

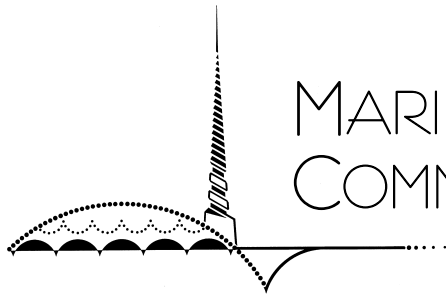
**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES**  
**Marin County Civic Center, Room #328 - San Rafael**  
**MEETING – March 11, 2010**

Hearing Officer      Johanna Patri, AICP, Consulting Planner

Staff Present:      Veronica Corella Pearson, Planner  
                            Danilella Hamilton

Joyce Evans, Recording Secretary

Convened at 9:00 A.M.  
Adjourned at 10:05 A.M



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**NOTICE OF DECISION**

Applicant's Name: **MUIR BEACH COMMUNITY SERVICE DISTRICT**

Application (type and number): Coastal Permit (CP 10-32) and Variance (VR-10)

Assessor's Parcel Number: 199-262-11

Project Location: 87 Seacape Drive, Muir Beach

For inquiries, please contact: Veronica Corella Pearson, Planner

Decision Date: March 11, 2010

**DETERMINATION: Approved with Conditions**

Minutes of the March 11, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-16.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer

**C1. COASTAL PERMIT (CP-10-32) AND VARIANCE (VR-10):  
MUIR BEACH COMMUNITY SERVICE DISTRICT**

**VCP**

A proposal to consider the request from Muir Beach Community Service District for Coastal Permit and Variance approval for a new water tank that would be adjacent and to the west of the existing water tank. The tank would be 200,000 gallons and would serve both upper and lower Muir Beach. The existing tank would remain as a back-up reserve tank until it is no longer repairable. The proposed new tank would be approximately 22.2 feet in height, and approximately 45 feet in diameter. It would be a tan color and approximately 10 feet from the exist tank, with the following setbacks from adjacent property lines: front (north) 17-feet, side (east) 61.4-feet, rear (south) 21.4-feet, and side (west) 23.3-feet. The project would result in the cut and fill of approximately 640 cubic yards and 180 cubic yards respectively, and the disturbance of approximately 3,000 square feet of area. Also proposed is a temporary access road. The property is zoned C-R-A:B-4 and Variance approval is required for encroachments of an accessory structure into the required minimum 25-foot front setback, and 6-foot side setback. The subject property is located at **87 Seacape Drive, Muir Beach**, and is further identified as **Assessor's Parcel 199-262-11**.

In response to the Hearing Officer, staff summarized the contents of her supplemental memorandums dated March 10, 2010 regarding changes to the resolution, and correspondence received from the National Park Service and from the Sierra Club. The memo and revised resolution had been made available to the applicant by email.

The Hearing Officer questioned staff about Section I: Finding VIII. (I), Wildlife Habitat. Staff responded that the Sierra Club added language to the findings and conditions of approval regarding the benefits of the use of both the existing and proposed water tank on Redwood Creek during the critical dry season, on minimizing withdrawals from the creek, which would benefit coho salmon and steelhead. Both the NPS and Sierra Club requested that a condition of approval be added to clarify that the use of the existing tank would assist the CSD in meeting its State Water Resources Control Board permit requirements. Staff stated that the County is not responsible for enforcing the conditions of the State Water Resources Control Board, and recommended that such language not be added to the conditions of project approval, and that the Wildlife Habitat section find that the use of both the existing and proposed tank would provide a temporary benefit to Redwood Creek.

The public testimony portion of the hearing was opened.

Leighton Hills, Muir Beach Community Services District Manager, commented that he would like to keep the existing tank by repairing the rot. Mr. Hills mentioned that he has been working with a consultant to find a solution to the need for a reserve water source to replace the existing water tank. The Hearing Officer mentioned that there are no deadlines for removal of the existing tank and the Muir Beach Community Services District needs to keep the County informed of their progress since a Coastal Permit may be required for any future project.

Gordon Bennett, Sierra Club Marin Chapter, mentioned that they did not intend to require the applicant to keep the existing tank, but were concerned about the language in the resolution stating the "unrepairable" condition of the existing tank and requested that this word be removed.

Discussion followed on a Condition of Approval regarding the existing tank. The Hearing Officer determined that the existing condition was acceptable and no changes were needed.

The Hearing Officer inquired from the Department of Public Works (DPW) code requirements on stockpiling of soils, fill, erosion control and replanting of ground cover. DPW recommended that since they will be temporarily stockpiling soil, a condition of project approval be added that the applicant must submit an Erosion and Sediment Control Plan in accordance with the requirements of MCC 24.04.625 (b) for during and post construction activities.

The applicant indicated that they would comply with all DPW conditions of approval.

The public testimony portion of the hearing was closed.

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

New COA #10: Grading shall reach a balance of cut and fill to the greatest extent possible. At the end of construction, the site shall be re-contoured to resemble a natural state.

New COA #11: A revegetation plan shall be submitted to the Community Development Agency – Planning Division that shows the new vegetation to be planted to screen the proposed tank from Seacape Drive and the Muir Beach Overlook.

New COA # 14: PRIOR TO VESTING the applicant shall provide an Erosion and Sediment Control Plan in accordance with the requirements of MCC 24.04.625 (d) for project related activities during and post project construction.

The Hearing Officer concurred with staff's analysis and approved the Muir Beach Community Service District Coastal Permit and Variance, 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 (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 10-112

A RESOLUTION APPROVING THE MUIR BEACH COMMUNITY SERVICE DISTRICT COASTAL PERMIT (CP 10-32) AND VARIANCE PERMIT (VR 10-16)  
87 SEACAPE DRIVE, MUIR BEACH  
ASSESSOR'S PARCEL 199-262-11

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**SECTION I: FINDINGS**

- I. WHEREAS the applicant, Muir Beach Community Service District, has applied for Coastal Permit approval for a new water tank that will be adjacent and to the west of the existing water tank. The tank will be 200,000 gallons and will serve both upper and lower Muir Beach. The existing tank will remain as a back-up reserve tank until it is un-repairable. The proposed new tank will be approximately 24.2 feet in height, and approximately 45 feet in diameter. It will be a tan color and approximately 10 feet from the existing tank, with the following setbacks from adjacent property lines: front (north) 17 feet, side (east) 61.4 feet, rear (south) 21.4 feet, and side (west) 23.3 feet. The project will result in the cut and fill of approximately 640 cubic yards and 180 cubic yards respectively, and the disturbance of approximately 3,000 square feet of area. Also proposed is a temporary access road. The subject property is located at 87 Seacape Drive, Muir Beach, and is further identified as Assessor's Parcel 199-262-11.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 11, 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 15303, Class 3 of the CEQA Guidelines because it entails construction of a new water tank on a developed lot, which will be located within an area of existing disturbance and will not result in adverse impacts to sensitive species.
- IV. WHEREAS the project is exempt from building permit approval pursuant to California Government Code Section 53091 (d), which states that building ordinances of a county or city shall not apply to the location or construction of facilities for the storage, treatment, or transmission of water by a local agency. Section 53091 (e) states that zoning ordinances of a county or city shall not apply to the location or construction of facilities for the storage of water.
- V. WHEREAS the Marin County Deputy Zoning Administrator has determined that the project must comply with the California Coastal Act, which requires Coastal Permit approval, in accordance with the requirements of the Local Coastal Program, Unit 1. The Local Coastal Program - Unit 1 established the setbacks for the C-R-A:B-4 zoning district, and in order to provide relief from the established setbacks, Variance Permit approval is also required.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the **Marin Countywide Plan** for the following reasons:
- A. The project as conditioned is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).
  - B. The project as proposed is in conformance with Policy BIO 1.7 and the project complies with natural systems policies supporting vegetation and wildlife disease management programs and promoting the Variance of native plant species (CWP Policies BIO-1.4, BIO-1.5, BIO-1.6 and BIO-1.7).
  - C. The project will not result in impacts to special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).
  - D. The project will not significantly impact ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the private open space adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).
  - E. No wetlands or stream conservation areas will be affected by the project (CWP Policies BIO-3.1 and CWP BIO-4.1).
  - F. The project as conditioned will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
  - G. The project avoids hazardous geological areas and will be designed to County earthquake standards (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
  - H. The project design and improvements ensure adequate fire protection (CWP Policy EH-4.1), removal of hazardous vegetation (CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), and defensible space and complies with Marin County fire safety standards (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 will ensure that development in the rural area 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 is consistent with requirements for energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (CWP Policy DES-1.h).
  - K. The project will preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (CWP Policy DES-4.1).
  - L. The project will does not need to comply with the Marin County Single-Family Dwelling Energy Efficiency Ordinance (CWP Policy EN-1.c).

- VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the policies contained in the Muir Beach Community Plan due to the following factors.
- A. The project will involve the construction of a new water tank that is accessory to the existing Variance and is in the governing C-RA:B-4 zoning district with Variance Permit approval.
  - B. The project will be compatible with its surroundings, is not unsightly in design, and will not create substantial disharmony with its locale and surroundings.
  - C. The project will protect the water supply of the community.
  - D. The project will not impact recreational opportunities in the area because the property serves as the water storage location for Muir Beach Community Service District.
- VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the **Coastal Permit** (Section 22.56.130I of the Marin County Code) because this project will meet the requirements and objectives of the Local Coastal Program, Unit I as specified below:
- A. Water Supply  
The Muir Beach Community Service District currently providing water service to the 147 residences and the proposed water tank is essential to meet the needs of the community. Currently the existing upper water tank will fail during a seismic event and has rot throughout the tank that undermines its stability.
  - B. Septic System Standards  
The Marin County Department of Environmental Health Services has reviewed the application and has found the project acceptable as proposed provided that it maintain a setback of 5 feet from the sewage disposal system, that includes the vault toilets near the overlook.
  - C. Grading and Excavation  
The proposed project will result in the cut and fill of approximately 640 cubic yards and 180 cubic yards respectively, resulting in the off-haul of approximately 460 cubic yards of soil and by excavating into the hill, the water tank to be tucked into the slope, resulting in a reduction of the visual mass of the tank. The project has been designed in conformance with the recommendations of the drainage plan report and the project as conditioned will be constructed to minimize runoff, and proposes a minimum amount of grading and impervious surface. The project has also been conditioned to prohibit grading or other work outside of the property lines and within access easements, unless recorded documentation is furnished showing that the proposed use is acceptable. A geotechnical investigation was conducted and all exposed slopes will be protected by retaining walls were required. The structure will also be constructed to withstand a seismic event and to retain the volume of the proposed new tank during an event.
  - D. Archaeological Resources  
The proposed project is located within an area of high archaeological sensitivity. An archeological literature search and a site visit were conducted. During the literature search no previous archaeological surveys of either the proposed tank location or the

existing tank or parking lot were found. There are no recorded historic or prehistoric sites within a thousand feet of the project site. During the site visit, the project site was inspected for any visual evidence of prehistoric cultural deposits and none were found. The project as conditioned will ensure that during excavation if any archeological effects are found, construction will stop and all protection measures will be employed.

E. Coastal Access

The project site is located adjacent to the Muir Beach Overlook and is located outside of views of the ocean from public trails and the overlook.

F. Housing

The proposed project does not entail any new housing or the removal of an existing residence that will result in a change in housing stock. Nor would the project allow for additional housing to be built in the community.

G. Wetland and Stream Conservation Protection

No wetlands or streams are located on, or near the subject property.

H. Dune Protection

This finding is not applicable. The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area potentially containing rare wildlife species. A review of the California Natural Diversity Database (CNDDDB, 2008a: CNDDDB, 2008b) and U.S. Fish and Wildlife Services on-line inventory of federally endangered and threatened species was also conducted. A list of special status species that occur in the Point Bonita, San Rafael, and Bolinas USGS quadrangle was compiled and it was determined that the required habitat for all potential species will most likely not occur on the project site. No special status wildlife species were observed during the site surveys. There is potential for migratory birds to nest on the property. No nests were observed during a site survey. In accordance with the biologist recommendations, the applicant removed all shrubs within the site of the proposed tank after the bird survey was conducted, and outside of the bird nesting season. Therefore the proposed project will not result in adverse impacts to migratory birds. The use of both the existing and proposed water tank will assist in the Muir Beach Community Service District in meeting the requirements of State Water Resources Control Board permit (#29331), and will reduce water withdrawals from Redwood Creek during the critical dry season. This will benefit the federally-threatened steelhead and endangered Coho salmon. Muir Beach Community Service District has indicated that they have been in communication with all interested parties and permitting agencies to discuss how to proceed with meeting the permit requirements upon failure of the existing tank.

J. Protection of Native Plant Communities

The proposed project was reviewed for listed species on the California Natural Diversity Database (CNDDDB, 2008a: CNDDDB, 2008b) and U.S. Fish and Wildlife Services on-line inventory of federally endangered and threatened species. A list of special status plant species that occur in the Point Bonita, San Rafael, and Bolinas USGS quadrangle was compiled and it was determined that the required habitat for all potential species will most likely not occur on the project site. No special status plant species were observed during the site surveys.



K. Shoreline Protection

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

L. Geologic Hazards

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

M. Public Works Projects

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

N. Land Division Standards

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

O. Visual Resources

The height, scale and design of the proposed water tank is compatible with the character of the surrounding environment. The proposed development will be sited so that it will not obstruct public views from public trails or the Muir Beach Overlook.

P. Recreation/Visitor Facilities

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

Q. Historic Resource Protection

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

IX. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to grant a Variance (Section 22.86.025I) of the Marin County Code and California Government Code Section 65906).

**A. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

The subject lot is 15,681 square feet in size, one third of the minimum lot size requirement of one acre. It was created in its existing size and configuration prior to the Seacape Subdivision and is half the size of the other surrounding lots, and the use of the lot was established prior to the C-R-A:B-4 zoning district, for the existing use. The C-R-A:B-4, requires the following minimum setbacks: front 30 feet, side 20 feet, and rear either a maximum of 25 feet or 20% of lot depth. The existing tank occupies the central portion of the property, and is 37 feet in diameter. The new tank would be 45 feet in diameter and

requires space surrounding it for maintenance, and access to the tank. The lot is steeply sloping along its property lines, and since the current water tank cannot be removed while the new one is erected, and due to the large diameter of the new and existing water tank, the new tank is confined to being located in the setbacks. Therefore, the constraints created by the steeply sloped lot, existing water tank, and substandard lot size are unique physical features that constrain development on the subject property and prevent development within the building envelope prescribed by the C-R-A:B-4 zoning district. These constraints deny the property owners privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

**B. The granting of a variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.**

The project would not be detrimental to the public. It would protect the public by ensuring that its water supply is protected during a seismic event, and would ensure continued water service to the Muir Beach community. The project would not result in unintended growth in the community since the existing tank would only remain for a few more years, and would serve as a reserve water tank and an emergency backup. The new water tank would be located to avoid visual impacts from public viewsheds, and has been designed to be of a similar size as the existing tank. The new tank would take three months to construct, and it's important that the existing tank remain during this time to serve upper Muir Beach. With the proposed conditions of approval, the new tank would be located entirely on the subject property and would be located a substantial distance from adjacent neighbors and would not result in adverse visual impacts to neighbors. The project is not located within an area of sensitive natural resources, and with the conditions of approval would not impact rights-of-way, or negatively impact future development in the vicinity.

**C. The granting of a variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.**

The granting of a Variance for the property does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity under an identical zoning district because, as explained in Finding IX above, development on the property is constrained by the steeply sloped lot, existing water tank, and substandard lot size. The lot is also half the size of other lots in the vicinity and the grant of a Variance for an encroachment into the front and side setbacks does not constitute a special privilege in comparison to other properties in the surrounding community that are of a larger lot size, and do not need to work around existing development that is essential to the water supply of the community.

**D. The granting of a variance for the property does not authorize a use or activity which is not otherwise expressly authorized by the particular zoning district regulations governing such property.**

The governing C-R-A:B-4 zoning district is a single-family residential and limited agriculture designation. The existing use of the lot for water storage is a legal non-conforming use, and was established prior to the Local Coastal Program, and the current development standards.

## SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Muir Beach Community Service District Coastal Permit (CP 10-32) and Variance Permit (UP 10-10) subject to the following conditions:

### Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.56I (Coastal Permit) and 22.88I (Variance Permit) of the Marin County Code, the Muir Beach Community Service District is approved for a new water tank that will be adjacent and to the west of the existing water tank. The tank will be 200,000 gallons and will serve both upper and lower Muir Beach. The existing tank will remain as a back-up reserve tank until it is no longer repairable. The proposed new tank will be approximately 24.2 feet in height, and approximately 45 feet in diameter. It will be a tan color and approximately 10 feet from the existing tank, with the following setbacks from adjacent property lines: front (north) 17 feet, side (east) 61.4 feet, rear (south) 21.4 feet, and side (west) 23.3 feet. The project will result in the cut and fill of approximately 640 cubic yards and 180 cubic yards respectively, and the disturbance of approximately 3,000 square feet of area. Also approved is a temporary access road. The subject property is located at 87 Seacape Drive, Muir Beach, and is further identified as Assessor's Parcel 199-227-11.
2. PRIOR TO VESTING, Plans shall be submitted that comply with the Conditions of Approval and shall substantially conform to plans entitled, "Robertson Engineering, Inc.," consisting of 3 sheets, prepared by Robertson Engineering, Inc., received January 12, 2010, and on file in the Marin County Community Development Agency.
3. Approved exterior materials shall substantially conform to the color board identified as "Exhibit B" entitled, "Muir Beach Water Tank Project," received January 12, 2010 by the Community Development Agency.
4. PRIOR TO VESTING, the applicant shall provide the Community Development Agency, Planning Division with written verification demonstrating how each of the conditions of approval from the Department of Public Works and Environmental Health Services have been met.
5. All construction activities shall comply with the following standards:

Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
6. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.

7. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate measures to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement measures 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.
8. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
9. The owners hereby agree to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Muir Beach Community Service District Coastal Permit and Variance Permit for which action is brought within the applicable statute of limitations.
10. Grading shall reach a balance of cut and fill to the greatest extent possible. At the end of construction, the site shall be re-contoured to resemble a natural state.
11. A revegetation plan shall be submitted to the Community Development Agency – Planning Division that shows the new vegetation to be planted to screen the proposed tank from Seacape Drive and the Muir Beach Overlook.
12. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Development

PRIOR TO VESTING:

13. An encroachment permit shall be required for work within the Seacape Drive right-of-way.
14. The applicant shall provide an Erosion and Sediment Control Plan in accordance with the requirements of MCC 24.04.625 (d) for project related activities during and post project construction.
15. Provide a revised site plan that shows the approximate location of the existing water line from the existing water tank. The site plan shall label the water line as “approximate location of existing water line.”

Environmental Health Services

16. Apply for a new water tank permit. Tank additions or replacements of greater than 100,000 gallons require a permit amendment process, as stated in the Waterworks Standards (Sec. 64556). The Waterworks Standards require the following:
- A. Construct the tank according to American Water Works Association (AWWA) Standards, specifically Standard D110-04 (Wire-and Strand-Wound, Circular, Prestressed Concrete Water Tanks).
  - B. Any coatings shall be approved materials for water contact surfaces and listed under NSF Std. 61.
  - C. Covers, vents, inlet-outlet configurations, drain and other valves, isolation valves, sample taps, water level monitoring equipment, etc. and applicable subsurface installation requirements shall be installed, and in accordance to the Waterworks Standards.
  - D. Maximum day demand and peak hourly demand calculations will be required during the permit amendment review.

**SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Muir Beach Community Service Coastal Permit (CP 10-32) and Variance Permit (UP 10-16) approval by receiving a water tank permit and constructing the project in compliance with the conditions of approval before **March 11, 2012**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.56.120I and 22.88.050I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on March 18, 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 11th day of March, 2010.

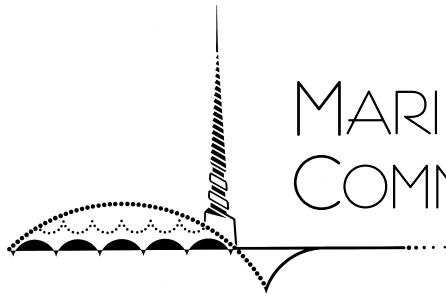
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JOHANNA PATRI, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**NOTICE OF DECISION**

Applicant's Name: **MARIN PARK PLACE LLC (VERIZON)**

Application (type and number): Use Permit (CP 10-2) and Design Review (DR10-19):

Assessor's Parcel Number: 052-140-33

Project Location: 700 Donohue Street,

For inquiries, please contact: Daniella Hamilton, Planner

Decision Date: March 11, 2010

**DETERMINATION: Approved with Conditions**

Minutes of the March 11, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-[1517](#).

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer

**C2. USE PERMIT (UP 10-2) AND DESIGN REVIEW (DR 10-19):  
MARIN PARK PLACE LLC (VERIZON)**

**DH**

A proposal to allow the installation, operation and maintenance of a wireless telecommunications facility consisting of a new monopole and a new equipment shelter adjacent to an established minor telecommunications facility at an existing MMWD water tank enclosure on a ridge top above Donohue Street, Sausalito. The new facility would consist of (1) a new 30 foot monopole installed on a new 36 square foot lease area 7 feet southwest of the MMWD water tank enclosure, and (2) a new, 192 square foot, self contained equipment shelter, 10 feet 7 inches in height, would be located on new 17 feet 8 inches by 39 feet 6 inches square foot lease area topped by a concrete slab 15 feet northwest of the existing water tank enclosure. In addition to the self contained equipment shelter, a 48KW standby diesel generator with UL142 rated 210 gallon tank would be located on the concrete slab. ~~Antennas-Existing~~ Verizon antennas currently located on top of the MMWD water tank would be relocated to the new monopole. The new fenced enclosure would maintain the following approximate setbacks: 180 feet from the northernmost property line, 460 feet from the westernmost property line; 1,340 feet from the southernmost property line; and 900 feet from the easternmost property line. The project would be located at **700 Donohue Street on Assessors Parcel 052-140-33 in the RMP-0.5 (Residential, Multi-family Planned) zone district.**

The Hearing Officer acknowledged a supplemental memorandum from staff dated March 11, 2010, regarding clarifying several points in the Staff Report including an additional public notice, the existing antennas, proposed landscaping, color renderings and the inclusion of the Alta Avenue Trail.

With no one to speak on the matter, the public testimony portion of the hearing was opened and closed.

In response to the Hearing Officer, staff discussed the use of the term "~~steth~~stealth" regarding the design of the tower and the part of the property that will be leased for the cell tower.

Michel Jeremias, Department of Public Works commented on where the retaining wall will be placed to keep it level with the equipment enclosure.

~~Modify~~Modify the title as stated by staff, project description as stated by the hearing officer, Finding III – no tree removal will occur, Finding IV.

- Finding IV: Roman Numeral A – Policy P.F.S.5.1, A, B & D – require implementation of the Telecommunication ~~Telecommunation~~-Facility Policy Plan. The proposed project is consistent with the goals and policy of the Marin County telecommunications facility, policy plan and the design of the proposed facility as compatible with ~~other~~other land uses, provide protections from ~~vandilism~~vandalism and fire ~~hazards~~hazards, minimizes visual impacts and minimizes potential health risks to the people."
- Finding IV. G. Reword to reflect this is a ~~telecommunication~~telecommunication project;
- Finding IV. H – strike;
- Finding IV. I: Correct the ~~steth~~stealth ~~desing~~design wording;
- Finding V: C; Would not result in any tree removal;



- Add new Finding V: “Where as the Marin County Deputy Zoning ~~Administrtor~~Administrator finds the proposed project is consistent ~~wirth~~with the Marin County Telecommunication ~~Telecommunation~~ Facility Policy Plan, and with the criteria for wireless communications facilities contain therein as follows: (Use Finding I through IV Finding VI. H.) The wording needs to go into it's own Finding.
- Add new Conditions of Approval under the heading of Department Public Works;
  - (15) ~~registered~~Registered Engineer shall design the site retaining walls, drainage, and grading plans. Plans must have the engineer’s signature and stamp;
  - (16) ~~a~~A separate Building Permit is required for site retaining walls with a height more than 4’ (or 3’ when backfill area is sloped or has a surcharge).
  - (17) Submit engineer’s calculations for site/driveway retaining walls, signed and stamped by the engineer;

The Hearing Officer approved the Marin Park Place LLC (Verizon) Use Permit and Design Review, based on the Findings and subject to the Conditions as set forth in the modified 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 10-113

A RESOLUTION CONDITIONALLY APPROVING THE MARIN PARK PLACE LLC (VERIZON WIRELESS) DESIGN REVIEW (DR 10-19) AND USE PERMIT (UP 10-02)  
700 DONAHUE STREET, SAUSALITO  
ASSESSOR'S PARCEL 052-140-33

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**SECTION I: FINDINGS**

- I. WHEREAS the applicant, NSA Wireless, on behalf of Verizon Wireless, is requesting Use Permit and Design Review approvals to allow the installation, operation and maintenance of a wireless telecommunications facility consisting of a new monopole and a new equipment shelter adjacent to an established telecommunications facility at the Marin Municipal Water District (MMWD) water storage tank enclosure site (Assessor's Parcel 052-140-27) on a ridge top above Donohue Street, Sausalito. The new facility would consist of: (1) a new 30foot monopole installed within a 36 square foot lease area, located 7 feet southwest of the MMWD water storage tank enclosure; and (2) a new, 192 square foot, self-contained equipment shelter, 10 feet, 7 inches in height, on a concrete slab, located within a 17foot, 8 inch by 39foot, 6 inch lease area, located 15 feet northwest of the existing MMWD water storage tank enclosure. In addition to the self-contained equipment shelter, a 48KW standby diesel generator with UL142 rated 210 gallon tank would be located on the concrete slab. Verizon antennas currently located on top of the MMWD water storage tank would be relocated to the new monopole. The new fenced equipment enclosure would maintain the following approximate setbacks from property lines: 180 feet from the northernmost property line; 460 feet from the westernmost property line; 1,340 feet from the southernmost property line; and 900 feet from the easternmost property line. The project includes improvements to the existing access road and construction of low (maximum height four feet) retaining walls associated with the improvements to the access road and construction of the self-contained equipment shelter. The project includes installation of additional landscaping material surrounding the proposed facility. The project site is located at **700 Donohue Street on Assessors Parcel 052-140-33 in the RMP-0.5 (Residential, Multi-family Planned) zone district.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 11, 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), per Section 15303, Class 3 of the CEQA Guidelines because it would not result in any tree removal, significant grading and drainage alterations or other adverse impacts on the environment.

- IV. WHEREAS the proposed project, subject to the conditions of approval, is consistent with the goals and policies of the Marin Countywide Plan (CWP) as discussed below:
- A. The proposed project is consistent with CWP Policies PFS-5.1 (Implement the Telecommunications Facilities Policy Plan) and PFS-5.2 (Consolidate Telecommunications Facilities) because the proposed telecommunications facility has been designed and sited in accordance with the "County Telecommunications Facilities Policy Plan and has been located adjacent to, and consolidated with, existing facilities, consisting of the access road and antennas (refer to Finding V).
  - B. The project is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*) because the project would not entail the removal of native trees and the project site was previously developed.
  - C. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because, according to the California Natural Diversity Database, the subject property does not provide habitat for special-status species of plants or animals.
  - D. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the subject property is located far enough from the shoreline to avoid being constrained by ecotones.
  - E. No wetlands or stream conservation areas would be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*) because there are no wetlands or streams on or adjacent to the subject property.
  - F. The project would not result in significant storm water 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*) because the proposed project would involve minimal grading or disturbance of soil, would minimally increase the impermeable area on the site, and the existing drainage system complies with the standards and best management practices required by the Department of Public Works.
  - G. The project would be constructed in conformance County earthquake standards, as verified during review of the Building Permit application (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*) and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
  - H. The project design and siting ensure adequate fire prevention, removal of hazardous vegetation (*CWP Policy EH-4.2*), defensible space and compliance with Marin County fire safety standards, (*CWP Implementing Programs EH-4-c, and EH-4.d*), and clearance of vegetation around the proposed facility (*CWP Implementing Program EH-4.h*).
  - I. The project would preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*) because the proposed development would provide landscape screening for the equipment enclosure, and new monopole.

- 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. TFPP policies state that wireless telecommunications facilities should be sited to avoid or minimize land use conflicts. The TFPP policies establish that when a telecommunications facility is located in a residential area, siting and design measures may be employed to minimize potential land use conflicts to an acceptable level. The telecommunications facility proposed for this site is “clustered” in close proximity to the existing facilities on the MMWD water tank site. Based on these factors, the facility is consistent with the location standards contained in the TFPP. The equipment enclosure would be located in a brushy area behind the MMWD water tank site and would be further screened by proposed landscaping. Therefore, the proposed project would be consistent with the Land Use Compatibility Policies of the TFPP.
  - B. 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. The facility, as proposed, would be located within view of hikers using the trails that pass by the MMWD water tank, and would be barely visible from neighborhoods on Donohue Street and Buckelew Street. In keeping with Policy VIS 2.3 of the TFPP, the colors and materials of the fenced enclosure shall blend with the predominant visual backdrop. In this case, the predominant visual backdrop is the MMWD water tank and surrounding trees and bushes. Conditions of approval require the new monopole to utilize dark earthtone colors to blend with the surroundings. There shall be no exterior lighting permitted. Policy VIS 2.4 requires that landscaping shall be used to minimize visual effects of telecommunications facilities. The proposed project includes plantings around the perimeter of the new equipment enclosure for screening. Conditions of approval require that tree protection measures shall be employed during construction, vegetated areas disturbed during construction shall be replanted with drought tolerant natives to minimize erosion, and landscaping shall be selected and situated to comply with Fire Protection standards. Based on these factors, the proposed facility is consistent with the Visual and Aesthetic Compatibility policies contained in the TFPP.
  - C. TFPP policy EMF 2 requires that wireless facilities be designed in compliance with Federal standards to reduce the potential health risks from radio fields. The applicant has submitted a report prepared by Hammett & Edison, Inc. which indicates that the antennas were designed to concentrate energy toward the horizon, thus minimizing energy direction toward the ground or the sky. The report concludes that the maximum ambient RF level at the proposed facility would not exceed 9 percent of the maximum public exposure limit established by the Federal Communication Commission, that the maximum calculated effect of simultaneous operation of all four carriers is 34% of the public exposure limit, and the maximum calculated level at the closest nearby building (390 feet away) would be 2.5% of the public limit.

D. TFPP policies require that telecommunications facilities be constructed, maintained and operated in a manner that does not adversely affect public safety or result in noise or traffic impacts on surrounding land uses. The proposed antenna panels would be located on a new 30 foot monopole, and would not be accessible to the public. The new equipment shelter would be screened on three sides. It would be locked except during maintenance. A condition of approval requires that the facility be dismantled and removed if it has been inoperative or abandoned for over a year. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. The new antennas on the monopole and the equipment enclosure would be accessed from the existing Water District road at the water tank. With the exception of routine maintenance visits by a wireless site technician, the facility would not generate traffic trips to the property. Therefore, the proposed facility would not result in noise or traffic impacts on surrounding properties. Based on these factors, the facility is consistent with public safety and operational standards contained in the TFPP.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Use Permit approval (Section 22.48.040 of the Marin County Code) as described 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.**

Telecommunications facilities are allowed in all zone districts. The proposed project is allowed, as a conditional use, pursuant with Section 22.32.165 of the Marin County Code, subject to Use Permit and Design Review approval.

**B. The proposed use is consistent with the Countywide Plan and any applicable Community Plan and Local Coastal Program.**

The project involves co-location of a new facility at an existing minor telecommunications facility site. Therefore the project would not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

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

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the CEQA Guidelines because the proposed project would not result in significant tree removal, grading, drainage alterations or other adverse impacts on the environment.

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

The project site is identified in the TFPP as an appropriate site for collocation of telecommunications facilities. The scale and positioning of the proposed project are appropriate in its context adjacent to the MMWD water tank site. The operation of proposed project and the adjacent facilities on the MMWD water tank site are subject to review by the County in order to avoid conflicts with existing and future land uses in the vicinity.

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

The area of the MMWD water tank has the appearance of a public facility and is partially screened from view from the surrounding area. It is also located sufficiently distant from residential buildings in the vicinity so that the proposed facility would not become a significant architectural feature identified with surrounding residential development.

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

The proposed development would not have detrimental effects on 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 because it involves alterations to an existing residence in a residential zone. The proposed project would cause no injury to the property nor to improvements in the vicinity or the zone district, and is of compatible design with the existing improvements at the MMWD water tank site.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Design Review approval (Section 22.42.060 of the Marin County Code) as described below.

- A. The telecommunication facility provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community. The project site is located adjacent to the site of a Marin Municipal Water District (MMWD) water storage tank, a public facility, which contains existing co-located telecommunication facilities. The proposed project will use an existing access road. Existing landscaping and the backdrop of the water storage tank, along with new landscaping will screen the proposed new facility from off-site views, including views from the Alta Avenue Trail, a public trail that runs through the project site and is a completed segment of the Bay Area Ridge Trail. The project is sited and designed to minimize adverse visual effects.

- B. The project is sited with adequate setbacks from property lines and the surrounding residential development and will not impact the privacy or views of the residential community or uses of the public trail.
- C. The project will provide large separations from surrounding residential development and will be properly and adequately landscaped with the existing landscaping and additional landscaping material to screen the new equipment enclosure and monopole, consistent with fire safety requirements.
- D. The project would not result in any substantial grading, including the improvements to the existing access road and construction of low (less than four feet high) retaining walls.
- E. The project is consistent with planned district development standards contained in the Marin County Development Code (Title 22) because it: 1) is clustered with the existing telecommunication and public facilities in the most accessible and least visually prominent location on the subject property; and 2) will be finished to blend with the natural environment unobtrusively, consistent with design standards for development.
- F. As noted in Section IV above, the project would be consistent with the relevant Countywide Plan policies. 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 PROJECT APPROVAL (DR 10-19) and (UP 10-2)**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Marin Park Place LLC (Verizon Wireless) Design Review (DR 10-19) and Use Permit (UP 10-02) applications subject to the following conditions:

### Marin County Community Development Agency – Planning Division

1. WHEREAS the applicant, NSA Wireless, on behalf of Verizon Wireless, has received Use Permit and Design Review approvals to allow the installation, operation and maintenance of a wireless telecommunications facility consisting of a new monopole and a new equipment shelter adjacent to an established telecommunications facility at the Marin Municipal Water District (MMWD) water storage tank enclosure site (Assessor's Parcel 052-140-27) on a ridge top above Donohue Street, Sausalito. The new facility will consist of: (1) a new 30 foot monopole installed within a 36 square foot lease area, located 7 feet southwest of the MMWD water storage tank enclosure; and (2) a new, 192 square foot, self-contained equipment shelter, 10 feet, 7 inches in height, on a concrete slab, located within a 17 foot, 8 inch by 39foot, 6 inch lease area, located 15 feet northwest of the existing MMWD water storage tank enclosure. In addition to the self-contained equipment shelter, a 48KW standby diesel generator with UL142 rated 210 gallon tank will be located on the concrete slab. Verizon antennas currently located on top of the MMWD water storage tank would be relocated to the new monopole. The new fenced equipment enclosure will maintain the following approximate setbacks from property lines: 180 feet from the northernmost property line; 460 feet from the westernmost property line; 1,340 feet from the southernmost property line; and 900 feet from the easternmost property line. The project includes improvements to the existing access road and construction of low



(maximum height four feet) retaining walls associated with the improvements to the access road and construction of the self-contained equipment shelter. The project includes installation of additional landscaping material surrounding the proposed facility. The project site is located at **700 Donohue Street on Assessors Parcel 052-140-33 in the RMP-0.5 (Residential, Multi-family Planned) zone district.**

2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Tamalpais Homestead Valley PS#173513 consisting of 8 sheets prepared by JES Engineering, dated July 6, 2009 and received July 28, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a color board with physical color/material samples of exterior building materials and colors, to the Community Development Agency for review and approval, which shall substantially conform to the color/materials identified on sheet A-3 of "Exhibit A," prepared by JES Engineering, dated July 6, 2009 and received July 28, 2009, and on file with the Marin County Community Development Agency. Exterior colors and materials shall be dark, matte-finish, earthtone colors to minimize the visual appearance of the facility and samples shall be provided for the siding and roof of the equipment enclosure and materials for the fencing.

All metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a copy of a safety standards plan for review and approval by the Community Development Director. The plan shall contain safety standards to be implemented in order to protect persons working in areas that are not accessible to the general public who might be exposed to EMF or RF levels in excess of the Maximum Permitted Exposure Level. Such standards may include restricted access to telecommunications facilities, temporarily ceasing operation of the facility for work required within specified distances of antennas, and posting safety signage in compliance with FCC requirements.
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.
7. Exterior lighting shall be prohibited.
8. 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.

9. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday.. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
  - c. New utility extensions or connections to the facility shall be installed underground.
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. 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.



12. This 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 of wireless facilities 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.
13. BEFORE FINAL INSPECTION, the applicant shall install warning signage, in compliance with FCC requirements, warning of the presence of electromagnetic waves.
14. BEFORE FINAL INSPECTION, the applicant shall revegetate the disturbed areas and install all approved and required landscaping and call for a Community Development Agency staff inspection of the landscaping and compliance with the overall conditions of approval at least five working days before the anticipated inspection. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent inspections.

#### Department of Public Works

15. .A registered Engineer shall design the site retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
16. A separate Building Permit is required for site retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge).
17. Submit engineer's calculations for site/driveway retaining walls, signed and stamped by the engineer.

### **SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by obtaining a Building Permit for the approved work and substantially completing the improvements in accordance with the approved permits by March 11, 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.3 of the Marin County Code.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Planning permit (and no extensions have been granted), the Building Permit and planning approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension at least 10 days before the expiration of the Planning permit.

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 Planning Department, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on March 25, 2010.

**SECTION IV: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 11<sup>th</sup> day of March, 2010.

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JOHANNA PATRI, AICP  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary