

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 11-103

A RESOLUTION APPROVING THE WEST MARIN DEPOT (HORIZON CABLE) USE PERMIT RENEWAL

510 MESA ROAD, POINT REYES STATION

ASSESSOR'S PARCEL 119-198-05

SECTION I: FINDINGS

- I. WHEREAS the applicant, Horizon Cable TV, has applied on behalf of the owners, West Marin Depot for a Use Permit renewal and amendment for four, unstaffed satellite dishes. Three dishes are 12-feet in diameter and one dish is 6-feet in diameter. The facility is for television receive-only (TVRO) satellite dishes. The facility enables Horizon Cable TV to receive satellite delivered TV signals and then distribute them to customers in the West Marin area. The satellite dishes used are C-band TVRO dishes. The dishes maintain a minimum setback of 30 feet from the nearest property line along "A" Street. The facility received Use Permit, Coastal Permit and Design Review approval in 1996 for three dishes that are 12-feet in diameter. The 6-foot diameter dish has been added to this Use Permit request. The dishes are located west of the Green Barn, at the rear of the property. They are surrounded by wire mesh fencing that is six feet in height. The subject property is located at **510 Mesa Road, Point Reyes Station**, and is further identified as **Assessor's Parcel 119-198-05**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on January 13, 2011 to consider the merits of the project, and hear testimony regarding the project. The Community Development Agency, Planning Division has provided public notice identifying the applicant(s), describing the project and its location, and giving the scheduled date of the public hearing in accordance with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property and to interested parties and organizations.
- 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 15301, Class 1 because it entails the renewal of a Use Permit and would result in no site disturbance that would not negatively impact the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:
 - A. 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 a substantial number of mature, native trees and the project is developed.
 - B. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because the renewal of the Use Permit would not result in any site disturbance.

- C. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because not site disturbance is proposed.
 - D. 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.
 - E. 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 no site disturbance is proposed.
 - F. The project has been 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.
 - G. The project design ensures 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*), defensible space and compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - H. The project would meet energy efficient standards for exterior lighting, and would reducing excessive lighting and glare (*CWP Policy DES-1.h*) because the conditions of approval prohibit exterior lighting near the dishes.
 - I. The project does not need to comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (*CWP Policy EN-1.c*) because the project is not for a single family residence.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the goals and policies of the Point Reyes Station Community Plan for the reasons listed below.
- A. The operation of the facility does not result in traffic, noise, light, or odor impacts on surrounding residential and commercial properties.
 - B. The project is served by existing roadways and does not result in grading, tree removal, or other adverse impacts on the natural environment.
 - C. The dishes do not alter the scale or original architectural features of the adjacent barn and do not require the removal or alteration of any historic building.
 - D. The dishes have minimal visibility to the public since they are surrounded by a 6 foot high fence and mature vegetation.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the goals and policies of the County of Marin Telecommunications Facility Policy Plan for the reasons listed below.
- 1. Land Use Compatibility

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 dishes are located on the same parcel as the Green Barn which provides commercial and community services. The dishes have been located in this location for the last 14 years and no negative comments have been received from the public since it was approved. The facility provides a public service to the community and do not impact the existing residential uses.

TFPP policies LU 1.5, LU 1.6, and LU 1.7 discourage the construction of wireless in conservation areas, such as near streams or the Bay or the Upland Ridge and Greenbelt area, and also discourage any projects that would adversely affect natural or cultural resources. The subject property is not in any areas identified for conservation and the project would not affect natural or cultural resources.

TFPP policy LU 2.1 encourages co-location of facilities or clustering of facilities on a single property, and innovative designs to avoid adverse visual effects. The original approval in 1996 the project was conditioned to be painted dark green, be surrounded by wire mesh fencing, and to have landscaping. The project was constructed as approved and the existing vegetation conceals majority of the satellites. The dishes are also collocated near the dish for West Marin Community Radio.

2. Visual and Aesthetic Compatibility

Visual and aesthetic compatibility policies contained in the TFPP specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. TFPP policy VIS 1 encourages reducing cumulative visual impacts by collocating facilities, or when this is not possible, policy VIS 2 encourages minimizing visual affects with location and stealth design. Further, TFPP policy VIS 2.4 encourages the use of landscaping to screen facilities from off-site locations. The existing dishes are located near the radio dish for the West Marin Community radio. All landscaping that was required in the original Use Permit approval have been installed and is adequate to minimize the visual impacts of the facilities. The dishes have been replaced since the original approval and are no longer green; yet, the existing mature vegetation minimizes visual impacts.

3. Electromagnetic Field Emissions

TFPP policy EMF 2 requires that wireless facilities be designed in compliance with Federal standards to reduce the potential health risks from radio fields. A radio frequency radiation risk assessment is on file and states that the facilities do not emit electromagnetic radiation since it consists of receive-only dishes, which do not emit electromagnetic radiation.

4. Public Safety and Operation Effects

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. In particular, policy PS 1.1 requires that structures be properly engineered and policy 1.2 encourages facilities to be designed to prevent unauthorized access. The dishes have received Building Permit approval to ensure its structural capacity. The dishes are surrounded by a 6 foot tall fence that prevents unauthorized access. In addition, conditions of approval require that the facility be dismantled and removed if it has been inoperative or abandoned for over a year.

TFPP policy OI 1 encourages the operation of facilities to avoid adverse noise or traffic affects. Noise levels associated with the operation of the facility are minimal and do not exceed the ambient noise levels. With the exception of maintenance visits by a technician, the facility does not generate traffic trips to the property. Therefore, the proposed facility does 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.

5. Alternatives

The existing satellite dishes were placed on the subject property after the prior satellite dishes in Inverness were destroyed during the Mt. Vision fire. The subject property was chosen because it is less vulnerable to fire and weather related damage and it removes the need to install fiber optic cables if it was to be located somewhere else.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Marin County Code Section 22.54.050) because:

1. Public utility and service uses may be approved in Coastal, Village Commercial Residential zoning districts by Use Permit pursuant to Section 22.88.010(2)I of the Marin County Code when it is found to be necessary for public health, safety, convenience or welfare. The facility is part of the applicant's system which provides cable television service to residents of West Marin and would contribute to public convenience and welfare. The existing facility in its current location enables the applicant to provide cost-effective cable access to local Point Reyes Station and neighboring communities.
2. The project does not result in any significant, public health risks with respect to human exposure to radio frequency radiation because the facility consists of receive-only dishes, which do not emit electromagnetic radiation.
3. The facility is located on a commercially developed property adjacent to an existing barn structure currently utilized as a multi-use community center and meeting space. The Facility would provide cable television service to residents without interfering with the existing use of the property or resulting in adverse traffic, noise, odor, or light impacts.
4. The facility is partially screened from adjacent residences by required landscaping and fencing.
5. The project is incidental to the primary commercial and community service use of the property. Pursuant to MCC 22.57.123(11)I, public utility and service uses, such as the

proposed project, are permitted in the C-VCR zoning district subject to Use Permit approval.

- VIII. WHEREAS the Marin County Deputy Zoning Administrator hereby approves the West Marin Depot (Horizon TV) Use Permit, subject to the conditions of approval listed below for a Use Permit renewal and amendment for four, unstaffed satellite dishes. Three dishes are 12-feet in diameter and one dish is 6-feet in diameter. The facility is for television receive-only (TVRO) satellite dishes. The satellite dishes used are C-band TVRO dishes. The dishes maintain a minimum setback of 30 feet from the nearest property line along "A" Street. The subject property is located at **510 Mesa Road, Point Reyes Station**, and is further identified as **Assessor's Parcel 119-198-05**.

SECTION II: CONDITIONS OF APPROVAL

Community Development Agency – Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Cable TV Headend Site – 510 Mesa Rd. – Point Reyes -CA," consisting of 1 sheet prepared by Horizon Cable, received November 2, 2010, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. No exterior lighting is permitted on the dishes, fencing, or adjacent building as part of this approval.
3. The overnight storage of vehicles and the long term storage of more than 200 square feet of equipment or material within the fenced area surrounding the approved facility are not permitted.
4. Normal maintenance activities and any related work shall occur between the hours of 7:00 am and 5:00 pm, Monday through Saturday. No work or normal maintenance activity shall be permitted on Sundays or Holidays.
5. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a six month period.
6. This Use Permit is subject to revocation procedures contained in Section 22.120.030 of the Marin County Code in the event any terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the health, welfare of safety of persons residing or working in the neighborhood.
7. 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.
8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.
9. 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.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW THEREFORE, BE IT RESOLVED that the applicant must vest this approval by commencing the allowed use on the property, in compliance with the conditions of approval, 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 22.88.050I of the Marin County Code 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 22.88.050.I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on January 21, 2011.**


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 13th day of January, 2011.



JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:



Joyce Evans
DZA Secretary