

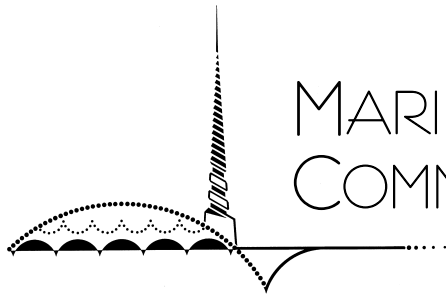
**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES**  
**Marin County Civic Center, Room #328 - San Rafael**  
**MEETING – October 29, 2009**

Hearing Officer      Johanna Patri, AICP, Consulting Planner

Staff Present:        Lorene Jackson, Planner  
                             Neal E. Osborne, Planner

Joyce Evans, Recording Secretary

Convened at 9:03 A.M.  
Adjourned at 9:19 A.M.



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

**NOTICE OF DECISION**

Applicant's Name: **Bolinas Fire Protection District**

Application (type and number): Coastal Permit (CP 09-40) and Design Review (DR 09-72)  
and Use Permit (UP 09-27)

Assessor's Parcel Number: 193-020-55, -56, and -57

Project Location: 100 Mesa Drive, Bolinas

For inquiries, please contact: Lorene Jackson, Planner

Decision Date: October 28, 2009

**DETERMINATION: Approved with Conditions**

Minutes of the October 28, 2009, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-19.

Marin County Community Development Agency

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Johanna Patri  
Hearing Officer

**C1. COASTAL PERMIT (CP 09-40), DESIGN REVIEW (DR 90-72)  
AND USE PERMIT (UP 09-27): BOLINAS FIRE PROTECTION DISTRICT**

A proposal to upgrade an existing 50-foot telecommunication tower by removing two OMNI whip antennas that attain a height of 61.4 feet and replacing them with nine panel antennas that would attain a maximum height of 50 feet. The Bolinas Fire Protection District's two existing OMNI whip antenna located on the subject tower at 42 feet and 20.3 feet will remain. The applicant would also add 12 new runs of coaxial cable from the existing equipment shelter (located on APN 193-020-56) to the existing tower (located on APN 193-020-57.) The co-location facility would be unstaffed. An existing road will continue to provide access for technicians' service to the site on an approximately twice-a-month basis. The existing tower is located behind the Bolinas Volunteer Fire Department building, approximately 132 feet north of Mesa Road. The subject property is located at 100 Mesa Drive, Bolinas 94924, and is further identified as **Assessor's Parcel 193-020-55, 56, and 57.**

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 and closed.

The Hearing Officer concurred with staff's analysis and approved the Bolinas Fire Protection District Coastal Permit, Design Review, and Use Permit, based on the Findings and subject to the conditions in the Resolution.

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. 09-141

A RESOLUTION APPROVING  
BOLINAS FIRE PROTECTION DISTRICT (VERIZON WIRELESS)  
COASTAL PERMIT (09-40), USE PERMIT (09-27), AND DESIGN REVIEW (09-72)  
100 MESA DRIVE, BOLINAS

ASSESSOR'S PARCEL 193-020-55, 56, and 57

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**SECTION I: FINDINGS**

- I. WHEREAS Crown Castle, on behalf of Verizon Wireless, proposes to upgrade an existing 50-foot telecommunication tower by removing two OMNI whip antennas that attain a height of 61.4 feet and replacing them with nine panel antennas that would attain a maximum height of 50 feet. The Bolinas Fire Protection District's two existing OMNI whip antenna located on the subject tower at 42 feet and 20.3 feet will remain. The applicant would also add 12 new runs of coaxial cable from the existing equipment shelter (located on APN 193-020-56) to the existing tower (located on APN 193-020-57.) The co-location facility would be unstaffed. An existing road will continue to provide access for technicians' service to the site on an approximately twice-a-month basis. The existing tower is located behind the Bolinas Volunteer Fire Department building, approximately 132 feet north of Mesa Road. The subject property is located at **100 Mesa Drive, Bolinas** and is further identified as **Assessor's Parcels 193-020-55, 56, and 57**.
  
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on October 29, 2009 to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
  
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1 of the CEQA Guidelines because the expansion and continued operation of an existing telecommunications facility would not result in environmental impacts. The applicant has submitted two reports prepared by Hammett & Edison, Inc., dated May 1, 2009 and July 21, 2009, which evaluate human exposure to radio frequency electromagnetic fields from the proposed modifications to existing telecommunications facility. The reports conclude that the facility will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact to the public.
  
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan due to the following factors:
  - A. The proposed project is consistent with the PF-OS (Public Facilities and Open Space) land use designation for the project site and would not interfere with the existing fire station and medical clinic use of the immediate property and open area and recreational use of the surrounding area.

- B. The proposed project is consistent with the PFS-5.1 in that the proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan. The design of the upgraded facility is compatible with other land uses, provides protection from vandalism and fire hazards, minimizes visual impacts, and minimizes potential health risks to people. Additionally, the applicant is enhancing an existing facilities, rather than seek a new tower or location.
  - C. The proposed project would not result in any grading or the removal of existing vegetation.
  - D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
  - E. The proposed project would not adversely affect riparian areas, wetlands, or habitats of special-status species.
  - F. Mandatory Use Permit findings can be made pursuant to Section 22.82.040I of Marin County Code to allow public utility and service uses necessary for public safety, convenience, and welfare.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Bolinas Community Plan for the following reasons:
- A. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, or on-site drainage.
  - B. The proposed project would not adversely affect the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, or building design, mass, and bulk.
  - C. The subject property is not located within the Bluff Erosion Zone identified by the Bolinas Gridded Mesa Plan, which has limited opportunities for development.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin County Telecommunications Facilities Policy Plan (TFPP) and with the criteria for wireless communications facilities contained therein, as follows:
- A. The TFPP states that wireless telecommunication facilities should be sited to avoid or minimize land use conflicts. The TFPP policies establish a general preference for non-residential sites for wireless facilities. TFPP policy LU 1.4 rank orders location preferences in seven categories:
    - 1. Industrial sites
    - 2. Commercial sites
    - 3. Public facilities sites
    - 4. Agricultural sites
    - 5. Mixed use sites
    - 6. Open space and recreational sites
    - 7. Residential sites

The existing telecommunications facility is compatible with the public facility, open area, and agricultural use of the subject property and surrounding area. The subject property is developed with a fire station, medical clinic, and adjacent telecommunication facility, which as public facilities, is ranked third in location preference. There are no industrial or commercial facilities in the search ring for the coverage area. The open area south of Mesa Road is owned and used by the Bolinas Community Public Utility District for wastewater treatment ponds.

TFPP policy LU 2.1 encourages co-location of facilities or clustering of facilities on a single property. By increasing the number of antennas on the existing tower, the applicant is in effect co-locating on their own tower.

The proposed project utilizes an existing equipment shelter, served by an existing access driveway. The only disruption to soil will be the retrenching for the installation of new coaxial cables. By utilizing existing facilities, there would be no tree removal or other adverse environmental impacts. The project would not result in adverse visual impacts because it will be lower than the existing tower and would not impair coastal views. Based on these factors, the facility is consistent with the location standards contained in the TFPP.

- B. The facility would allow Verizon Wireless to maintain and upgrade existing communication services in the Bolinas area, allowing the carrier to continue providing a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.
- C. The applicant submitted two reports prepared by Hammett & Edison, Inc., dated May 1, 2009 and July 21, 2009. These reports concluded that the upgraded facility would not result in any significant risks with respect to human exposure to radio frequency fields because the proposed facility would generate maximum ambient radio frequency levels that are below the applicable public exposure limit established by the Federal Communications Commission (FCC), even when combined with the adjacent telecommunication facilities.
- D. Visual and aesthetic compatibility policies contained in the TFPP specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. TFPP policy VIS 1.1 encourages the most efficient use of existing sites and facilities, thereby postponing the need to develop new sites. Further, TFPP policy VIS 1.1.2 states, "Wherever possible, new telecommunication devices should be co-located or clustered at existing facilities and multiple devices consolidated in the course a facility renovation, unless co-location or clustering will result in significant adverse visual effects that could be avoided or minimized by alternative facility locations and/or design." Since the proposed facility would not substantially change visual effects of the existing tower, an alternative location is not warranted.

VIS 1.1.4 encourages providers to share facilities to the greatest extent possible. Access road and parking areas on the subject properties are shared among other service providers and the fire department.

VIS 2.2.1 calls for telecommunication facilities to blend with the surrounding natural and built environments. As conditioned, painting the existing equipment shed to match the on-site public facilities onsite would be consistent with this policy. The new antenna would be painted to match the existing tower (matte, non-reflective gray) and adjacent cell tower.

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.

- E. No new lights will be added. 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, shielded, and directed downward to minimize visual effects on adjoining areas. The two existing lights meet this condition.
- F. Vehicular access for the upgraded facility is provided and would remain unchanged. No additional parking area would be required for the operation of the facility.
- G. The project would require no removal of vegetation.
- H. The facility is located in on a developed site with no known complaints about noise. Noise levels associated with the operation of the facility would not exceed ambient noise levels. With the exception of routine maintenance visits by technicians, the facility would not generate other traffic trips to the property. Maintenance visits would occur no more than twice per month and would typically occur during the day, between 7:00 a.m. and 5:00 p.m. Therefore, the proposed facility would neither generate significant levels of noise nor traffic.
- I. Changes to the existing facility would not significantly impair the visual conditions on or surrounding the subject property because the overall height of the tower would be reduced 11.3 feet and would remain the same color. Additionally, the existing equipment shed would be painted to match the existing public facility buildings.

VII. 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**

No on-site water services will be required as part of the proposed project. The Bolinas Community Public Utilities District (BCPUD) has reviewed project plans and indicated that the change proposed changes would have not impact on current water service to the site.

**B. Septic System Standards**

No on-site sanitation services will be required as part of the proposed project.

**C. Grading and Excavation**

No grading will be required for this project. The project will utilize an existing tower and equipment building. Minor retrenching (approximately 150 linear feet to a depth of 2 feet) will be required to run the new coaxial cable from the tower to the nearby equipment shelter. This will be in the same location as the existing conduit, which is previously disturbed soil.

#### **D. Archaeological Resources**

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of high archaeological sensitivity. However, it is unlikely that this project would adversely impact any archeological resources because 1) the property has been fully developed with firehouse facilities, parking, telecommunication facilities, and access areas, 2) these previous physical alterations and construction did not discover cultural resources, and 3) the project involves minor trenching in a previously disturbed area. Nonetheless, project approval would require that if archeological resources are discovered during site preparation or construction, the applicants would have to follow archeological preservation protocol, including cessation of work and evaluation by a qualified archeologist to determine if any modification to the project would be required.

#### **E. Coastal Access**

The subject property is not located between the sea and the first public road, or adjacent to a coastal area identified by the Local Coastal Program Unit 1, where public access is desirable or feasible. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

#### **F. Housing**

The proposed project will have no impact upon the availability of affordable housing stock within the Bolinas community.

#### **G. Stream and Wetland Resource Protection**

The proposed project is not situated in an area subject to the County streamside conservation policies as identified on the Natural Resources Map for Unit 1 of the Local Coastal Program or near any ephemeral or intermittent stream indentified on the USGS Quadrangle Maps for the project area.

#### **H. Dune Protection**

The project site is not located near dunes or in a dune protection area of the Local Coastal Program.

#### **I. Wildlife Habitat**

The project entails the modification of an existing telecommunication tower on a previously disturbed and developed site with a firehouse, medical clinic, and other telecommunication facilities. No significant alteration of land or removal of vegetation indentified for habitat protection in the Local Coastal Plan is proposed.

#### **J. Protection of Native Plant Communities**

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered plant species at or near the subject property. The project entails the modification of an existing telecommunication tower on a previously disturbed and



developed site. The subject property does not contain a significant number or type of non-indigenous, invasive plant species that would threaten the preservation or reestablishment of native species.

**K. Shoreline Protection**

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

**L. Geologic Hazards**

The project site is located approximately 680 feet from the Alquist Priolo Zone and would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code.

**M. Public Works Projects**

The proposed project will not affect any existing or proposed public works project in the area.

**N. Land Division Standards**

No land division or property line adjustment is proposed as part of this project.

**O. Visual Resources**

The existing tower is comprised of a dull gray, open-grid steel framework with gray antennas to minimize potential light or glare. Removal of the existing two whip antennas will lower the overall height of the facility by 11.3 feet. The nine new panel antennas will be clustered at the top of the 50-foot tower. The wider profile of the new antennas will be offset by the lower overall height of the structure and would not be more visually prominent. The tower is located 132 feet from Mesa Road and is partially screened from the road by the existing fire station. The project will not impair or obstruct coastal views from any public street or public viewing places.

The existing 225-square foot equipment building attains a maximum height of 11 feet and, as conditioned, would be repainted to match the color of the other buildings on-site - the fire station and medical clinic. The shed is located within a fenced enclosure with redwood slates within the chain links.

The existing facility and proposed modifications to the existing tower are compatible with the current use and character of the built environment. The Bolinas Fire Protection District has specified that they do not want landscaping around the tower. All utility lines serving the tower and equipment building will remain underground.

**P. Recreation/Visitor Facilities**

The project would not have any impact upon recreation or visitor facilities.

## **Q. Historic Resource Preservation**

The subject property is not located within the designated historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program – Unit 1.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (Section 22.88.020I of the Marin County Code), as specified below.

### **A. The establishment, maintenance, or conducting of the use for which this Use Permit is sought will not 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 be detrimental to the public welfare or injurious to property or improvements in the neighborhood for the reasons listed below:**

1. The proposed project would be incidental to the primary public facility. Pursuant to Section 22.57.022.12 of the Marin County Code, the construction, alteration, and maintenance of communication facilities are permitted uses in the C-ARP-5 (Coastal, Agriculture Residential Planned District, 1 unit/ 5 acres maximum density) zoning district.
2. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, and on-site drainage. The proposed improvements have been determined to be categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1.
3. Since there is no plumbing associated with this project, there would be no impact on existing water or sewer to the subject or surrounding properties.
4. Modifications to the existing tower would have no adverse impact on existing parking or traffic.
5. The proposed project would not result in significant adverse visual impacts because the height of the structure will be 11.3 feet lower than the existing tower and less than the adjacent 65-foot AT& T monopole that was permitted to support three 8-foot tall panel antennas and three 5-foot tall panels. Please see Section VII.O above.
6. The emergency radio antennas of the Bolinas Fire Protection District will remain on the subject tower and would be unaffected by the modification. The expanded service from the proposed project would enhance the overall Verizon Wireless network for personal, business, and emergency use in the area and contribute to public safety, convenience, and welfare.
7. 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 well below the exposure limits set by the Federal Communications Commission (FCC). The granting of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood.

8. The Marin County Planning Department provided public notice of the project to all properties within 600 feet of the subject property and no adverse comments have been received.

IX. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Design Review per Section 22.82.040I of the Marin County Development Code can be made based on the following findings:

**A. The proposed project is consistent with the Countywide Plan and any applicable community plan and local coastal program.**

As noted in Sections IV, V, and VII above, the proposed project would be consistent with the Countywide Plan, the Bolinas Community Plan, and the local coastal program. The project would be consistent with the zoning district regulations and would not be detrimental to the public health, safety, and welfare.

**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 surroundings;**

The proposed project would be located on an existing tower and result in a facility with an overall lower height. See Section VII.O above.

**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 existing tower is located approximately 132 feet from Mesa Road and is partially screened by the existing fire station that attains a maximum height of 33 feet. Similarly to the existing facility, the proposed project 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;**

Public notices were sent to agencies, community groups, and property owners within 600 feet of the project. At the time this staff report was prepared, the Community Development Agency has received no adverse comments regarding this project.

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

No trees will be removed as part of the proposed project. The Bolinas Fire Protection District has specified in writing that they do not want landscaping around the tower, as conditioned in the previous Use Permit. The existing equipment building is located on a concrete pad, with no opportunity for landscaping without compromising the integrity of that pad.

**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 include those produced by the design and location characteristics of the following:**

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

The existing tower and proposed enhancements would be of a comparable height, size, and scale with the adjacent AT&T monopole, as well as other structures in the surrounding community. See Section VII.O above.

**2. Drainage systems and appurtenant structures;**

The project entails no changes to existing drainage and appurtenant structures. Further, all conceptual plans have been reviewed by the Department of Public Works.

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

As noted in Section VII.C above, no grading will be required for this project.

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

The existing tower and equipment shelter are located entirely on the subject parcel and would not be located within rights-of-way or affect the movement of people or vehicles.

**5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.**

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

**G. The project design includes features, which foster energy and natural resource conservation while maintaining the character of the community.**

The County Green Building standards are not applicable to telecommunication facilities. Similarly, the project is not subject to Title 24 and Ordinance 3492.

## **SECTION II: CONDITIONS OF APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Bolinas Fire Protection District (Verizon Wireless) Coastal Permit (CP 09-40), Use Permit (UP 09-27), and Design Review (DR 09-72) subject to the conditions as specified below:

### Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.56.130I (Coastal Permit), 22.88.020I (Use Permit), and 22.82.040I (Design Review) of the Marin County Code, the Bolinas Fire Protection District (Verizon

Wireless) Coastal Permit, Use Permit, and Design Review are approved to remove two OMNI whip antennas on the existing telecommunication tower and replacing them with nine panel antennas that would attain a maximum height of 50 feet. Approval is granted for the installation of 12 new runs of coaxial cable from the existing equipment shelter (located on APN 193-020-56) to the existing tower (located on APN 193-020-57). No approval is granted for plumbing fixtures. The existing Bolinas Fire Protection District Omni antennas attached to the tower at 42 feet and 20.3 feet shall remain. The existing tower is approved at its current location behind the Bolinas Volunteer Fire Department building, approximately 132 feet north of Mesa Road. The subject property is located at **100 Mesa Drive, Bolinas** and is further identified as **Assessor's Parcels 193-020-55, 56, and 57.**

2. Development and use of the facility shall conform to plans identified as **Exhibit A2**, entitled "Verizon Wireless, 100 Mesa Drive," consisting of 4 sheets prepared by Smithco Surveying Engineering, dated March 4, 2009, revised August 17, 2009, received August 20, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
  - a. Antennas shall extend no more than 3 feet from the side of the tower.
  - b. Revise site plans to be in standard architectural or engineering scale (e.g. 1/8, 3/4, or 1"= 40'.)
3. All visible components of the tower (including, but not limited to the pole and antennae) shall be painted to match the existing subdued matte-finish gray. The equipment shelter shall be painted to match the existing fire station and medical clinic.
4. The emergency generator appurtenant to the approved equipment building shall be tested only on weekdays, Monday through Friday, from 9:00 a.m. to 4:00 p.m.
5. The approved communication facility must be maintained in a clean, weed-free, and orderly condition. Any damage or vandalism to the site must be repaired promptly. No equipment, operable or inoperable, shall be stored outside the equipment building, other than the installed antennas and emergency generator.
6. 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 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.

7. 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.
8. This Coastal Permit, Use Permit, and Design Review approval may be revoked by the County should the approved facility, in combination with other existing ambient sources exceed an updated EMF standard unless the location, design, and/or operation of the approved facility is modified to meet the updated standard. Modifications of the approved facility shall be submitted to the Community Development Agency to determine if amendments to these permit approvals are necessary. This condition shall not apply if the County is preempted by Federal and/or State law, rules or regulations from applying an updated EMF standard after the approved facility has been constructed.
9. 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 Coastal Permit, Use Permit, and Design Review Conditions of Approval as notes.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a standard Performance Agreement with the County and post a bond or other suitable security in order to guarantee removal of an abandoned facility. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed, and the site returned to its pre-existing conditions.
11. Exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, shielded, and directed downward to minimize visual effects. No additional exterior lighting is approved as part of this application.
12. 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-referenced noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.

13. Utility extensions or connections shall be underground.
14. The applicant shall be responsible for ensuring that the number of construction vehicles is limited to the minimum number necessary to complete the project.
15. This Coastal Permit, Use Permit, and Design Review 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.
16. 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.
17. 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 Bolinas Fire Protection District (Verizon Wireless) Coastal Permit, Use Permit, and Design Review.
18. This Coastal Permit, Use Permit, and Design Review 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.

#### Department of Public Works

19. All improvements shall remain within established and currently recorded easements or if addition space outside existing easements is required, newly drawn and recorded easements shall be completed.

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

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **October 29, 2011**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the 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 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, before **4:00 p.m.** on **November 5, 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 29<sup>th</sup> day of October 2009.

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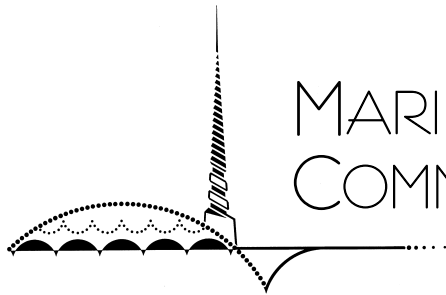
JOHANNA PATRI  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary





MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**NOTICE OF DECISION**

Applicant's Name: **Marin French Cheese Company/American Tower Corporation and AT&T**

Application (type and number): Use Permit (CP 09-5) and Design Review (DR 09-3)

Assessor's Parcel Number: 125-060-10

Project Location: 7500 Red Hill Road, Petaluma

For inquiries, please contact: Neal E. Osborne, Planner

Decision Date: October 28, 2009

**DETERMINATION: Approved with Conditions**

Minutes of the October 28, 2009, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-27.

Marin County Community Development Agency

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Johanna Patri  
Hearing Officer

**H1. USE PERMIT (UP 09-3), DESIGN REVIEW (DR 90-3):  
MARIN FRENCH CHEESE COMPANY/AMERICAN TOWER CORPORATION & AT&T**

A proposal to consider the Marin French Cheese Company/American Tower Corporation and AT&T Use Permit and Design Review. 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 AT&T proposal is for two 35-foot "stealth broadleaf trees" mounted with 12 panel antennas and one microwave dish antenna 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 surrounded by a chain-link security fence. The proposal would result in a 10-foot wide 3,225 lineal foot access driveway with 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 because of the limited access requirements for monthly maintenance after construction. The grading proposed 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. The bottom of the new bridge would be approximately 8 feet above the creek bed where the existing bridge to be removed 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 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 within the A-60 zoning district **at 7500 Red Hill Road, (aka Point Reyes Petaluma Road), Petaluma (Hick's Valley)**, and is further identified as **Assessor's Parcel 125-060-10**.

The Hearing Officer noted that the item had been continued from the hearings of March 3, April 16, April 30 and May 14, 2009. She pointed out that staff had some incorrect dates in Section I, Finding 2 and asked him to correct them.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the supplemental memorandum. He responded to her questions about the vesting date stating that it should read October 29, 2011, a two year vesting period.

The Hearing Officer directed staff to add to SECTION 3: VESTING, PERMIT DURATION, AND APPEAL RIGHTS, first paragraph, after "...and the Director approves it...add: "An extension of up to 4 additional years may be granted for cause consistent with Marin County Code."

The public testimony portion of the hearing was opened and closed.

The Hearing Officer asked the applicant, James Singleton, whether he had read the staff report and recommended Condition of Approval, and whether he was in agreement with the staff recommendations. Mr. Singleton stated that he had read the report and was in agreement with the recommendations.

The Hearing Officer concurred with staff's analysis and approved the Marin French Cheese Company/American Tower Corporation and AT&T Use Permit, and Design Review, based on the Findings and subject to the conditions in the revised Resolution.

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      09-142**

**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 16<sup>th</sup>, April 30<sup>th</sup>, and May 14, 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, 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 Director approves it. An extension of up to 4 additional years 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