Marin County Fire Department will ensure compliance with fire safety codes and standards including installation of fire sprinklers (CWP Policies, Environmental Hazards Policy EH-4.1 and EH-4.2)
 - 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, 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 is in scale with the surrounding community and is of an acceptable stealth design which will make it visually unobtrusive (TFPP Policies, Land Use Compatibility Policies, LU-1.4; Visual and Aesthetic Compatibility Policies, VIS-2.1, VIS-2.2; Land Use Compatibility Program, LU-1.4.1).
 - B. The project complies recognizes the value of the views from the Ridge and Upland Greenbelt and its scenic ridgelines. (TFPP Policies, Land Use Compatibility Policies, LU-1.1, LU-1.3; and Visual and Aesthetic Compatibility Programs, VIS-2.1.1 and VIS-2.2.8).
 - C. The facility would allow the applicant, Verizon Wireless, to provide cellular coverage in the northern portion of the County and would allow the carrier to provide a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.
 - D. The applicant has submitted an Electromagnetic Energy Survey prepared by Hammett & Edison, Inc., dated September 23, 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. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.
 - E. The facility will not create significant lighting impacts on surrounding areas because no lighting is proposed for the site.
 - 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,

additional landscaping to provide further screening is one of the conditions of approval, and the monopoles will not rise above the background treeline when viewed from Highway 101 (North). Additionally, the project would not require removal of existing vegetation which will help screen 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 Design Review (Section 22.42.060 of the Marin County Code) as specified below.

A. **The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community;**

The proposed telecommunications facility is to be constructed so as to blend with the natural surroundings. The three monopoles are to be painted green to blend with the oak trees behind them when looking northeast from Highway 101 (North). The poles will also be set below the top of the tree line found behind the project site. In addition, the project has been conditioned to include native landscaping in front of the three monopoles to further screen the proposed structures. Therefore, the project is consistent with this finding.

B. **The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) that will not eliminate significant sun and light exposure, views, vistas, and privacy to adjacent properties; that will not result in light pollution, trespass, and glare; and that will not adversely affect rights-of-way or pathways for circulation;**

Due to the size of the surrounding lots, adjacent uses, and size of the proposed monopoles, there will be no impacts to sun and light exposure, views, vistas or privacy to adjacent properties. Therefore, the project is consistent with this finding.

C. **The proposed development will provide appropriate separation between buildings and will be properly and adequately landscaped with maximum retention of trees, native plants, and other natural features consistent with fire safety requirements;**

Due to the size of the surrounding lots and adjacent uses, adequate separation between buildings will be maintained. The project is not proposing to remove any native trees at this time. In addition, the project is being conditioned to plant additional native landscaping to preserve scenic views. Therefore, the project is consistent with this finding.

D. **The proposed development will minimize cut and fill, the reforming of the natural terrain, and appurtenant structures (e.g. retaining walls and bulkheads);**

The project, as proposed, will result in minimal cut and fill and reforming of the natural terrain due to there being no new roads or substantial grading necessary in its construction. Therefore, the project is consistent with this finding.

E. **The proposed development complies with the Single-family Residential Design Guidelines and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);**

This finding is not applicable.

- F. ***The project is designed to conserve energy and natural resources by meeting the green building standards found in Table 4-6 of the Marin County Code Chapter 22.42.060; and***

This finding is not applicable.

- G. **The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

As noted in Findings IV and VII the project is consistent with the goals and objectives of the Marin Countywide Plan, the A-2 zoning district, and the Telecommunications Facilities Policy Plan. Therefore, the project is consistent with this finding.

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

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

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 PD land use designation of the Countywide Plan.

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

The proposed project has been determined to be Categorically Exempt from CEQA per Section 15303, Class 3 of the CEQA Guidelines because the use is a new telecommunications facility which has been located and designed so as to not result in potentially significant impacts to the environment.

- 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 telecommunications facility is well concealed from view due to the parcel size, location, and surrounding natural landscaping. In addition, additional landscaping when viewed northeast from Highway 101 (North), to be planted and maintained by the applicant, is a condition of approval in order to further screen the proposed facility.

- 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 construct a new Personal Communication Services (PCS) facility. 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, as well as the conditioned, 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 located.

- 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 proposed project is to construct a new 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. This Design Review and Use Permit approves a Personal Communication Services (PCS) facility on three new 20 foot tall monopoles and a new equipment shelter with a standby 60kW diesel generator and 210 gallon fuel tank. The telecommunications facility will include 9 panel antennas, 4 foot 6 inches in height. Six of these panel antennas will be installed at approximately 17 ½ feet above ground on the three proposed monopoles. The remaining 3 panel antennas will be mounted on top of the proposed equipment shelter. In addition, 2 GPS antennas will also be mounted on the proposed equipment shelter. The telecommunications facility is to be located approximately 48 feet from the northwesterly property line.
2. The project shall substantially conform to plans identified as "File Copy," entitled, "VERIZON WIRELESS MARINWOOD 157095 1 SAINT VINCENTS DRIVE, SAN RAFAEL, CA 94903," consisting of nine sheets prepared by Delta Groups Engineering, Inc., dated December 16, 2008 and received December 23, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. The project shall be modified to include native shrubs and trees which at maturity will sit 8-12 feet above grade where the three monopoles are to be located when looking northeast from Highway 101 (North) to provide additional screening of the proposed facility.
4. All visible components of the facility shall be painted subdued matte-finish colors to match the colors of the existing natural surroundings. The subdued exterior colors shall minimize the visual appearance of the facility and shall blend into the surrounding environment.
5. Exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, hooded, and directed downward to minimize visual effects on adjoining areas.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a copy of a safety standards plan for review and approval by the Community Development Director. The plan

shall contain safety standards to be implemented in order to protect persons working in areas that are not accessible to the general public who might be exposed to EMF levels in excess of the Maximum Permitted Exposure Level. Such standards may include restricted access to telecommunications facilities, temporarily ceasing operation of the facility for work required within specified distances of antennas, and posting safety signage in compliance with FCC requirements.

7. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall enter into a standard performance agreement with the County and post a suitable security in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site shall be returned to its pre-existing conditions.
8. 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 conditions of approval as notes.
9. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit either: 1) a Statement of Conformance, signed by a certified or licensed landscape design professional confirming that the landscape design requirements of Chapter 23.10 of the Marin County Code have been met; or 2) a letter from the Marin Municipal Water District indicating that the proposed landscaping complies with all conditions of the District's Water Conservation Ordinance.
10. BEFORE FINAL INSPECTION, the applicant shall install warning signage, in compliance with FCC requirements, warning persons (including maintenance workers) about potential health risks. Proof of such can be made to the Community Development Agency by photographs of the signage posted at the site.
11. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.
12. No tree removal or trimming of the tree canopy may occur unless the Agency Director grants prior authorization.
13. 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.

14. 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.
15. 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.
16. 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.
17. The applicant shall be responsible for ensuring that the number of construction and maintenance vehicles is limited to the minimum number necessary to construct and maintain the project.
18. This Use Permit 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.
19. 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. If the County is preempted by Federal and/or State law, rules or regulations, from applying an updated EMF standard, this condition shall not apply.
20. 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.

21. 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.
22. 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.

Marin County Department of Public Works - Land Use and Water Resources Division

23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit Improvement Plans which shall be signed and stamped by the Design Engineer.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, a building permit is required for retaining walls over 4 feet high (over 3' high with surcharge). Note: Retaining wall height is measured from the bottom of the footing.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit plans, details and structural calculations for the retaining walls, signed and stamped by the design engineer.
26. BEFORE ISSUANCE OF A BUILDING PERMIT, the plan shall show the limits of grading or areas to be disturbed.
27. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit an Erosion and Siltation Control Plan, if work is to occur between October 15 and April 15.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall note on the plans that the Design Engineer shall certify to the County of Marin in writing (include signature & stamp) that all grading, drainage and retaining wall work was done according to plans and field directions. Describe all field changes. Also note on plans that prior to final inspection by the Building & Safety Division, site improvements shall be inspected by DPW Engineer. Certification letters shall contain the address, assessor's parcel number and permit number of the project site.

Marin Municipal Water District

29. The Marin Municipal Water District owns and maintains water facilities within an easement through this property. The applicant should contact the District to locate these facilities prior to the start of construction to determine any possible conflicts.

SECTION III: APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit/Design Review shall be valid until **April 16, 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 **April 30, 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 16th day of April 2009.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary