

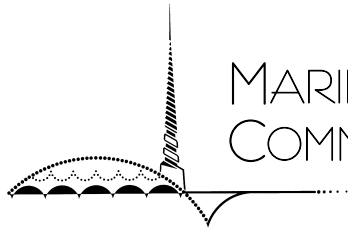
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – February 25, 2010

Hearing Officer Johanna Patri, AICP, Consulting Planner

Staff Present: Veronica Corella Pearson, Planner
 Kristina Tierney, Planner

Joyce Evans, Recording Secretary

Convened at 9:03 A.M.
Adjourned at 10:05 A.M



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **JAMES CODINGTON**

Application (type and number): Use Permit (UP 10-7)

Assessor's Parcel Number: 143-110-66

Project Location: 511 Atherton Avenue, Novato

For inquiries, please contact: Veronica Corella Pearson, Planner

Decision Date: February 25, 2010

DETERMINATION: Approved with Conditions

Minutes of the February 25, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-15.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

A proposal to consider the Codington Use Permit Amendment. In response to a Code Enforcement violation, the applicant has applied for a Use Permit Amendment to change the number of allowed doctors, staff, and appointment hours for the veterinary practice at 511 Atherton Avenue in Novato. The applicant has requested the following changes to the approved Use Permit (UP 92-028): 1) to allow up to 3 doctors and a total of 13 staff members on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit are proposed at this time. The subject property is zoned ARP-2 (Agricultural, Residential Planned, 1 unit/2 acres). The subject property is located at **511 Atherton Avenue, Novato** and is further identified as **Assessor's Parcel 143-110-66**.

Staff noted that after speaking to the Department of Public Works, they recommended a new Condition of Approval requiring the applicant to provide the Community Development Agency, Planning Division, with a Parking Plan prior to vesting the approval.

In response to the Hearing Officer, staff summarized the following changes. The Use Permit is to increase the allowed doctors on site from 2 to 3, resulting in a total of 13 staff (3 doctors, and 10 support staff). Also proposed is a change in the hours of operation on Thursday from 8 am to 8 pm, to 8 am to 6 pm. Saturdays hours would also change from 9 am to 1 pm, to 8 am to 4 pm. The project would result in a total increase of 1.5 hours available for appointments. No other changes to the existing permit are proposed. The existing conditions allowing for a total of 47 clients and 8 overnight animals at one time will remain the same.

The public testimony portion of the hearing was opened.

Riley Hurd, applicant, spoke regarding the limited scope of the project and how the intensity of use would remain unchanged. He noted that a veterinarian practice is a permitted use in the ARP zone. He further noted that they exceed the parking requirements by 60%, parking on the right-of-way on Atherton is legal and the owner will provide a parking plan. The septic system was inspected by Environmental Health Services and was approved, and there has been no change in water usage. Dr. Codington will take pro-active steps to cover his dumpster. The lighting is balanced to maintain safety and in keeping the rural character of the neighborhood.

Jim Codington, owner, spoke regarding the years he has been open and his contribution to the community. Staffing is shared on a six day basis and no more than 47 visits are done in one day. He has also responded to comments from the neighbors.

Ellen Somsel, Vera Reeves, Anne Hadley, Nelda Simmons, Mona Sabuco, Bill Muggenthaler, Janice Wichman, Bill Goff, and Judy Beaton spoke in favor of the project.

Dennis Molloy, neighbor, spoke regarding concerns with traffic safety, lack of a road shoulder on Atherton Avenue, lights that are on all night, the business being inappropriate for the location, excessive traffic in a residential area, and trash that is blown along Atherton Avenue, and the other adjacent neighbors being impacted as well.

The public testimony portion of the hearing was closed.

In response to the Hearing Officer, the applicant noted that the lighting on the sign is on a timer and goes off at 8:00 PM, the lights on the side of the house are on motion detectors that turn off after one minute, medical waste is handled internally following all requirements of permitting agencies, the dumpster is covered with a lid, and recycled materials are put in trash bins.

The Hearing Officer noted that off-site parking is regulated by the Department of Public Works, but she would like a parking plan for employees and staff using the 16 on-site designated parking spaces and additional space for tandem parking for loading and deliveries. The Hearing Officer noted that staff was sent out a night to check on the lighting.

The Hearing Officer approved the project with the following modifications to the resolution:

- Finding 6 (D) – Use Permit Findings: add: “lighting on the premises for safety purposes only and directed downward. Lighting of the sign is on a timer and goes off at 8:00 PM; lighting on the structure is on motion detectors, lighting in the garden is down lighted. All lighting is low wattage.
- Garbage – medical waste is handled internally and carries all use permits including required permits from EHS. External waste is contained within a dumpster with a lid to prevent the overflowing of waste. Waste is also handled by a minimum of two recycle cans. All refuse is picked up weekly, and arrangements can be made to pick up waste more often if needed.
- Parking – a minimum of 16 parking spaces are maintained on-site. The Conditions of Approval require that the owner submit to the Community Development Agency, Planning Division staff an acceptable parking plan for all staff personnel and clients. The Conditions of Approval also require that the owner install signage within the office notifying all staff, clients and delivery services that everyone must park on-site.
- The operation was visited and there was no evidence of excessive dust, odor or noise being produced at the premises.

The Hearing Officer clarified that the Conditions of Approval would add the following: 1) a parking plan (2) a sign will be installed in the lobby to notify clients about the parking, (3) all garbage shall be covered, (4) any required permits regarding disposal of medical waste shall be presented to the Community Development Agency staff; (5) all lighting will be downcast, and low wattage; and (6) all conditions of the prior Use Permit shall remain in effect and there shall be no more than 47 clients per day seen at the premises, and no more than 8 animals kept overnight.

Bill Goff noted that trash is often spilled when waste management dumps it.

The Hearing Officer concurred with staff’s analysis and approved the Codington Use Permit, based on the Findings and subject to the conditions in the revised Resolution.

The Hearing Officer requested that the Department of Public Works, roads crew to look at the striping of Atherton Avenue.

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-10-110

A RESOLUTION APPROVING THE CODINGTON USE PERMIT AMENDMENT (UP 10-7)
511 ATHERTON AVENUE, NOVATO
ASSESSOR'S PARCEL 143-110-66

SECTION I: FINDINGS

- I. WHEREAS in response to a Code Enforcement violation, the applicant has requested a Use Permit Amendment, to change the number of allowed doctors, staff and appointment hours for the veterinary practice at 511 Atherton Avenue in Novato. The applicant has requested the following changes to the approved Use Permit (UP 92-028): 1) to allow 3 doctors and 10 support staff (total of 13 staff members) on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit are proposed at this time. The subject property is located at 511 Atherton Avenue, Novato and is further identified as Assessor's Parcel 143-110-66.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 25, 2010 to consider the merits of the project, and hear testimony in favor of, and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 because the project will not result in new construction or site disturbance, and will not change the existing use of the property, or the intensity of use.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project proposes no new construction or site disturbance and will not conflict with CWP natural systems policies requiring the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).
 - B. The project proposes no new construction or site disturbance and will not conflict with the natural systems policies regarding supporting vegetation and wildlife disease management programs and promoting the use of native plant species (CWP Policies BIO-1.4, BIO-1.5, BIO-1.6 and BIO-1.7).
 - C. The project proposes no new construction or site disturbance and will not conflict with policies regarding special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).
 - D. The project proposes no new construction or site disturbance and will not conflict with policies regarding protecting ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the

private open space adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).

- E. The project proposes no new construction or site disturbance and will not conflict with policies regarding the protection of wetlands or stream conservation areas (CWP Policies BIO-3.1 and CWP BIO-4.1).
 - F. The project proposes no new construction or site disturbance and will not conflict with policies regarding stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
 - G. The project proposes no new construction or site disturbance and does not trigger construction that requires building permit review for earthquake standards (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
 - H. The project has been reviewed by Novato Fire Protection District and is in compliance with required adequate fire protection standards regarding, removal of hazardous vegetation (CWP Policy EH-4.1, and CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), defensible space and the project does not require a building permit that will require compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n), and clearance of vegetation around the proposed structure (CWP Policy EH-4.h).
 - I. The project as approved in UP 92-028 is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (CWP Policy DES-1.2).
 - J. The project proposes no new construction and will not conflict with policies regarding energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (CWP Policy DES-1.h).
 - K. The project proposes no new construction or site disturbance and therefore will preserve visual quality, and protect scenic quality and views of the natural environment from adverse impacts related to development (CWP Policy DES-4.1).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Black Point Community Plan because the proposed Use Permit Amendment will: 1) not result in new construction, and will maintain the existing rural residential community character; 2) preserve the natural attributes and features found in the surrounding community; and 3) not result in new growth to the surrounding areas or influence the character of the community.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project will be consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.48.040 of the Marin County Code for the reasons listed below.

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

Marin County Code Section 22.08.030 allows for veterinary clinics and animal hospitals in the ARP (Agricultural, Residential Planned) zoning district, based on Use Permit approval. The veterinarian clinic received Use Permit approval in 1984, and a Use Permit Amendment was granted in 1992.

B. The proposed use is consistent with the Countywide Plan and Black Point Community Plan.

See Section IV and V above.

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

See Section III above.

D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The applicant has requested that the hours available for appointments be changed for Thursday and Saturday, with the remaining days to remain the same. As proposed, Thursday's appointment hours would be the same as the remaining days of the week from 8:30 a.m. to 6:00 p.m., and would close two hours earlier. Saturday's hours would be increased by four hours and the clinic would be open for appointment one hour earlier and close three hours latter. The proposed modification to the existing public hours would only result in a 1.5 hour increase in the total public operation hours. The office would be closed to the public at 6:00 p.m., but this would not result in a large volume of traffic exiting the clinic since appointments are staggered, and staff would most likely remain longer to close the office. Further, operating longer on Saturdays, when there isn't a workday commute, would most likely not result in a significant traffic impact since there would be no commuter traffic. In addition, after conducting a site visit it was determined that based on the following existing conditions, the project is operating in conformance with the existing Use Permit, and is compatible with the community.

- Lighting on the premises is for safety purposes only and directed downward. Lighting of the sign is on a timer and goes off at 8:00 PM; lighting on the structure is on motion detectors, lighting in the garden is down lighted. All lighting is low wattage.
- Garbage and medical waste is handled internally and carries all use permits including required permits from EHS. External waste is contained within a dumpster with a lid to prevent the overflowing of waste. Waste is also handled by a minimum of two recycle cans. All refuse is picked up weekly, and arrangements can be made to pick up waste more often if needed.

- There are a minimum of 16 parking spaces maintained on-site. The Conditions of Approval require that the owner submit to the Community Development Agency, Planning Division staff an acceptable parking plan for all staff personnel and clients. The Conditions of Approval also require that the owner install signage within the office notifying all staff, clients and delivery services that everyone must park on-site.
- No evidence of excessive dust, odor or noise is being produced at the premises.

E. That granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The project has been reviewed by the Novato Fire Protection District, North Marin Water District, the Department of Public Works, and Environmental Health Services. During review the applicant has demonstrated that there is adequate parking available on-site. The proposed conditions of approval require that the applicant install a Dose Counter and Elapse Time Meter to monitor wastewater flows to ensure compliance with the maximum allowed wastewater flows. The conditions of approval also require that the owner comply with the North Marin Water District's requirements that a new water service agreement be entered into. With these conditions of approval, the project would not pose a public health or safety detriment. Staff further finds that no additions or site work is proposed, therefore the project would not result in adverse visual impacts, or impacts to the community character. The veterinarian clinic has been in operation for over 25 years and provides a valuable service to the community, and the proposed amendment would assist the clinic in better serving the community needs.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Codington Use Permit Amendment (UP 10-7) subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. Pursuant to Marin County Code Section 22.48.040 the Codington Use Permit Amendment (UP 10-7) is approved for the following changes to UP 92-028: 1) to allow up to 3 doctors and for a total of 13 staff members (3 doctors, and 10 support staff) on site at one time; and 2) to allow for the facility to be open for appointment between the hours of Monday through Friday from 8:30 a.m. to 6:00 p.m., and Saturday from 8:00 a.m. to 4:00 p.m. No other changes to the approved Use Permit 92-028 are approved. The clinic will see no more than 47 clients per day, and will not have more than 8 overnight animals at one time. The subject property is located at 511 Atherton Avenue, Novato and is further identified as Assessor's Parcel 143-110-66.
2. PRIOR TO VESTING the applicant will provide the Community Development Agency, Planning Division with a Parking Plan showing how all staff and client vehicles are accommodated on-site and how parking is managed.

3. PRIOR TO VESTING the applicant will provide the Community Development Agency, Planning Division with photo verification that a sign has been installed in the lobby directing all staff, and visitors to park on-site.
4. PRIOR TO VESTING the applicant shall provide the Community Development Agency, Planning Division with a copy of all active permits for medical waste.
5. All garbage shall remain in an enclosure and shall be covered.
6. All other conditions of Use Permit approval UP 92-028 remain in full effect.
7. This Use Permit Amendment shall be recorded to advise all future landowners of the Use Restrictions associated with the Veterinarian Clinic.
8. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
9. 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 (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
10. 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.
11. 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.
12. The applicant shall comply with all North Marin Water District requirements and provide the Community Development Agency - Planning Division with written verification from the water district stating that all conditions of approval have been met.
13. The applicant must comply with all Conditions of Approval within 180 days.

Comment [TL1]: Please e or the more specific requirem lights that is in special conditi

Marin County Environmental Health Services - Sewage

14. The applicant shall install a Dose Counter and Elapse Time Meter into the septic system control panel.

North Marin Water District

15. The applicant shall apply for a new Water Service Agreement with North Marin Water District and shall pay all required connection fees.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Codington Use Permit Amendment (10-7) approval by commencing the allowed use on the property, in compliance with the conditions of approval by August 25, 2010. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, in consultation with the Code Enforcement Section, for good cause, such as delays beyond the applicant's control. In no event may such extensions be granted beyond two years from the effective date of this approval. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 of the Marin County Code.

The Codington Use Permit Amendment shall be valid indefinitely, so long as the current owner or subsequent owners of the subject property comply with the conditions of project approval. In the event that the terms of the Codington Use Permit Amendment are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, the Codington Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120.030 of Marin County Code.

Failure to comply with the strict terms of the Conditions of Approval shall result in invalidation of all permits and rights granted herein. The owner(s) of the subject property shall pay all staff cost incurred at the prevailing hourly rate for any required enforcement actions required by the County.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on March 11, 2010.**

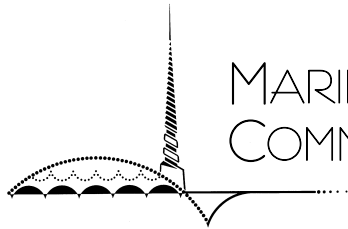
SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 25th day of February, 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **KMC INC., PARADISE CAY YACHT CLUB
T-MOBILE WEST CORPORATION**

Application (type and number): Use Permit (CP 10-9) and Design Review (DR10-35):

Assessor's Parcel Number: 038-460-37

Project Location: 300 Trinidad Drive, Tiburon

For inquiries, please contact: Kristina Tierney, Planner

Decision Date: February 25, 2010

DETERMINATION: Approved with Conditions

Minutes of the February 25, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-15.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

**H1. USE PERMIT (UP 10-9) AND DESIGN REVIEW (DR 10-35):
KMC INC., PARADISE CAY YACHT CLUB T-MOBILE WEST CORPORATION KT**

A proposal to consider the Use Permit and Design Review applications to construct and operate a wireless telecommunications facility on the site of the Paradise Cay Yacht Club harbor office building, which is owned by KMC Inc. Up to eight (8) wireless antennas would be located on the roof of the harbor office building and would be shielded from view by a 4.5 foot tall and 5.5 foot wide square faux chimney. Up to four (4) equipment cabinets would be placed within a 120-square-foot lease area on the northern side of the building. The subject property is located at **300 Trinidad Drive, Tiburon** and is further identified as **Assessor's Parcel 038-460-37**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report, but she had some phone calls with inquiries.

The public testimony portion of the hearing was opened.

Greg Guerrazi, representing T-Mobile, spoke in favor of the project. He explained the screening proposed for the project and read and understood the Conditions of Approval.

The public testimony portion of the hearing was closed.

The Hearing Officer approved the KMC INC., Paradise Cay Yacht Club T-Mobile West Corporation Use Permit and Design Review, based on the Findings and subject to the Conditions as set forth in the 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 10-111

A RESOLUTION APPROVING THE KMC INC./PARADISE CAY HARBOR (T-MOBILE WEST CORPORATION) USE PERMIT AND DESIGN REVIEW
ASSESSOR'S PARCEL 038-460-37
300 TRINIDAD DRIVE, TIBURON

SECTION I: FINDINGS

- I. WHEREAS T-Mobile West Corporation, has applied on behalf of the owners, KMC Inc., for a Use Permit and Design Review to construct and operate a new wireless telecommunications facility. The facility would consist of up to eight (8) antennas on the roof of the harbor office building and would be shielded from view by a 4.5-foot-tall and 5.5-foot-wide square faux chimney. Up to four (4) equipment cabinets would be placed within the 120 square foot lease area on the northern side of the building.

The subject property is located at **300 Trinidad Drive, Tiburon**, and is further identified as **Assessor's Parcel 038-460-37**.

- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 25, 2010 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 exterior modifications of an existing structure and would not result in environmental impacts. The applicant has submitted a report prepared by Hammett & Edison, Inc., dated September 21, 2009, which evaluates human exposure to radio frequency electromagnetic fields from the proposed telecommunications facility. The report concludes 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 Policies PFS-5.a, b, and d in that the proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan and the design of the proposed 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, as conditioned, the applicant is encouraged to share and co-locate to the greatest extent possible facilities with other telecommunication site users, including buildings, access roads, parking areas, transmitters, towers, and antennas.
 - B. 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 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 telecommunications 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 subject property is a boat harbor and Yacht Club, which used for both commercial and recreational uses. Commercial sites are ranked second in location preference and recreational sites are ranked sixth. It is surrounded by medium and low density residential development and the bay. While residentially developed sites are ranked 7th, the project would be located over 150 feet from the nearest residence and represents the project alternative that is most compatible with use of the project site and neighboring uses.

The proposed telecommunications facility is compatible with the boat harbor and Yacht Club and use of the subject property and surrounding areas, all of which were approved by the Paradise Cay North Master Plan and Use Permit. The site is served by an existing roadway and utilities. The facility would be located on top of the existing harbor office building and would not require any grading or tree removal, or result in other adverse environmental impacts. The project would not result in adverse visual impacts because the antennas would be concealed by a faux chimney on top of the existing building. The antennas would not be visible to neighbors or passerbys. Based on these factors, the facility is consistent with the location standards contained in the TFPP.

- B. The facility would allow T-Mobile West Corporation to continue providing communications services for the Paradise Drive area and would allow the carrier to continue to provide a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.
- C. The applicant submitted a report prepared by Hammett & Edison, Inc., dated September 21, 2009, which conclude that the existing 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).
- D. The project site is located at the Paradise Cay Harbor, east of Paradise Drive. The proposed facility would be located on the top of the existing yacht club office building, shielded from view by a square faux chimney measuring 5.5 feet wide and 4.5 feet tall. The project site is developed, devoid of vegetation and as designed, the antennas would not be visible.

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 2 encourages minimizing visual affects with location and stealth design. As the faux chimney eliminates views of the antenna, 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. 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.
 - F. Vehicular access for the proposed project site is provided from the existing roadway. Parking is available at the Yacht Club. No additional road or parking area construction would be required for the operation of the facility.
 - G. The project site is devoid of vegetation and as the project would be located on the roof of an existing structure, no tree or vegetation removal would be required.
 - H. The facility is located at a commercial/recreational site. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With exception to routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property. In addition, 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. The facility would not significantly impair the visual conditions on and surrounding the subject property because the facility would be hidden behind a faux chimney on top of the harbor office building.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (Section 22.48.040 of the Marin County Code), as specified below.

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

The proposed project would be incidental to the existing harbor office building and operations of the Paradise Cay Harbor and Yacht Club. Pursuant to Marin County Code Section 22.10.030, the construction and maintenance of communication facilities, are permitted in RMP-1.35 zoning districts with Use Permit approval.

Public utility and service uses may be approved in the governing multi-family zoning district by Use Permit pursuant to Section 22.48 of the Marin County Code when it is found to be necessary for public health, safety, convenience, or welfare. The telecommunications facility is part of the T-Mobile network, which provides wireless cellular and personal communication services to residents and businesses in Marin County and contributes to public safety, convenience, and welfare.

- B. The proposed use is consistent with the Countywide Plan and applicable Community Plans.**

Please see Section IV above.

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

Please see Section III above.

- D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.**

The proposed project would not result in significant adverse visual impacts because the height of the structure is appropriate for the existing use on the property, and is screened by the proposed faux chimney. This stealth design would avoid visual impacts from future requests for expanded use and co-location.

- E. The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located.**

Please see Section V.D, V.E and V.I above.

- F. Granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.**

The 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 grant 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.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Design Review per Section 22.42.060 of the Marin County Development Code can be made based on the following findings:

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

Please see Section V.D above.

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

The project would be located with adequate setbacks to adjoining properties and would not interfere with development on other properties. The project would be located on top of an existing building and screened from view by the proposed faux chimney and would not result in loss of light, air, privacy, or views in the neighborhood. Please also see Section V. A above.

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

The facility would maintain large setbacks to all surrounding properties and would not interfere with the existing use of the property. The proposed facility would be located on top of an existing building and equipment cabinets would be within an area fenced off from Trinidad Drive. In addition, the facility would be a stealth design screened from off-site views by the faux chimney.

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

The project would not result in any substantial grading, retaining walls, tree removal, or other adverse physical effects on the environment.

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

The proposed project is consistent with design standards because it 1) is clustered with the existing harbor office building in the most accessible and least visually prominent location on the subject property, and 2) will be painted to blend into the natural environment unobtrusively, consistent with design standards for development.

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

Table 4-6 is designed for residential buildings and is not applicable to telecommunication facilities.

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

As noted in Section IV above, the proposed project would be consistent with the Countywide Plan. The project would be consistent with the zoning district regulations and would not be detrimental to the public health, safety, and welfare.

SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the KMC Inc./Paradise Cay Harbor (T-Mobile West Corporation) Use Permit and Design Review subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapters 22.48 (Use Permit) and 22.42 (Design Review) of the Marin County Code, the KMC Inc., Paradise Cay Harbor T-Mobile West Corporation Use Permit and Design Review are approved to construct and operate a new wireless telecommunications facility. The facility is approved to consist of up to eight (8) panel antenna located on top of the existing harbor office building and four (4) equipment cabinets and associated equipment located on the ground adjacent to the west side of the building within a 120 square foot lease area. The antennas would be shielded from view by a 4.5 foot tall and 5.5 foot wide square faux chimney. The subject property is located at **300 Trinidad Drive, Tiburon**, and is further identified as **Assessor's Parcel 038-460-37**.
2. Development and use of the facility shall conform to plans identified as **Exhibit A**, entitled "T-Mobile West Corporation, Tiburon Yacht Club-Harbor Office Building," consisting of 7 sheets prepared by ZON Architects, Inc, dated October 5, 2009, received November 3, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. 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.
4. This Use Permit 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.
5. 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.

6. 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.
7. 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 exterior lighting is proposed or approved on the antennas as part of this application.
8. 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.
9. Utility extensions or connections shall be underground.
10. The applicant shall be responsible for ensuring that the number of construction vehicles is limited to the minimum number necessary to complete the project.
11. This Use Permit Renewal 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. Any increase in height of the antenna shall necessitate a stealth design.
12. 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.
13. 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 KMC Inc., Paradise Cay Harbor T-Mobile West Corporation Use Permit and Design Review.
14. 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.

Department of Public Works

15. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a copy of the lease agreement or a letter from the property owner approving the project.

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 **February 25, 2012**, 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.3of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid until **February 25, 2020**, 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 **March 11, 2010**.

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 25th day of February 2010.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary