



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**MEMORANDUM**

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**TO:** Johanna Patri, DZA Hearing Officer  
**FROM:** Neal Osborne, Planner  
**RE:** Marin French Cheese Company/American Tower Corporation and AT&T Use Permit (UP 09-5) and Design Review (DR 09-3)  
October 29, 2009 DZA Hearing, Continued Item H1  
**DATE:** October 16, 2009

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On May 14th, April 30th; April 16th; and March 26, 2009, the DZA hearings were continued to allow the applicant time to prepare detailed plans that indicate the design of the access driveway to the site. Revised plans were requested to minimize site disturbance and address the structural integrity of the old bridge crossing Arroyo Sausal Creek.

On September 22, 2009, the applicant submitted a revised driveway access plan that indicates the replacement of the existing bridge crossing Arroyo Sausal Creek with a new bridge. The proposed 16-foot wide by 40-foot long bridge would be placed on new abutments approximately 6 feet from the end of the existing bridge. The bottom of the new bridge would be approximately 8 feet above the creek bed where the existing bridge is approximately 6 feet above the creek bed. Four small retaining walls up to 3 feet tall are proposed along the edges of the driveway for lengths of 18 feet to 60 feet. These walls will support approximately 160 cubic yards of fill material to be placed over the existing driveway and properly transition the elevation of the new bridge with the elevation of the existing driveway. The bridge and the traveled way of the driveway approach to the bridge would be approximately 15 feet wide. The applicant also submitted an Arborist Review of the proposed grading for the access driveway, the proposed antenna site, and the proposed utilities trench. Please see the attached revised plans (Attachment 2) and the Arborist Review (Attachment 3).

**Analysis of the Revised Project**

The additional project components not previously reviewed in the March 26, 2009 Staff Report and subsequent Supplemental Staff Report Memoranda are the bridge crossing the creek and the driveway design modifications that include grading to reduce the slope from the current maximum of 23% down to 18%.

*Bridge Crossing*

The proposed bridge crossing Arroyo Sausal Creek would be in the same location and on top of the existing bridge and abutments. This design would minimize site disturbance by allowing the existing abutments to remain in place with the new bridge directly above them on new concrete abutments farther from the creek. After construction of the taller abutments immediately beyond the ends of the bridge, the old bridge would be removed and the new bridge put in place. Small retaining walls along the edges of the driveway would be required to support 160 cubic yards of fill necessary to raise the elevation of the driveway to properly transition with the bridge. The bridge construction would span the creek and the existing bridge abutments and would minimize grading and site disturbance within the 100-foot Stream Conservation Area (SCA). A

biological assessment was not required because the proposal would result in no substantial disturbance of the land and vegetation within the SCA. No permanent structures would be placed in the creek between the top-of-banks. Staff recommends installation of silt fences and fiber rolls as conditions of approval to preclude soil deposition into the creek. Staff also recommends no construction staging areas, materials storage, or storage of construction equipment within the SCA. The project would result in minor effects to creek and riparian resources because no trees would be removed, only one bay tree would be pruned for widening the bridge and driveway to provide improved access, and grading would only occur within, or along the edge of, the existing driveway.

The bridge would replace a substandard and possibly unstable bridge with a new and engineered bridge for improved access to the project site and the existing property manager's residence.

### *Grading and Trees*

The proposed grading of approximately 1,200 cubic yards of balanced cut and fill would provide improvements to the existing driveway and a new driveway west of the bridge through a portion of a pasture. The improvements include grading of the existing driveway to increase the width and to reduce the slope to a maximum of approximately 18%. As shown on the submitted plans, the extent of grading could affect mature oak and bay trees along the upper section of the driveway from the reservoir to the proposed facility site. To assess the potential effects to the trees, the applicant hired Kjeldsen Biological Consulting to review the proposal and recommend measures to protect as many trees as possible. The results of the plan review, site investigation and recommendations are provided in the "Arborist Review of Grading Access Road, Proposed Tower Site & Underground Trenching American Tower Corporation" (refer to Attachment 3). If a tree must be removed, it must be replaced with 10 trees (one gallon container size) of the same genus and species. To reduce the impacts of grading and to protect trees, staff recommends installing small retaining walls around the primary root zone of the trees as a condition of approval (see Condition of Approval 8 in Attachment 1) rather than allowing grading and root cutting within 10 feet of the tree trunks, and to avoid any tree removal.

### *Department of Public Works Review*

On September 29, 2009, the Department of Public Works staff submitted a response Memorandum finding the revised plans complete and recommended nine conditions of approval, before issuance of a Building Permit, Grading Permit, or Creek Permit (please refer to Attachment 4). The Department of Public Works determined that the driveway would be adequate for the construction, and periodic maintenance, of the facility and would not need to comply with the 18-foot width and paved surfacing requirements in Marin County Code Sections 24.04.260.d and 24.04.300 for a commercial project, provided that the Fire Department has no objections. It appears that the Fire Department has no objections to the proposal, because we received no Fire Department response to the project Transmittals.

### **Recommendation**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a continued public hearing, and approve the Marin French Cheese Company/American Tower Corporation and AT&T Mobility Use Permit and Design Review based on the findings and subject to the conditions contained in the attached resolution.

- Attachments:
1. Resolution approving the Marin French Cheese Company/American Tower Corporation and AT&T Mobility Use Permit and Design Review
  2. Revised Plans, received 10/12/09
  3. Arborist Review, received 10/12/09
  4. DPW Memorandum, 9/29/09
  5. Revised CEQA Exemption, 10/12/09

C: Joyce Evans, DZA Secretary  
Michel Jeremias, DPW Land Use and Water Resources  
James Singleton, NSA Wireless, Inc.  
James Boyce, Marin French Cheese Company  
Scott Alber, Marin County Fire Department

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**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION \_\_\_\_\_**

**A RESOLUTION APPROVING THE  
MARIN FRENCH CHEESE COMPANY/AMERICAN TOWER CORPORATION  
AND AT&T MOBILITY USE PERMIT AND DESIGN REVIEW**

**7500 POINT REYES – PETALUMA ROAD, PETALUMA (HICK’S VALLEY)**

**ASSESSOR'S PARCEL 125-060-10**

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**SECTION 1: FINDINGS**

- I. WHEREAS the applicant, James Singleton with NSA Wireless, Inc. for American Tower Corporation and AT&T Mobility, proposes to construct a wireless telecommunications facility initially for AT&T and in the future for 3 additional telecommunications vendors as a co-location facility. The American Tower proposal is for two 35-foot “stealth broadleaf trees” mounted with 24 panel antennas each on a hill approximately 650 feet west of Point Reyes - Petaluma Road in the Hick’s Valley environs. Associated equipment cabinets would be located within an 840 square foot lease area surrounded by a chain-link security fence. The AT&T proposal is for 12 panel antennas and a microwave dish on one of the “stealth broadleaf trees”. The proposal would result in a 10-foot wide 3,225 lineal foot access driveway that includes modifications to an existing driveway, and construction of a new driveway portion through a pasture, with a maximum slope of 18%. The applicant requests exceptions to Marin County Development Code Sections 24.04.260 and 24.04.320 regarding minimum driveway width and surfacing for a commercial project because of the limited access requirements for monthly maintenance after construction. Proposed grading for the driveway improvements is estimated to be approximately 1,011 cubic yards of excavation and approximately 1,128 cubic yards of fill. The proposal also includes the replacement of the existing bridge crossing Arroyo Sausal Creek with a new 16-foot wide by 40-foot long bridge on new abutments approximately 6 feet from the end of the existing bridge. Four small retaining walls up to 3 feet tall are proposed along the edges of the driveway for lengths of 18 feet to 60 feet to support approximately 160 cubic yards of fill material to be placed over the existing driveway and properly transition with the new bridge elevation. The subject property is located at 7500 Point Reyes – Petaluma Road, Petaluma (Hick’s Valley) and is further identified as Assessor’s Parcel 125-060-10.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed continued public hearing on October 29, 2009 (continued from hearings on March 26<sup>th</sup>, April 15<sup>th</sup>, April 30<sup>th</sup>, and May 13, 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 pursuant to Section 15303, Class 3 of the CEQA Guidelines because it is the construction and operation of an un-staffed telecommunications facility that would not result in any substantial grading, tree

removal, visual impacts, creek impacts, or other potentially significant impacts on the environment. Additionally, the applicant has submitted a Radio Frequency Report prepared by Evan Wappel, Electrical Engineer with AT&T Mobility that concludes the proposed project would not result in any significant risks with respect to human exposure to radio frequency fields emitted by the proposed telecommunications facility pursuant to accepted Federal Communications Commission standards.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project, as modified herein, is consistent with the Marin Countywide Plan due to the following factors:
- A. The proposed project is compatible with the Agriculture (AG1) land use designation for the project site and would not interfere with the existing agricultural uses of the property.
  - B. Mandatory Use Permit findings can be made pursuant to Sections 22.08.030, Table 2-1 and 22.48.040 of Marin County Code to allow telecommunications facilities uses necessary for public safety, convenience, and welfare.
  - C. The project is consistent with Countywide Plan Policy PFS-5.1 in the Public Facilities and Services Element Goal PFS-5 that requires new telecommunications facilities to be consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan. Consistency with this policy will ensure that the siting and design of the proposed facility is compatible with other land uses, would provide protection from vandalism and fire hazards, would minimize visual impacts, and would minimize potential health and safety risks to people.
  - D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project, as modified herein, 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 construction and use of the telecommunications facility for American Tower Corporation with the capability of locating three different wireless telecommunications service providers. The proposal includes the installation of one vendor – AT&T Mobility. The two 35-foot tall “stealth broadleaf trees” would be located 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 one of the “stealth trees”. The project would be compatible with the surrounding land uses and based on these factors, the facility is consistent with the location standards contained in the TFPP.
  - B. The facility would allow AT&T Mobility to provide cellular coverage in the unincorporated area of Hick’s Valley west of Novato and would allow AT&T Mobility to provide a convenient and reliable source of wireless communications to residents, businesses, and emergency service providers along Point Reyes – Petaluma Road, Novato Boulevard, and Hick’s Valley Road.
  - C. The applicant submitted a Radio Frequency Report prepared by Evan Wappel, Electrical Engineer with ATT Mobility, dated November 3, 2008, that concludes the facility would not result in any significant risks with respect to human exposure to radio frequency fields because the antennas, would generate maximum radio frequency levels at the ground that are 2.7% of the applicable public exposure limit established by American National Standards Institute and the Institute of Electrical and Electronic Engineers, and accepted by the FCC.

- D. The facility would visually blend with the surroundings because the antennas would be mounted in a stealth “broadleaf trees” to blend into the background of hills and trees and would be painted dark green and other subdued colors that would blend into the surroundings.
  - E. The facility would not create lighting impacts on surrounding areas because conditions of approval specify that 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.
  - G. The project would not require removal of existing vegetation. Existing trees around the facility provide partial screening of the facility from off-site views.
  - H. The facility is located in an agricultural area adjacent to the Marin French Cheese Company facilities that provides an open rural space in the Hick’s Valley area. Noise levels associated with the operation of the facility would not exceed the ambient noise levels associated with traffic on the Point Reyes – Petaluma Road, and farm equipment. With the exception of routine monthly or bi-monthly maintenance visits by a technician, the facility would not generate new traffic trips to the property. Therefore, the proposed facility would not generate significant levels of noise or traffic, and would be consistent with the location standards of the TFPP.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project, as modified herein, is consistent with the mandatory findings to approve a Use Permit (Section 22.48.040 of the Marin County Code), as specified below.

**The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.**

- A. The telecommunications facility is a permitted use that must be approved in the governing Agricultural District with a Use Permit pursuant to Section 22.08.030, Table 2-1 of the Marin County Code. The telecommunications facility is part of the AT&T Mobility network that would provide wireless personal communication services to residents and businesses in Marin County, and could contribute to public safety, convenience, and welfare along Point Reyes - Petaluma Road. The telecommunications facility would occupy a very small portion (840 square feet) of the 425.81-acre property, would be surrounded by security fences, and would not be detrimental to the continued use of the property for agriculture.
- B. The telecommunications facility is consistent with the Countywide Plan and the TFPP (refer to Sections IV and V above).
- C. The telecommunications facility complies with the California Environmental Quality Act (refer to Section III above).
- D. The design, location, size and operating characteristics of the telecommunications facility is compatible with the existing and future land uses in the vicinity including agriculture, the Marin French Cheese Company, the Marin County fire Department Hick’s valley Fire station, and Point Reyes – Petaluma Road.

- E. The telecommunications facility does not impair the architectural integrity and character of the Agricultural zoning district because exterior materials would be finished with subdued dark colors to blend into the surrounding landscape of hills and trees.
- F. The granting of the proposed Use Permit Renewal on the subject property would not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located. The project would not result in any significant public health risks with respect to human exposure to radio frequency radiation because the facility will operate below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers adopted by the Federal Communications Commission

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the project, as modified herein, conforms to with the requirements of Design Review pursuant to Section 22.42.060 of the Marin County Code because the facility is located on a hill predominately surrounded by hills and trees approximately 650 feet west of Point Reyes – Petaluma Road in Hick’s Valley. The project would not result in substantial grading, tree removal or other adverse physical effects on the environment.

- A. The construction of the bridge crossing Arroyo Sausal Creek would occur in a previously disturbed area where the existing bridge and access driveway are located. The bridge construction would span the creek and the existing bridge abutments and would minimize grading and site disturbance within the 100-foot Stream Conservation Area. The project would result in minor effects to creek and riparian resources because no trees would be removed, only one bay tree would be pruned for widening the bridge and driveway, and grading would occur within, or along the edge, of the existing driveway.
- B. Although the antennas would be visible from off-site locations, the facility would consist of a “stealth design” with mock broadleaf trees for antenna supports and would not be visually prominent in relation to the existing hills, and trees in the background. To ensure that the facility visually blends with the surrounding background of hills and trees, the fence, equipment cabinets, and antennas shall be painted a matte non-reflective dark color.
- C. Overall, the proposed facility would be compatible with existing uses on the property and would not conflict with the visual character of the subject or surrounding properties.

**SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Marin French Cheese Company/American Tower Corporation and AT&T Mobility Use Permit and Design Review subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

- 1. Pursuant to Marin County Code Chapter 22.42 and 22.48, this Use Permit and Design Review approval permits the construction of a wireless telecommunications facility for American Tower Corporation with the capability of locating four different wireless telecommunications service providers. The approval permits the installation of one telecommunications facility for AT&T Mobility with 12 panel antennas on one of two 35-foot tall “stealth broadleaf 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 one of the stealth trees. The subject property is located at 7500 Point Reyes - Petaluma Road, Petaluma (Hick's Valley) and is further identified as Assessor's Parcel 125-060-10.

2. Except as modified by conditions of approval, the project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as **Exhibit A**, "American Tower Corporation Red Hill RD. CN0511-C, 7550 Point Reyes Petaluma Rd., Nicasio CA 94946 Marin County", consisting of 26 sheets prepared by Connell Design Group, LLC, Consulting Civil Engineers, and JES Engineering, Inc. Civil Engineering and Land Surveying; **Exhibit B**, "Sample of a Stealth Broadleaf Tree"; and **Exhibit C**, "Arborist Review of Grading Access Road, Proposed Tower Site a& Underground Trenching American Tower Corporation", consisting of 11 sheets prepared by Kjeldsen Biological Consulting.
3. 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 Use Permit and Design Review conditions of approval as notes.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit written verification from the Marin County Fire Department accepting the bridge and driveway designs.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to delete the references to 7550 Red Hill Road, Nicasio and shall identify the project site as 7500 Point Reyes – Petaluma Road, Petaluma (Hick's Valley).
6. BEFORE GRADING ACTIVITIES COMMENCE AND ISSUANCE OF A BUILDING PERMIT, GRADING PERMIT, OR CREEK PERMIT, the applicant shall install temporary construction fencing around the dripline of the existing trees in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
7. BEFORE GRADING ACTIVITIES COMMENCE AND ISSUANCE OF A BUILDING PERMIT, GRADING PERMIT, OR CREEK PERMIT, the applicant shall install temporary silt fences and fiber rolls downslope of the bridge abutments and retaining walls to prevent soil and materials from entering the creek. The fencing is intended to protect existing vegetation and water quality during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
8. BEFORE GRADING ACTIVITIES COMMENCE AND ISSUANCE OF A BUILDING PERMIT, GRADING PERMIT, OR CREEK PERMIT, the applicant shall, in consultation with the arborist, submit revised plans to the Director for review and approval that indicate a reduction in the extent of grading within 10 feet of the trunks of all trees greater than 6 inches DBH and the installation of small retaining walls to protect tree roots.
9. All site development construction practices shall be in accord with the recommended guidelines and inspection schedule contained in the tree assessment, Exhibit C, dated September 21, 2009. The applicant shall comply with all recommendations made by the licensed professional with respect to tree protection during construction activities, general tree care practices, and long-term vegetation management to ensure continued viability of the site's native vegetation.



10. The applicant shall retain the services of a licensed arborist, botanist, or forester to periodically monitor the construction activities and to submit a report confirming that the project has complied with all of the best management practices and other requirements of the tree assessment BEFORE FINAL INSPECTION. The applicant shall implement all of the recommendations from the arborist as indicated on page 3 of Exhibit C to protect trees from damage during grading for the driveway improvements. These measures include the following:
  - a. Reduce the bank cuts in the immediate area of the trees and hand excavate around structural roots that are to remain.
  - b. Before grading commences, an arborist shall walk the driveway with the construction contractor to review the trees, and discuss the required protection measures to be present during grading activities for the driveway improvements to ensure protection of trees.
  - c. Before commencement of grading or construction, pruning of tree branches for safety and clear access shall be performed in conjunction with an arborist.
  - d. Root more than 2 inches in diameter shall be excavated by hand and exposed, and if cutting is necessary, roots shall be cut cleanly with a saw.
  - e. Minimize grading under tree canopies.
  - f. All construction should occur during the dry season from June through October. Pruning equipment must be sanitized before use. All pruned material should be left on site.
  - g. Tree trunks within 3 feet of either side of the driveway shall be protected with orange construction fencing.
  - h. If any tree greater than 6 inches diameter at breast height is removed, it shall be replaced with the planting of 10 one-gallon trees of the same genus and species as the removed tree.
11. BEFORE FINAL INSPECTION, the applicant shall stabilize all cut banks and fill slopes with erosion control Best Management Practices including such items as straw, fiber mats, and mulch. Tree trunks shall be protected from fill with small retaining walls or fill shall avoid the tree trunks. The applicant shall install any replacement trees (if any) and call for a Community Development Agency staff inspection of the replacement trees and overall conditions of approval compliance 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 inspections.
12. Exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, hooded, and directed downward to minimize visual effects. No exterior lighting is approved on the antennas or stealth trees as part of this application.
13. 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.
14. If archaeological, historic, or prehistoric resources are discovered during grading or construction, the grading and construction activities shall cease, and the Community Development Agency staff

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

15. 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 **outside of the Stream Conservation Area at least 100 feet from the creek top-of-bank** (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.
16. The approved co-location telecommunications 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.
17. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.
18. 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.

19. Utility extensions or connections shall be underground.
20. 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.
21. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
22. The applicant shall hold harmless the County of Marin or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, and employees to attack, set aside, void, or annul, this approval by the County of the Marin French Cheese Company/American Tower Corporation and AT&T Mobility Use Permit and Design Review.
23. 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.
24. The electromagnetic frequency radiation (EMF) 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 allowable standards as adopted by the Federal Communications Commission and the County. If nationally accepted research establishes a substantially different standard for human exposure to EMF and such standard is adopted by the County or otherwise determined to be applicable by the County, the applicant shall demonstrate compliance with such standard by submitting a radio frequency report to the County within 90 days of the effective date of the standard or longer period as requested 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.
25. 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.
26. 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.

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

27. BEFORE ISSUANCE OF A BUILDING PERMIT, GRADING PERMIT, OR CREEK PERMIT, the applicant shall submit or complete the following:
- a. An Encroachment Permit is required for any work in the road right-of-way.
  - b. Install erosion and siltation control measures if work occurs between October 15 and April 15.
  - c. Plans show the 10-foot wide utility easement extending into the road right-of-way. Revise plans to show the easement terminating at the property line.
  - d. A Creek Permit is required for the removal of the existing bridge and abutments. Submit a creek restoration plan for review along with a creek permit application (available online).
  - e. Driveways over 18% grade shall be surfaced with PCC and given a broomed or roughened finish. MCC 24.04.300. In response to the letter dated June 22, 2009 requesting design exceptions to the code, DPW will grant the exception if Fire Department has no objections.
  - f. The minimum improved width of a driveway serving non-residential use shall be eighteen feet. MCC 24.04.260 (d). In response to the letter dated June 22, 2009 requesting design exceptions to have a 10-foot wide driveway beyond the bridge, DPW will grant the exception given the fire department approval. The letter from the fire department should specifically address the adequacy of the proposed 16-foot wide bridge, width of the travel way along the proposed retaining walls and the height clearance that may be used to access the existing caretaker's unit.
  - g. Verify that the bridge clear width is 16-feet and the railings are not within the clearance.
  - h. The current plans dated 8/27/09 show additional fill along the bridge conform points. However, the cut/fill volumes shown on sheet C3, has not changed since the previous submittal dated 6/12/09. Provide accurate cut/fill volumes to reflect the current set of plans.
  - i. A separate Building Permit is required for each different type of site retaining wall with a height of 4-feet (measured from the bottom of foundation) or 3-feet with a surcharge. Provide a cross section reference to the structural plans on the site plan for site retaining walls.

### **SECTION 3: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Marin French Cheese Company/American Tower Corporation and AT&T Mobility Use Permit and Design Review approval by substantially completing all approved work before October 29, 2012, 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 Director approves it. Extensions of time may be granted for cause consistent with Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid until October 29, 2019, unless the conditions of approval are violated, in which case the Use Permit may be revoked. The applicant shall submit an application to renew the Use Permit at least 60 days before the expiration

of the Use Permit. If the Use Permit expires without benefit of a renewal, all equipment, structures, and antennas shall be removed, and the site shall be returned to its pre-existing conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than 4:00 P.M. on November 13, 2009.

**SECTION 4: DECISION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 29th day of October, 2009.

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JOHANNA PATRI  
DEPUTY ZONING ADMINISTRATOR

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Joyce Evans  
DZA Secretary