

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – April 16, 2009

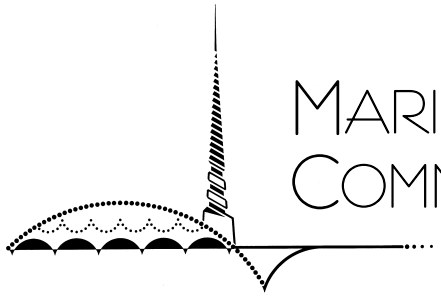
Hearing Officer Johanna Patri, AICP

Staff Present: Veronica Corella-Pearson, Planner
 Neal Osborne, Planner

Joyce Evans, Recording Secretary

Reconvened at 9:03 A.M.
Adjourned at 9:31 A.M

April 16, 2009



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **THOMAS REITTER**
Application (type and number): Coastal Permit (CP 08-23), and Design Review (DR 09-42)
Assessor's Parcel Number: 119-182-27
Project Location: 11815 State Route One, Point Reyes
For inquiries, please contact: Veronica Corella Pearson, Planner
Decision Date: April 16, 2009

DETERMINATION: Approved with Conditions

Minutes of the April 16, 2009, Deputy Zoning Administrator's hearing is attached specifying action and applicable conditions 1-22.

Marin County Community Development Agency

Johanna Patri, AICP,
Hearing Officer

C1. COASTAL PERMIT (CP 09-23), AND DESIGN REVIEW (DR 09-42): THOMAS REITTER

A proposal for the construction of a 2,448 square foot two-story single family residence on a vacant 0.8 acre property located on State Route One, north of Point Reyes Station (created as Lot 5 of the Bar-Or Subdivision, approved December 2006). The proposed residence would attain a maximum height of approximately 22 feet, 10 inches above grade and would maintain the following setbacks from surrounding property lines: 53 feet, 8 inches from the front (east) property line along State Route One, 25 feet from the north side property line, 25 feet from the (west) rear property line, and over 150 feet from the south side property line. Potential sites for a future garage and accessory structure have been indicated on the plans. However, specific building designs have not been submitted and these structures are not proposed for approval at this time. Exterior materials for the residence include stained cedar siding with tan trim, blue windows and doors, and weathered copper roofing. Although the property is governed by conventional C-R-A:B-3 zoning, Design Review approval is required by conditions of approval of the Bar-Or Subdivision. The subject property is located at **11815 State Route One, Point Reyes**, and is further identified as **Assessor's Parcels 119-182-27**.

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

The public testimony portion of the hearing was opened.

The applicant, Tom Reitter, was present and asked if there was an additional charge for the Platinum rating under the Marin Green Building Residential Certification form. The Hearing Officer responded that there was no additional charge.

The public testimony portion of the hearing was closed.

The Hearing Officer applauded the architect for the Platinum level rating, concurred with staff's recommendations and approved the project with the following modifications to the resolution:

- Condition of Approval 4, divide into:
 - a. The applicant shall revise the first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Design Review Conditions of Approval as notes; and
 - b. The applicant shall submit a signed Statement of Conformance by the architect verifying that the building permit plans and the project qualify for a "Platinum" rating under the Marin Green Building Residential Certification Form.

- Condition of Approval 6, divide into:
 - a. The applicant shall install all landscaping and an automatic drip irrigation system. The landscaping shall be installed in conformance with Sheets L1 and L2 of "Exhibit A." The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections; and
 - b. The applicant/owner shall submit a signed Statement of Completion by the architect confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Platinum" rating in accordance with the Single Family Dwelling Energy Efficiency ordinance and the Green Building Residential Certification Form.

The Hearing Officer concurred with staff's analysis and approved the Reitter Coastal Permit, and Design Review, based on the Findings and subject to the conditions in the Resolution as modified.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION09-110

A RESOLUTION APPROVING THE REITTER COASTAL PERMIT (CP 09-23) AND DESIGN
REVIEW (DR 09-42)
ASSESSOR'S PARCEL 119-182-27
11815 STATE ROUTE ONE, POINT REYES STATION

SECTION I: FINDINGS

- I. WHEREAS the applicant, William Kirsch, has applied on behalf of the owners, Tom Reitter and Brenda Balanda, requesting approval for the construction of a 2,448 square foot two-story single family residence on a vacant 0.8 acre property located on State Route One, north of Point Reyes Station (created as Lot 5 of the Bar-Or Subdivision, approved December 2006). The proposed residence would attain a maximum height of approximately 22 feet 10 inches above grade and would maintain the following setbacks from surrounding property lines: 53 feet, 8 inches from the front (east) property line along State Route One, 25 feet from the north side property line, 25 feet from the (west) rear property line, and over 150 feet from the south side property line. Potential sites for a future garage and accessory structure have been indicated on the plans. However, specific building designs have not been submitted and these structures are not proposed for approval at this time. Exterior materials for the residence include stained cedar siding with tan trim, doors and windows in blue, and weathered copper roofing. Although the property is governed by conventional C-R-A:B-3 zoning, Design Review approval is required by conditions of approval of the Bar-Or Subdivision. The subject property is located at 11815 State Route One, Point Reyes Station, and is further identified as Assessor's Parcel 119-182-27
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on 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 because it entails construction of a single family residence on a vacant lot, that would not impact sensitive species habitat, or listed species, and requires a minimal amount of grading.

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 as conditioned is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).
- B. The project as conditioned is in conformance with Policy BIO 1.7 and complies with 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, BIO-1.6 and BIO-1.7).
- C. The project will not result in impacts to special-status species (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 (CWP Policies BIO-2.3 and BIO-2.4).
- E. No wetlands or stream conservation areas will be affected by the project (CWP Policies BIO-3.1 and CWP BIO-4.1).
- F. The project has been reviewed by the Department of Public Works and will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
- G. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
- H. The project design and improvements will be reviewed during the Building Permit process to ensure compliance with applicable sections of the Uniform Building Code pertaining to fire protection (CWP Policy EH-4.1), removal of hazardous vegetation (CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), defensible space and compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n), and clearance of vegetation around the proposed structure (CWP Policy EH-4.h).
- I. The project has been designed in conformance with the Bar-Or Subdivision and is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (CWP Policy DES-1.2).
- J. The project will require energy efficient standards for exterior lighting, reducing excessive lighting, 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).

- L. The project will comply with the Marin County Single-Family Dwelling Energy Efficiency Ordinance (CWP Policy EN-1.c).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the policies contained in the Point Reyes Station Village Association Plan due to the following factors.
 - A. The proposed project would minimize disturbance of the natural environment by locating all new development within the area approved in the Bar-Or Subdivision.
 - B. The project would not be located in an area that would block existing views of major visual resources.
 - C. The project would provide adequate setbacks to all property lines and would preserve sun light, views and privacy of adjacent properties.
 - D. The project is designed to be in keeping with the existing rural community character and does not exceed the primary building height of 25 feet, and is less than 4,000 square feet in size.
 - E. The project entails a landscape plan which includes the use of native plants and does not propose invasive species.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the **Coastal Permit** (Section 22.56.130I of the Marin County Code) because this project would meet the requirements and objectives of the Local Coastal Program, Unit II as specified below:
 - A. Water Supply

The North Marin Water District is currently providing domestic water service, but a condition of approval requires the project to comply with the mandatory water conservation measures.
 - B. Septic System Standards

The Marin County Department of Environmental Health Services has reviewed the application and has found the project acceptable as shown and the applicant has obtained a sewage disposal permit for a 4 bedroom alternative mound septic system.
 - C. Grading and Excavation

The proposed project is located on a relatively level to moderately sloping lot, and will not require an excessive amount of grading. The project will minimize runoff created by the development of the project by implementing dry creeks and pervious surfaces, and integrating native grass and vegetation in compliance with the mitigation measures of the Bar-Or Subdivision.
 - D. Archaeological Resources

The Bar-Or Subdivision established the existing building envelopes, so that future development would not be located within an area of archeological importance, and the proposed project would be located within the approved building envelope, and therefore will not disturb any archeological resources. However, conditions of approval require that, in the event that cultural resources are uncovered during site preparation, all work shall be

stopped immediately, and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate protection measures.

E. Coastal Access

The subject property is not located between the sea and the first public road or located where public access is desirable or feasible. 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.

F. Housing

The proposed project entails the construction of a new residence which would add the the housing stock in Point Reyes Station.

G. Stream Conservation Protection

This finding is not applicable. The project site is not situated in an area subject to the streamside conservation policies as identified on the National Resources Map for Unit II of the Local Coastal Program or near any ephemeral or intermittent streams.

H. Dune Protection

This finding is not applicable. 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.

I. Wildlife Habitat

The Natural Resources Map for Unit II of the Local Coastal Program and the California Natural Diversity Data Base, prepared by the State Department of Fish indicates that the property is not located in an area potentially containing listed wildlife species. In addition, the Bar-Or Subdivision established the existing building envelopes, so that future development would not be located within an area of sensitive habitat or impact listed species, and the proposed project would be located within the approved building envelope, and therefore would not disturb any wildlife species or sensitive habitat.

J. Shoreline Protection

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

K. Geologic Hazards

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

L. Public Works Projects

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

M. Land Division Standards

The subject parcel is a legal lot of record. No land division or property line adjustment is proposed as part of this project.

N. Visual Resources

The height, scale and design of the proposed single-family residence are compatible with the character of the surrounding environment. The proposed development would be sited so that it would not obstruct public views from roads or adjacent properties.

O. Recreation/Visitor Facilities

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

P. Historic Resource Protection

The project site is located outside of the historic preservation boundaries identified in the Marin County Historic Study for the Local Coastal Program, and does not entail impacts to any historic resources.

VII. 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. The project is consistent with the countywide plan and local coastal program:

The proposed project is consistent with the Marin Countywide Plan, Local Coastal Program – Unit II, and the Point Reyes Station Community Plan as outlined in Sections IV, V, and VI 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 is consistent with this finding because the new residence would result in a structure with a height, mass, and bulk proportionately appropriate to the site and neighboring development, and complies with the design requirements of Title 22I's C-RA:B3 zoning district, the Point Reyes Station Community Plan and the Bar-Or Subdivision.

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 from all property lines, and would be located in the recorded Building Envelope identified in the Bar-Or Subdivision, and would not result in the loss of light or privacy to adjacent neighbors. In addition all development will 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, 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 material;**

The proposed project is located on a vacant parcel, that is primarily grassland, and would plant numerous California native plants, trees and shrubbery, which would provide future habitat for wildlife.

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

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

The proposed residence is located within the designated building envelope and meets all size requirements of the Point Reyes Community Plan, the MCC size requirements for structures within the C-R-A:B-3 zoning district, and is constructed of colors and materials that are in keeping with the natural environment and the surrounding community.

- 2. Drainage systems and appurtenant structures;**

All conceptual plans have been reviewed by the Department of Public Works and are in conformance with Title 24 requirements. In addition, the project will minimize runoff created by the development of the project by implementing dry creeks and pervious surfaces, and integrating native grass and vegetation in compliance with the mitigation measures of the Bar-Or Subdivision.

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

The residence and driveway will require a minimum amount of grading and does not require the construction of retaining walls or bulkheads.

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

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 developments or improvements which may result in a diminution or elimination of sun and light exposure, views, vistas and privacy:**

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

- G. The Project 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 applicant is proposing construction which would meet the highest Green Building Rating of "Platinum," and the project would be required to meet Title 24 and Ordinance 3492.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Reitter Coastal Permit (CP 09-23) and Design Review (DR 09-42) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.56 (Coastal Permit) and 22.82 (Design Review) of the Marin County Code, the Reitter Coastal Permit and Design Review is approved for the construction of a 2,448 square foot two-story single family residence on a vacant 0.8 acre property located on State Route One, north of Point Reyes Station (created as Lot 5 of the Bar-Or Subdivision, approved December 2006). The approved residence shall attain a maximum height of approximately 22 feet 10 inches above grade and shall maintain the following setbacks from surrounding property lines: 53 feet from the front (east) property line along State Route One, 25 feet from the north side property line, 25 feet from the (west) rear property line, and over 150 feet from the south side property line. Potential sites for a future garage and accessory structure have been indicated on the plans. However, specific building designs have not been submitted and these structures are not approved at this time. Exterior materials for the residence include stained cedar siding with tan trim, blue windows and doors, and weathered copper roofing. The subject property is located at 11815 State Route One, Point Reyes Station, and is further identified as Assessor's Parcel 119-182-27.
2. Plans submitted for a building permit shall substantially conform to plans entitled, "Reitter/Balanda Residence," consisting of 13 sheets, prepared by William W. Kirsch, Architect, dated December 30, 2008, and received January 5, 2009, and on file in the Marin County Community Development Agency.
3. Approved exterior materials shall substantially conform to the color board identified as "Exhibit B" entitled, "Material Sample," received January 5, 2009 by the Community Development Agency.
4. BEFORE ISSUANCE OF A BUILDING PERMIT:
 - a. The applicant shall revise the first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Design Review Conditions of Approval as notes.
 - b. The applicant shall submit a signed Statement of Conformance by the architect verifying that the building permit plans and the project qualify for a "Platinum" rating under the Marin Green Building Residential Certification Form.

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide documentation from the North Marin Water District, that all of their requirements have been meet.

6. BEFORE FINAL INSPECTION:

- a. The applicant shall install all landscaping and an automatic drip irrigation system. The landscaping shall be installed in conformance with Sheets L1 and L2 of "Exhibit A." The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections.
- b. The applicant/owner shall submit a signed Statement of Completion by the architect confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Platinum" rating in accordance with the Single Family Dwelling Energy Efficiency ordinance and the Green Building Residential Certification Form.

7. All construction activities shall comply with the following standards:

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.

8. 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.

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

10. 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.
11. The owners hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Reitter Coastal Permit and Design Review for which action is brought within the applicable statute of limitations.
12. 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.

Department of Public Works, Land Development

PRIOR TO ISSUANCE OF A BUILDING PERMIT:

13. Provide a note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
14. Provide a note on the plans depicting the requirement for the Geotechnical Engineer to be onsite during foundation excavation work, as per the Geotechnical Report of August 28, 2008 by Torikian Associates.
15. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
16. Revise the drainage plans to incorporate recommendations in the Geotechnical Report of August 28, 2008 by Torikian Associates. Note that all surface and/or subsurface drainage systems shall remain within property lines and shall be designed in a manner so as to prevent any flooding or erosion damage to adjacent properties.
17. Surface drainage away from the foundation shall slope a minimum of 5% for 10-feet [2007 CBC §1803.3].
18. Submit Erosion and Siltation Control plans for the construction phase of the project.
19. Provide a copy of a Cal-Trans Encroachment Permit for all work within the road right-of-way of State Highway-1.
20. Provide the location of utility hookups from the existing JUP and water meter to the proposed dwelling.

21. Provide the location for the propane tank and hookup connection from the tank to the proposed dwelling.

North Marin Water District

22. The project must meet conform to District 17 – Mandatory Water Conservation Measures. Final permit approval shall not be granted until compliance with water conservation measures can be verified.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Reitter Coastal Permit (CP 09-23) and Design Review (DR 09-42) approval by obtaining a Building Permit for the approved work and substantially completing all work before **April 16, 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 Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.56.120I and 22.82.130I 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 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 23, 2009**.

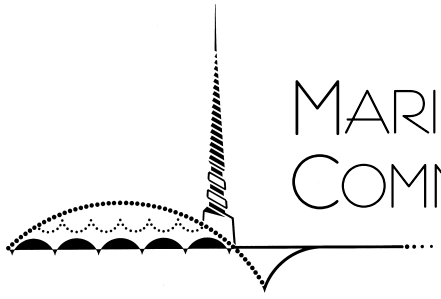
SECTION IV: ACTION

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, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **KATHERINE MAXWELL**

Application (type and number): Coastal Permit (CP 09-25), Design Review (DM 09-50)
And Second Unit Permit (SU 09-25)

Assessor's Parcel Number: 114-330-19

Project Location: 5 Drakes Summit Drive, Inverness

For inquiries, please contact: Scott Greeley, Planner

Decision Date: April 16, 2009

DETERMINATION: Approved with Conditions

Minutes of the April 16, 2009, Deputy Zoning Administrator's hearing is attached specifying action and applicable conditions 1-25.

Marin County Community Development Agency

Johanna Patri, AICP,
Hearing Officer

**C2. COASTAL PERMIT (CP 09-25) AND DESIGN REVIEW (DM 09-50)
AND SECOND UNIT PERMIT (SU 09-25): KATHERINE MAXWELL**

A proposal to convert an approved storage shed into a new 399 square foot second unit. The new second unit would reach a maximum height of approximately 15 feet and would have the following minimum setbacks: (1) approximately 66 feet from the northerly front property line; (2) approximately 142 feet from the southerly rear property line; (3) approximately 109 feet from the westerly side property line; and (4) 118 feet from the easterly side property line. In addition, the applicant is proposing a remodel, as well as a 333 square foot addition on the main and upper levels, and a 113 square foot upper level porch addition to the existing, three level (including the understory, storage area), 1,845 square foot primary residence. The proposed addition to the primary residence would reach a maximum height of 25 feet above grade and would have the following minimum setbacks: (1) approximately 133 feet from the northerly front property line; (2) approximately 70 feet from the southerly rear property line; (3) approximately 85 feet from the westerly side property line; and (4) approximately 137 from the easterly side property line. The property is in a C-RSP-0.1 zoning district. The subject property is located at **5 Drakes Summit Drive, Inverness**, and is further identified as **Assessor's Parcels 114-330-19**.

The Hearing Officer noted for the record that the Maxwell Second Unit Permit (SU 09-25) decision will be issued administratively by the Community Development Agency.

The Hearing Officer acknowledged staff's supplemental memorandum dated April 16, 2009 with a revised resolution.

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

The applicant was present, had read the revised resolution and had no questions.

The Hearing Officer concurred with staff's recommendations and approved the project with the following modifications to the resolution:

- Condition of Approval 24: "BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall submit a Vegetation Management Plan to the Marin County Fire Department for review and approval. A copy of said Vegetation Management Plan shall be submitted to the Community Development Agency. All efforts to protect mature native landscaping shall be made."
- Condition of Approval 25: "BEFORE ISSUANCE OF A FINAL INSPECTION, the applicant shall comply with all requirements of the Department."
- SECTION IV: ACTION: Correct the meeting date to April 16, 2009.

The Hearing Officer concurred with staff's analysis and approved Maxwell Coastal Permit, and Design Review, based on the Findings and subject to the conditions in the Resolution as modified.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 09-111

A RESOLUTION APPROVING THE MAXWELL COASTAL PERMIT, DESIGN REVIEW, AND SECOND UNIT PERMIT

5 DRAKES SUMMIT DRIVE, INVERNESS
ASSESSOR'S PARCEL 114-330-19

SECTION I: FINDINGS

- I. WHEREAS, Onju Updegrave, is seeking Coastal Permit, Design Review, and Second Unit Permit approvals to convert an approved storage shed into a new 399 square foot second unit. The new second unit would reach a maximum height of approximately 15 feet and would have the following minimum setbacks: (1) approximately 66 feet from the northerly front property line; (2) approximately 142 feet from the southerly rear property line; (3) approximately 109 feet from the westerly side property line; and (4) 118 feet from the easterly side property line. In addition, the applicant is proposing a remodel, as well as a 333 square foot addition on the main and upper levels, and a 113 square foot upper level porch addition to the existing, three level (including the understory, storage area), 1,845 square foot primary residence. The addition to the primary residence would reach a maximum height of 25 feet above grade and would have the following minimum setbacks: (1) approximately 133 feet from the northerly front property line; (2) approximately 70 feet from the southerly rear property line; (3) approximately 85 feet from the westerly side property line; and (4) approximately 137 from the easterly side property line. **The subject property is located at 5 Drakes Summit Drive at Inverness, and is further identified as Assessor's Parcel 114-330-19.**
- 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 it entails conversion of an approved storage structure into a second unit which will not result in potentially significant environmental impacts.
- 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 C-SF2 (Coastal, Single Family, 5-19 acre minimum lot size) land use designation;
 - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies, Noise Policies, NO-1.1, 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-2.3, EH-3.1, EH-4.1, EH-4.2, Community Design Policies DES-4.1, DES-4.c, 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. (CWP Policies, Biological Policy, BIO-4.20);
 - 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 Inverness Public Utility District will ensure compliance with fire safety codes and standards including installation of fire sprinklers. (CWP Policies, Environmental Hazards Policies, EH-4.1);
 - F. The project will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1 and BIO-2.1);
 - G. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance due to the project needing to meet a "Certified" Green rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent Residential Development Design Review Guidelines and Natural Resources policies of the Inverness Ridge Communities Plan for the following reasons:
- A. The project will remove potentially flammable vegetation, but still retain a significant amount of mature, native trees and vegetation.
 - B. The project will utilize colors and materials that is consistent with previously approved designs found on the property.
 - C. The proposed development protects the views of the area by maintaining valuable screening of the residence from the larger community.
 - D. The proposed project is improving and continuing to utilize the existing driveway and much of the existing residence's site and will not result in a substantial increase in the removal of native vegetation or tree cutting.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (Section 22.56.130I of the Marin County Code) as specified below.
- A. Water Supply

The project has been reviewed and accepted by EHS. Therefore, the project is consistent with this finding.

B. Septic System Standards

The project has been reviewed and accepted by EHS. Prior to building permit issuance, the applicant will need to modify and upgrade the septic system to a 5-bedroom system. Therefore, the project is consistent with this finding.

C. Grading and Excavation

The project, as designed, will keep grading to the minimum amount necessary. Therefore, the project is consistent with this finding.

D. Archaeological Resources

A review of the Marin County Archaeological Sites Inventory indicates that the subject property is considered to be in an area of low archaeological sensitivity. A standard condition of approval has been applied to the project requiring that in the event cultural resources are uncovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate mitigation measures. Therefore, the project is consistent with this finding.

E. Coastal Access

The subject property is not located adjacent to the shoreline and therefore will not affect coastal access. Therefore, the project is consistent with this finding.

F. Housing

The proposed project will actually increase the availability of affordable housing stock within the Inverness community. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection

The proposed project is not located within the vicinity of any recognized sensitive streams or creeks subject to stream protection of the Local Coastal Program. Therefore, the project is consistent with this finding.

H. Dune Protection

The proposed project entails an addition to the existing primary residence and the construction of a second unit from an approved storage unit, and would not disturb natural dunes. Therefore, the project is consistent with this finding.

I. Wildlife Habitat

The subject parcel is located in the rural, northern community of Inverness, which has been identified by federal and state authorities as being home to several federal and state listed species including the Northern Spotted Owl, the Great Blue Heron, and the Great Egret. Nests of the Northern Spotted Owl have been found to be within 1/2-mile of the subject property. The project has been conditioned to permit exterior construction related activities during certain times of year that would minimize potential noise impacts to the nesting spotted owls. The Great Blue Heron was not seen on site. In addition, typically the Great Blue Heron nests around marine habitats and this site is further in-land. The Great Egret was not seen on-site.

Additionally, the Great Egret nests in wetland areas and over water. Therefore, the project is consistent with this finding.

J. Protection of Native Plant Communities

Based on review of the California Natural Diversity Database, this region of Inverness is potentially suitable habitat for the Western Leatherwood, a dicot shrub that is endemic to only California. This species however is found in wetland-riparian habitats which is not the terrain found on the owner's property. Therefore, the project is consistent with this finding.

K. Shoreline Protection

The proposed project is not located adjacent to the shoreline or within a bluff erosion zone. Therefore, the project is consistent with this finding.

L. Geologic Hazards

The project site is outside of the LCP Unit I Geologic Hazards Maps and the finding is therefore not applicable.

M. Public Works Projects

The proposed project will not affect any existing or proposed local public works projects in the area. Therefore, the project is consistent with this finding.

N. Land Division Standards

No land division or property line adjustment is proposed as part of this project. Therefore, the project is consistent with this finding.

O. Visual Resources

An approved storage building is proposed to be converted into the proposed second unit. No changes to the building footprint or exterior structural changes are being proposed. The primary residence, in which the addition is proposed, is set back 133 feet from the northerly front property line. In addition, the height and scale of the proposed residence will comply with the standards of the governing zoning and will be compatible with the surrounding community. Therefore, the project is consistent with this finding.

P. Recreation/Visitor Facilities

The project will not have any impact upon recreation or visitor facilities. Therefore, the project is consistent with this finding.

Q. Historic Resource Preservation

The subject property is not located within any designated historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program, and the proposed project does not entail alterations to a structure that was constructed prior to 1931. Therefore, the project is consistent with this finding.

VII. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Design Review per Section 22.82.0401 of the Marin County Zoning Code can be made. The proposed project is within the intent and objectives for Design Review, based on the following findings:

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

The proposed project entails the construction of a second unit and an addition to the primary residence in a planned residential community. As noted above in Section I: Findings, subsections IV and V, the proposed project complies with the C-SF2 policies of the General Plan and the Inverness Ridge Communities Plan. Therefore, the project is consistent with this finding.

B. It will properly and adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale and surroundings;

The proposed project entails the conversion of portions of an approved storage building into a second unit as well as an addition to the existing primary residence. The roof on the primary residence will be replaced with a new standing seam metal roof, otherwise no changes are proposed. In order to avoid creating an unsightly impact or disharmony with the surrounding community, the project has been designed to compliment the existing design, color and material already being used onsite. Therefore, the project is consistent with this finding.

C. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way;

The proposed project entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence. Since the project would be located substantially in existing structures on the property or else with minor additions to the footprint of existing structures, with minimal additional site disturbance required, the project should have no impact on further development, use, or the enjoyment of this or any other properties in the area. Therefore, the project would be consistent with this finding.

D. It will not directly, or in a cumulative 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 entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence. Since the project would be located substantially on the same building footprint accessed from the same private driveway as the existing residence, with minimal additional site disturbance required, the project should have no impact on further investment or improvements on this or any other properties in the area. Therefore, the project would be consistent with this finding.

E. It will be properly and adequately landscaped with maximum retention of trees and other natural material;

No existing trees have been identified for removal with the proposed project. Therefore, the project would be consistent with this finding.

F. It 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 scale, mass, height, area and materials of buildings and structures,

The proposed project entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence. The second unit is located in an approved storage building and will not modify the exterior of the building. The primary residence on which the addition is proposed is set over 130 feet from the rural road and complies with development standards.

2. Drainage systems and appurtenant structures,

The project should not result in substantial changes to existing drainage patterns. In addition, the Department of Public Works will review and approve a drainage plan prior to Building Permit issuance.

3. Cut and fill or the reforming of the natural terrain, and structures appurtenant thereto such as retaining walls and bulkheads,

The proposed project would result in a minimal level of ground disturbance.

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

The proposed project entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence. This should have no impact on pedestrian, animal, or vehicular access.

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

The proposed project entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence. The second unit will attain a maximum height of 15 feet and the proposed addition to the primary residence will attain a maximum height of 25 feet. The lots in the surrounding community range from approximately 2-acres to 20-acres. The nearest residence on adjacent properties is approximately one hundred feet from the proposed addition and approximately 200 feet from the proposed second unit. Therefore there should be no impact to sun and light exposure, views, or privacy.

Therefore, the project would be consistent with this finding.

- 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 proposed project entails the conversion of portions of an approved storage building into a second unit and an addition to the primary residence, in a Residential Planned zoning district. The materials, coloring, and design will match that which is already found on the property. The project will also be conditioned to meet a "certified" rating or better with the Marin County New Home Green Building Residential Design Guidelines checklist prior to final building permit inspection. Therefore, the project would be consistent with this finding.

SECTION II: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. This Coastal Permit, Design Review, and Second Unit Permit approval shall permit the conversion of an approved storage shed into a new 399 square foot second unit. The new second unit shall reach a maximum height of approximately 15 feet and have the following minimum setbacks: (1) approximately 66 feet from the northerly front property line; (2) approximately 142 feet from the southerly rear property line; (3) approximately 109 feet from the westerly side property line; and (4) 118 feet from the easterly side property line. In addition, a remodel, as well as a 333 square foot addition on the main and upper levels, and a 113 square foot upper level porch addition to the existing, three level (including the understory, storage area), 1,845 square foot primary residence. The addition to the primary residence shall reach a maximum height of 25 feet above grade and have the following minimum setbacks: (1) approximately 133 feet from the northerly front property line; (2) approximately 70 feet from the southerly rear property line; (3) approximately 85 feet from the westerly side property line; and (4) approximately 137 from the easterly side property line.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "File Copy," entitled, "Residence Remodel & New Second Unit Maxwell Residence," consisting of nine sheets prepared by Onju Updegrave, Architect, dated February 4, 2009 and received February 6, 2009 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. Approved exterior building materials and colors shall substantially conform to the color/materials samples board which is identified as "Exhibit B," received February 6, 2008, and on file with the Marin County Community Development Agency.
4. BEFORE ISSUANCE OF A BUILDING PERMIT for the conversion of the accessory structure, the applicant shall obtain second unit permit approval.
5. If the presence of the northern spotted owl (*Strix occidentalis caurina*) is found at or near the site during the construction process, all construction activities shall cease, and the Community Development Agency staff shall be notified. A qualified wildlife biologist shall assess the site and shall submit a report to the Community Development Agency staff advancing appropriate measures to protect the owls and the nesting activity. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the

site must be consistent with the findings and recommendations of the biologist's report, as approved by the Community Development Agency staff. An amendment to the permit may be required to implement mitigations to protect the owl species.

6. 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.
7. All utility connections and extensions serving the project shall be installed underground.
8. Exterior lighting shall be directed downward, and located and/or shielded so as not to cast glare on nearby properties.
9. 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 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 or the following holidays (New Year's Day, Presidents' Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas Day). 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.
10. If archaeological resources are discovered during grading, trenching, or other construction activities, all work at the site shall stop immediately and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director.
11. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.
12. BEFORE FINAL INSPECTION, the applicant shall obtain a building permit for the studio identified on the project plans.

13. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul approval of the Peterson Coastal Permit and Design Review, for which action is brought within the applicable statute of limitations.
14. 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.

Marin County Public Works Department, Land Development Division

15. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant's plans shall be reviewed and approved by a Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
16. BEFORE ISSUANCE OF A BUILDING PERMIT, a registered Engineer shall design the site/driveway retaining walls. The drainage and grading plans may be designed by either a registered Engineer or Architect. Plans must have the Engineer's/Architect's wet stamp and signature.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, a separate Building Permit is required for site/driveway retaining walls with a height more than 4-feet (or 3-feet when backfill area is sloped or has a surcharge). Include engineer calculations showing a minimum of a 1.5 factor-of-safety for sliding and overturning. Also, include cross section references on the site plan to the structural plans for the retaining walls.
18. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit Erosion and Siltation Control plans.
19. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a drainage plan for the project. The drainage plan shall include all drainage away from foundation of structures, roof runoff management and retaining wall back-drain management.
20. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a note on the plans stating that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
21. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide all proposed grading for the project including the driveways. All parking areas should not exceed 5% slope and shall not exceed 8% slope in any direction.
22. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall ensure that driveway slopes greater than 12% but less than 18% are paved with asphalt.

Marin County Community Development Agency, Environmental Health Services

23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall complete the septic permit approval process to modify and upgrade the septic system to a 5-bedroom system.

Marin County Fire Department

24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a Vegetation Management Plan to the Marin County Fire Department for review and approval. A copy of said Vegetation Management Plan shall be submitted to the Community Development Agency. All efforts to protect mature native landscaping shall be made.
25. BEFORE FINAL INSPECTION, the applicant shall comply with all requirements of the Marin County Fire Department.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit and Design Review approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before April 16, 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 Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.120I of the Marin County Code.

The Building Permit approval expires if the building or work authorized in this does not commence within one year from issuance of such permits. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of the permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the approval, and no extensions have been granted, the Building Permit may become null and void. Should you have difficulties in meeting deadlines for completing the work pursuant for a Building Permit, the applicant may apply for an extension at least ten days before the expiration.

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 23, 2009.**

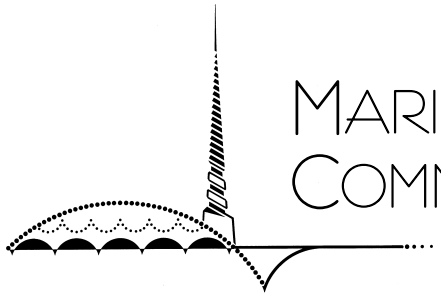
SECTION IV: ACTION

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



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **CATHOLIC CHARITIES**

Application (type and number): Use Permit (UP 09-18) And Design Review (DR 09-41)

Assessor's Parcel Number: 155-011-28

Project Location: 1 Saint Vincent's Drive, San Rafael

For inquiries, please contact: Scott Greeley, Planner

Decision Date: April 16, 2009

DETERMINATION: Approved with Conditions

Minutes of the April 16, 2009, Deputy Zoning Administrator's hearing is attached specifying action and applicable conditions 1-29.

Marin County Community Development Agency

Johanna Patri, AICP,
Hearing Officer

**C3. USE PERMIT (UP 09-18) AND DESIGN REVIEW (DR 09-41):
CATHOLIC CHARITIES**

A proposal to consider 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 monopole is located approximately 48 feet from the northwesterly property line. The property is in an A-2 zoning district. The subject property is located at **1 Saint Vincent's Drive, San Rafael**, and is further identified as **Assessor's Parcels 155-011-28**.

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

The applicant, Charnell James, NSA Wireless, expressed concerns with Conditions of Approval 3 and 9, regarding additional landscaping because of the lack of nearby accessible water in the area. She further noted that the applicant has determined that there appeared no financially viable way to get water to the site.

In response to the suggestion by staff, the Hearing Officer modified Condition of Approval 3 to read:

- BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall work with staff regarding the feasibility of additional landscaping. If advised by staff, the applicant shall submit a Landscape Plan to the Community Development Agency for review and approval.”

The Hearing Officer concurred with staff's analysis and approved the Catholic Charities Use Permit and Design Review, based on the Findings and subject to the conditions in the Resolution as modified.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 09-112
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. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall work with staff regarding the feasibility of additional landscaping. If advised by staff, the applicant shall submit a Landscape Plan to the Community Development Agency for review and approval.
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

**H1. USE PERMIT (UP 09-5) AND DESIGN REVIEW (DR 09-3):
MARIN FRENCH CHEESE COMPANY/AMERICAN TOWER CORPORATION AND AT&T**

A proposal to consider a wireless telecommunications facility for American Tower Corporation with the capability of locating four different wireless telecommunications service providers. The proposal includes the installation of one telecommunications facility for AT&T Mobility. The proposal includes two options, either one 50-foot tall "stealth oak tree", or two 35-foot tall "stealth oak trees" on a hill approximately 650 feet west of Point-Reyes Petaluma Road. Associated equipment cabinets would be located within an 840 square foot lease area at the base of the "stealth oak tree or trees". The subject property is located at **7500 Red Hill Road, (aka Point Reyes – Petaluma Road), Petaluma**, and is further identified as **Assessor's Parcel 125-060-10**.

The Hearing Officer acknowledged a supplemental memorandum from staff requesting a further continuance to the hearing of April 30, 2009, to allow the applicant time to submit materials requested at the previous hearing.

The public testimony portion of the hearing was opened.

James Singleton, NSA Wireless, presented a conceptual detail of the access route to the Hearing Officer. The remaining details with contour lines should be complete by the end of the week. He would like to meet with staff on the site to demonstrate that no grading will be required on the roadway.

The public testimony portion of the hearing was closed.

The Hearing Officer cautioned the applicant that the road that exists is an agricultural road, but a commercial endeavor such as the proposed telecommunications facility will have to meet different standards for the Public Works Department, who will need plans to review. The Hearing Officer asked the applicant to work with Public Works staff and to allow time for a site visit. All newly submitted materials should be received by staff by April 21, 2009.

The Hearing Officer continued the Marin French Cheese Company/American Tower Corporation and AT&T Use Permit and Design review project to the hearing of April 30, 2009.