



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

ALEX HINDS, DIRECTOR

STAFF REPORT TO THE PLANNING COMMISSION INWALD APPEAL OF THE CHURCH OF THE NATIVITY (CINGULAR WIRELESS) DESIGN REVIEW AND USE PERMIT

Item No:	8.	Application No:	UP 04-22 & DP 04-7
Applicant:	Cingular Wireless	Appellant:	Barbara Inwald
Property Address:	333 Ellen Drive, San Rafael	Assessor's Parcel:	164-441-14
Hearing Date:	November 15, 2004	Planner:	Ben Berto

RECOMMENDATION:	Deny the Inwald Appeal and Sustain the Deputy Zoning Administrator's Conditional Approval
APPEAL PERIOD:	10 calendar days to the Board of Supervisors
LAST DATE FOR ACTION:	November 15, 2004

SUMMARY RECOMMENDATION:

Staff recommends that the Planning Commission deny the Inwald appeal and sustain the Deputy Zoning Administrator's (DZA's) conditional approval of the Church of the Nativity (Cingular Wireless) Design Review and Use Permit, allowing the installation of a wireless communication facility.

PROJECT DESCRIPTION:

The applicant is requesting Design Review and Use Permit approvals for the installation of a wireless telecommunications facility, including antenna panels atop of the Church of the Nativity. The proposal consists of 4 antenna panels (each of which are 4 feet high, 1 foot wide) that will be installed and screened by a new, roof-mounted cupola. The 35-foot long, 7 foot high cupola will result in a total building height of 42 feet above grade. An equipment cabinet is included in the application and will be bunkered into the hill in a location 35 feet to the south of the church. A 6-foot high retaining wall and new landscaping will be installed to screen the cabinet.

GENERAL INFORMATION:

Countywide Plan:	SF3 (Residential, 1 unit per 1 to 9 acres maximum density)
Zoning:	RSP-1 (Residential, Single-family Planned District, 1 unit per acre maximum density)
Lot size:	4.96 acres
Adjacent Land Uses:	Residential
Vegetation:	Grasses and introduced vegetation
Topography and Slope:	Flat Building pad, sloped hillside
Environmental Hazards:	None identified.

ENVIRONMENTAL REVIEW:

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: 1) 1) the project consists of installation of a new telecommunications antenna structure and associated equipment cabinet, which would not result in environmental impacts; and 2) a radio frequency report has been submitted that concludes radio frequency exposures in thermal and non-thermal measurements would be below FCC standards for the general public.

BACKGROUND AND PUBLIC NOTICE:

The Community Development Agency provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements, for both the original Deputy Zoning Administrator hearing on August 26, 2004, and this Planning Commission hearing. This notice has been mailed to all property owners within 600 feet of the subject property and all interested parties. The applicant independently provided notice and conducted a public meeting to inform the community of the proposed project.

On August 26, 2004, the Deputy Zoning Administrator conducted a public hearing, carefully considered public testimony, including the appellant's, and approved the project, subject to the conditions in the attached resolution. No evidence was presented at the hearing that the application did not comply with the provisions of the County's Telecommunications Facilities Policy Plan.

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of the Marin Countywide Plan and the Marin County Telecommunications Facilities Policy Plan. Please refer to the plan consistency findings contained in the attached resolution.

SUMMARY OF THE APPEAL:

The appellant lists four bases of appeal (see attached appeal):

1. Many neighbors of the church are opposed to the personal telecommunication base station but were unaware of the application or unable to attend the hearing.

Response: The notice was mailed to all owners of record within a 600 foot radius. Opposition to a project does not per se provide a basis for a decision against the project.

2. Placement of the base station is inappropriately close to residential homes and alternative locations were not extensively sought.

Response: On July 28, 1998, the Marin County Board of Supervisors adopted the Update to the Marin County Telecommunications Facilities Policy Plan (TFPP), which establishes policies to guide the development of telecommunications facilities while protecting the natural resources, communities, and other land uses in Marin County. As discussed below, the proposed application is consistent with the policies contained in the TFPP and with the criteria for wireless communications facilities contained therein.

Land Use Compatibility

The TFPP states that wireless telecommunications facilities should be sited to avoid or minimize land use conflicts. Although TFPP policies establish a general preference for industrial or commercial properties, a public facilities property may be a preferred site when the facility can be designed to minimize effects related to land use compatibility, visual resources, public safety, and related environmental factors.

Consistent with TFPP Programs LU 1.1.3, LU 1.1.4, and VIS 2.2.9, the new antenna panels would share a location with an existing structure (church), and be integrated into, and screened by, the design of the proposed cupola. The panels would attain a maximum height of 37.5 feet above grade, located within the church's cupola that would attain a maximum height of 42 feet above grade, and has adequate height to meet the service coverage requirements for Cingular Wireless.

Noise levels associated with the operation of the facility would be minimal, not exceeding the ambient noise levels. With the exception of routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property. Therefore, the proposed facility would not generate significant levels of noise or traffic. Based on these factors, the facility is consistent with the location standards contained in the TFPP.

Alternative Sites Analysis

Cingular Wireless' coverage objective is the residential neighborhoods to the south of Lucas Valley Road. Cingular wireless has submitted existing and proposed coverage maps (Attachment #8) that indicate that Lucas Valley is currently not being well served by the carrier.

In order to achieve the desired coverage, potential locations were previously examined, including several sites in the Lucas Valley area. The Lucas Valley water tank, located on Old Lucas Valley Road within the City of San Rafael, is currently developed with SprintPCS antennas and equipment. Review of that site and preliminary work with the community determined that it was not a feasible location, due to the community opposition that was raised and conflicts with the City of San Rafael's telecommunications policies. The Marinwood Fire Station at 777 Miller Creek Road was examined as a potential location, but the Fire District declined the proposal. At the Church of Nativity, ground-mounted antennas were first proposed and were opposed by the community. The final location that was examined was the water tank on Heatherstone Drive; however, this site was determined to not be feasible because it could not provide the desired coverage for the carrier. The applicant has spent several years exploring these alternative sites in an attempt to resolve shortfalls in its wireless coverage, and staff is satisfied that it has adequately explored possible alternatives.

3. The approval was based only on the radio frequency (RF) field assessment done by Diamond Services (commissioned by Cingular), which was contradicted by another consultant hired by Cingular. The integrity of those responsible for this application is uncertain.

Response: The question of radio and electromagnetic frequency (RF and EMF) has been addressed in the Telecommunications Act of 1996. The Telecom Act prohibits local jurisdictions from regulating a wireless service facility based on EMF when the facility complies with the Federal Communications Commission's standards regarding those emissions (TFPP, page II-28). Those standards have been adopted as public exposure limits by the American National Standards

Institute (ANSI). The applicant has submitted two reports, the first prepared by Diamond Services, dated April 14, 2004, and the second by Jerrold Bushberg, dated August 24, 2004 (see attachment 11). The reports state that the antennas are designed and oriented to concentrate energy toward the horizon (the service area), thus minimizing energy direction toward the ground (i.e., in close proximity to the church building and grounds). In looking at worst-case possible public exposure, the maximum public radio frequency (RF) exposure is less than 0.4% (less than one-half of one percent) of the ANSI public exposure limits that are recognized by the County in the Telecommunication Facilities Policy Plan. The appellant also commissioned her own radio frequency study, by RFPeople (see attachment 11). Although more obtuse in its conclusions regarding potential public RF exposure, the RFPeople report provides graphical agreement that the appellant's property and any other neighbor's property would experience less than one percent of the allowable general RF exposure limits. There would be potentially higher exposure for professional antenna maintenance people when working in close proximity to the antennas. A condition of approval requires the applicant to provide signage in place prior to final inspection that warns of exposure levels close to the Cingular Wireless antennas while the antennas are in operation and warns maintenance workers about potential health risks. The antenna area would not be publicly accessible and, therefore, would not require mitigation to protect the public from exposure limits. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.

4. The Deputy Zoning Administrator added a condition related to the possibility of co-location of more antennas at the site in the future, with no limits set. TFPP policies encourage reducing the number of visible antennas.

Response: The DZA Condition 10 is intended to not preclude the possibility of future co-location of telecommunication facilities on the subject property. TFPP policies encourage co-location of wireless facilities. Any future wireless facility request would have to undergo County review and demonstrate feasibility, compatibility, and minimal adverse affects.

RECOMMENDATION:

Staff recommends that the Planning Commission review the administrative record, conduct a public hearing, and adopt the attached resolution denying the Inwald Appeal and sustaining the Deputy Zoning Administrator's conditional approval of the Church of the Nativity Development Plan and Use Permit.

- Attachments:
1. Proposed Resolution recommending denial of the Inwald Appeal and conditional approval of Church of the Nativity Development Plan and Use Permit
 2. CEQA Exemption
 3. Location Map
 4. Assessor's Parcel Map
 5. Site Plan
 6. Elevations
 7. Landscape Plan
 8. Coverage Maps
 9. Photosimulations
 10. Minutes of Deputy Zoning Administrator hearing, 8/26/04
 11. Inwald Appeal, petition, and related correspondence
 12. Diamond Services Report, 4/14/04, Jerrold Bushberg Report, 8/24/04, and RFPeople Report (undated)
 13. Department of Public Works memorandum, 5/12/04
 14. Marin Municipal Water District letter, 4/25/04

15. Deputy Zoning Administrator staff report (copy to Planning Commission only, copies of this report are available at the Community Development Agency)

MARIN COUNTY PLANNING COMMISSION

RESOLUTION _____

A RESOLUTION DENYING THE INWALD APPEAL AND APPROVING THE CHURCH OF THE NATIVITY DEVELOPMENT PLAN AND USE PERMIT
333 ELLEN DRIVE, SAN RAFAEL
ASSESSOR'S PARCEL 164-441-14

SECTION I: FINDINGS

- I. WHEREAS Cingular Wireless on behalf of the Church of the Nativity is requesting Design Review and Use Permit approval the installation of a wireless telecommunications facility, including antenna panels atop of the Church of the Nativity. The proposal consists of 4 antenna panels (each of which are 4 feet high, 1 foot wide) that will be installed and screened by a new, roof-mounted cupola. The 35-foot long, 7 foot high cupola will result in a total building height of 42 feet above grade. .An equipment cabinet is included in the application and will be bunkered into the hill in a location 35 feet to the south of the church. A 6-foot high retaining wall and new landscaping will be installed to screen the cabinet. The subject property is located at 333 Ellen Drive, San Rafael, and is further identified as Assessor's Parcel 164-441-14.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 26, 2004, 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 found that this project is Categorically Exempt from the requirements of the California Environmental Quality Act, is consistent with the Marin Countywide Plan and Marin County Telecommunications Facilities Policy Plan, and is consistent with the findings for a Use Permit and Design Review, and conditionally approved the project subject to the following conditions of approval in Section II below.
- IV. WHEREAS the appellant, Barbara Inwald, filed a timely appeal of the Deputy Zoning Administrator's conditional approval.
- V. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on November 15, 2004, to consider appeal and the merits of the project, including, but not limited to hear testimony in favor of and in opposition to the project.
- VI. WHEREAS the Marin County Planning Commission finds 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: 1) the project consists of installation of a new telecommunications antenna structure and associated equipment cabinet, which would not result in environmental impacts; and 2) a radio frequency report has been submitted that concludes radio frequency exposures in thermal and non-thermal measurements would be below FCC standards for the general public.
- VII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:

- A. The proposed project would not interfere with the existing use of the property.
- B. The proposed project would not result in the removal of existing vegetation.
- C. Use Permit findings can be made pursuant to Section 22.48.040 of the Marin County Development Code to allow public utility and service uses necessary for public safety, convenience, and welfare.
- D. The proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan (TFPP) and would ensure that the siting and design of the proposed facility is compatible with other land uses, would provide protection from vandalism and fire hazards, would minimize visual impacts, and would minimize potential health risks to people.
- E. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- F. The proposed cupola and the landscaping around the equipment cabinets will minimize impacts on visual qualities of the site.

VIII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the TFPP and with the criteria for wireless communications facilities contained therein, as follows:

- G. The proposed project would not interfere with the existing use of the property.
- H. The proposed project would not result in the removal of existing vegetation.
- I. Use Permit findings can be made pursuant to Section 22.48.040 of the Marin County Development Code to allow public utility and service uses necessary for public safety, convenience, and welfare.
- J. The proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan (TFPP) and would ensure that the siting and design of the proposed facility is compatible with other land uses, would provide protection from vandalism and fire hazards, would minimize visual impacts, and would minimize potential health risks to people.
- K. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- L. The proposed cupola and the landscaping around the equipment cabinets will minimize impacts on visual qualities of the site.

IX. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the TFPP and with the criteria for wireless communications facilities contained therein, as follows:

- A. The installation of four new antenna panels would be located on the roof of an existing structure and screened by a proposed cupola that would be compatible with the use and design

of the subject property. The antennas would be located inside the 35-foot long, 7-foot high cupola, which would not require grading or tree removal.

- B. The facility would allow Cingular Wireless to provide better cellular coverage in the central portion of the County 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 has submitted reports prepared by Diamond Services, dated April 14, 2004, and by Jerrold Bushberg dated August 24, 2004. In addition, the appellant has submitted a report prepared by RFPeople (undated). The reports indicate that the antennas concentrate energy toward the horizon, thus minimizing energy direction toward the ground or the sky. The reports note that due to the antenna mounting on the roof of the structure, public and occupational access to the front of the antennas is not expected. The applicant's reports, in looking at worst-case possible public exposure, conclude that the maximum public radio frequency (RF) exposure is less than 0.4% (less than one-half of one percent) of the ANSI public exposure limits. The RFPeople report agrees that the appellant's property and any other neighbor's property would experience less than one percent of the allowable general RF exposure limits. A condition of approval requires the applicant to provide signage in place prior to final inspection that warns of exposure levels close to the Cingular Wireless antennas while the antennas are in operation and warns maintenance workers about potential health risks. The antenna area would not be publicly accessible and, therefore, would not require mitigation to protect the public from exposure limits. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP. Accordingly, a condition of approval requires that the applicant verify that warning signs are located on the site prior to final inspection.
 - D. The facility does not create significant lighting impacts on surrounding areas because no additional lighting is proposed for the site.
 - E. Vehicular access and parking for the proposed project site is provided by the existing driveway and parking lot serving the property. No additional road or parking area construction would be required for the operation of the facility.
 - F. The project would not require removal of existing vegetation and would incorporate additional vegetation to screen the equipment cabinet.
 - G. 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, therefore, the proposed facility would neither generate significant levels of noise nor traffic.
 - H. The facility does not significantly impair the visual conditions on and surrounding the subject property because the antenna panels would be screened by the cupola proposed atop the roof of the existing structure.
- X. WHEREAS the Marin County Planning Commission finds that, as modified by conditions of approval, the Mandatory Findings for a Use Permit per Section 22.48.040 of the Marin County Code can be made because:

- 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. Telecommunication facilities may be approved by Use Permit pursuant to Section 22.32.170(A)(1) of the Marin County Development Code when it is found to be necessary for public health, safety, convenience, or welfare. The telecommunications facility is part of the Cingular wireless communication 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 TFPP, as stated in Findings above.

- C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA) and has been determined to be exempt pursuant to Section 15303, Class 3 because: 1) the project consists of installation of a new telecommunications antenna structure and associated equipment cabinet, which would not result in environmental impacts; and 2) a radio frequency report has been submitted that concludes Radio Frequency exposures in thermal and non-thermal measurements would be below FCC standards for the general public.

- D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity. As conditioned, the project will not result in significant, public health risks with respect to human exposure to radio frequency radiation. Radio frequency levels are predicted to be less than 0.4 percent of the public exposure limit established by the American National Standards Institute. The radio frequency Report submitted as part of this review indicates that the facility would not exceed the occupational limit. As a precautionary measure, a condition of approval requires that warning signs be located on site prior to final inspection, to provide a visual warning to maintenance workers or any others who might come into close proximity to the antennas.

- E. The proposed use would not impair the architectural integrity and character of the zoning district in which it is to be located. The proposed project would not result in significant adverse visual impacts because the proposed antennas would be screened by a new cupola, which would add 7 feet to the height of the structure, resulting in a maximum height of 42 feet above grade

- 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.

- XI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the design requirements contained in Marin County Code Section 22.16.030(K) (1) and the findings for Design Review contained in Marin County Code Section 22.42.060 of the Marin County Code can be made because:

The project is consistent with the required findings cited above because the addition to the existing structure to allow for screening of telecommunications equipment would result in a structure with a height, mass, and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of the addition to the existing structure to allow for screening of the telecommunications equipment would conform to a conditionally permitted use in the RSP-1.0 zoning district which governs the subject property and would be situated solely on the subject property. The existing and proposed

landscaping would adequately screen the improved structure and equipment cabinet from off-site locations, would stabilize and prevent the erosion of graded soils around the structure, and would enhance the privacy of the occupants of the subject and surrounding properties. The addition to the existing structure to allow for screening of the telecommunications equipment would minimize drainage alterations, grading and excavation, tree removal, and other adverse physical effects on the natural environment. Finally, the design of the addition to the existing structure to allow for screening of the telecommunications equipment would be compatible with development on the site, would respect the surrounding natural environment, would utilize colors and materials consistent with the prevailing community character, and would not diminish views from surrounding properties. The structure currently attains a height of 35 feet above grade and will attain a maximum height of 42 feet with the construction of the cupola. The additional height, beyond 30 feet, is compatible with the structure located on the property and is appropriate given the setbacks that the structure maintains from the property lines is adequate for allowing an exception to the height limit as permitted under Section 22.20.060 E.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Church of the Nativity Precise Design Review and Use Permit subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.42 (Design Review) and 22.48 (Use Permits) of the Marin County Code, the Church of the Nativity Development Plan and Use Permit is approved to install wireless antenna panels on the Church of the Nativity. The approval consists of 4 antenna panels, each 4 feet high and 1 foot wide, that will be screened by the new 35 foot long, 7-foot high cupola mounted on the church roof. The cupola will result in a height of 42 feet above grade. An equipment cabinet is included in the approval and will be located to the south of the church and screened by a 6-foot high retaining wall and landscaping. The subject property is located at 333 Ellen Drive, San Rafael, and is further identified as Assessor's Parcel 164-441-14.
2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A," entitled, "Cingular Wireless SF-351-03 Church of the Nativity," consisting of seven sheets prepared by Diamond Services - Engineering, Construction and Testing, dated April 14, 2004, and revised July 16, 2004, and on file in the Marin County Community Development Agency.
3. 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 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.
4. The cupola shall be finished to match the colors and materials of the existing church structure. The equipment cabinet and retaining wall shall be painted to match the natural vegetation on the hillside. Any changes to the approved exterior colors shall be submitted for review and approval by the Community Development Director
5. 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.

6. This Use Permit may be revoked by the County should the approved facility, in combination with other existing ambient sources, exceed the updated EMF standard unless the location, design, and/or operation of the approved facility is modified to meet the updated standard. Modifications of the approved facility shall be submitted to the Community Development Agency to determine if amendments to these permit approvals are necessary. 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.
7. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. BEFORE ISSUANCE OF BUILDING PERMIT, the applicant shall modify the existing performance agreement with the County and update the security amount in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site shall be returned to its preexisting conditions.
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 Friday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use equipment that is audible from nearby locations 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. New utility extensions or connections to the facility shall be installed underground.
10. This Use Permit/Design Review approval does not preclude the future approval of other telecommunications facilities on the subject property. The applicant shall cooperate with County efforts to utilize the subject property for shared location or co-location in the future if it is technically feasible and would minimize adverse affects related to land use compatibility, visual resources, public safety, and other environmental factors.
11. BEFORE FINAL INPECTION, the applicant shall fulfill the following requirements:
 - a. The applicant shall verify that warning signage, in compliance with FCC requirements, warning maintenance workers of the presence of electromagnetic waves are located on-site.
 - b. The applicant shall install all required landscaping, as shown on revised Sheet L1 of "Exhibit A," and a drip irrigation system to serve it. The applicant shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working

days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the occupancy and imposition of hourly fees for subsequent reinspections.

12. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.
13. 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.

Marin Municipal Water District

14. All landscape and irrigation plans must be designed in accordance with the more current District landscape requirements (presently Ordinance #385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT RESOLVED that the applicant must vest this Use Permit and Design Review approval by completing installation of the facility by November 15, 2005, 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 Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED, that this Use Permit and Development Plan approval shall be vested by securing a valid building permit for all approved work, completing all work in compliance with the terms of the building permit approval, and meeting all conditions of approval this Use Permit and Development Plan approval. The Use Permit shall be valid until November 15, 2014, 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 10 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. In the event that the terms of this Use Permit are violated or the approved use is carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, this Use Permit approval could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120.030 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Board of Supervisors. A Petition for Appeal and a \$545.00 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 November 29, 2004.**

SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 15th day of November, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

ALLAN BERLAND, CHAIRPERSON
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Planning Secretary