

May 11, 2010

Board of Supervisors  
County of Marin  
3501 Civic Center Drive  
San Rafael, California 94903

**SUBJECT:** Berland Appeal of the Rasooli (T-Mobile) Design Review  
17 Wolfe Canyon Road, Kentfield  
Assessor's Parcel Number 071-101-08

Dear Board Members:

**SUMMARY RECOMMENDATION:** On February 8, 2010, the Planning Commission voted (5-2) to deny in part the Allan and Joanna Berland Appeal and conditionally approve the Rasooli (T-Mobile) Design Review (DR10-16), subject to revised conditions that allow upgrade and improvements to an existing T-Mobile telecommunications facility located on a utility pole on Wolfe Grade Road, and restrict construction of a new, equipment enclosure shed on the adjacent Rasooli property, located slightly downslope from the Wolfe Grade Road right-of-way. Staff recommends that the Board deny the Berland Appeal, and sustain the Planning Commission's decision by conditionally approving the Rasooli (T-Mobile) Design Review.

**BACKGROUND:** The project includes replacement of two existing antennas mounted on the upper portion of the utility pole in the Wolfe Grade Road right-of-way and removal of cabinets on the lower portion of the pole and installation of these cabinets as well as new equipment within a new 8.5-high, 55 square foot shed. The equipment enclosure, located upslope from the edge of pavement on Wolfe Canyon Road, would be installed on an excavated pad with a wooden platform supported by concrete and reinforced steel piers. The Planning Commission's decision modified the project in several respects, including imposition of additional conditions that prohibit future location of telecommunication facilities on the Rasooli property, and require the applicant to submit a noise study after the facility is in operation to verify compliance with County noise standards. Subsequent to the Planning Commission action, the applicant, T-mobile, submitted revised project materials including a landscape plan, an acoustic report, a RF analysis, a discussion of prior consideration of alternative sites, and updated visual simulations. Alan and Joanna Berland, owners of property across the street from the Rasooli property at 6 Wolfe Canyon Road, have appealed the Planning Commission's decision asserting that the proposed project should be subject to the requirement for a Use Permit, and that the proposed project is inconsistent with the Kentfield/Greenbrae Community Plan, the Marin Countywide Plan (CWP), the required findings for Design Review approval, and the Marin Telecommunications Facilities Policy Plan (TFPP).

**ANALYSIS OF APPEAL:** The appellants assert that the proposed project should be denied due to the following reasons:

1. An application for a Use Permit should have been required in addition to Design Review because the project is a new telecommunications facility. The Planning Commission found that no Use Permit was required for the project because the project is an upgrade to an existing minor telecommunications facility with antennas that are architecturally integrated with an existing public utility pole. Although the upgrades to the antennas on the utility pole next to Wolf Grade Road would qualify for an exemption from Design Review, increasing the size of the equipment and relocating the equipment from the pole to the adjacent property require Design Review pursuant to Program 1.3.2 of the Marin Telecommunications Facility Policy Plan (TFPP), which states the following:

“Design Review (without concurrent Use Permit) should be required for commercial wireless and other minor facility proposals that promote the location and design standards of the TFPP and are generally considered to be appropriate in terms of scale and character. . .The types of facilities that are typically subject to Design Review include:

- New facilities in a commercial or industrial zone;
- New co-located facilities; and
- New minor facilities with antennas that are architecturally integrated with an existing or proposed public facility, commercial, industrial, or agricultural building (e.g., stealth design).”

2. The appellants assert the proposed project is inconsistent with the Kentfield/Greenbrae Community Plan, the Marin CWP, the required findings for Design Review approval, and the TFPP. The Planning Commission found that upgrading existing facilities, rather than building new facilities in new locations, better achieves the objectives stated in the TFPP, as discussed below. The proposed project is consistent with appropriate CWP policies, including Policies PFS-5.1 *Implement the Telecommunications Facility Policy Plan*, and PFS-5.2 *Consolidate Telecommunications Facilities*.

- a) The applicant has demonstrated that the proposed site is the best alternative location. The Kentfield Planning Advisory Board (KPAB) reviewed a previous version of the project that involved locating the proposed equipment cabinet within the right-of-way on Wolfe Grade Road adjacent to the utility pole. KPAB discouraged this arrangement and suggested that the applicant consider locating the equipment cabinet down the hill from the utility pole to address potential visual impacts. The County later made improvements to the right-of-way in the area of the utility pole that include a raised curb and a pedestrian walkway, making it difficult to relocate the equipment as recommended by KPAB. The applicant subsequently withdrew the application and redesigned the project by locating the equipment cabinet downslope, on the Rasooli property (Please refer to Attachment 3, Alternate Location Study).
- b) The project incorporates use of stealth design remedies, such as the garden shed to conceal equipment, to minimize visual impacts.
- c) The applicant has submitted a series of photo-simulations, drawings, and story poles to depict potential visual impacts (Please refer to Attachment 4 for updated simulations).
- d) The upgrade of the existing telecommunications facility would not pose a significant threat, as evidenced by the findings of the Radio Frequency (RF) study prepared for the project that indicate public exposure to RF from the project would be 2%-2.6% of the prevailing federal standards. For the purpose of comparison, Bill Edison of Hammett and Edison, Inc., preparers of the RF study, state that the typical power consumption for the equipment to be located in the enclosure is at 1.3 kW, less than that of a small space heater (1.4 kW), an electric oven at 350 degrees, a window air conditioner (1.4kW), or a toaster (1.4 kW).
- e) The project involves upgrading an existing telecommunication facility in a residential area. The existing facility provides cellular coverage for the Wolfe Grade area, and must be as close to the existing facility as is practical. There is no other feasible site available that would meet the wireless carrier's criteria. The existing facility is intended to serve the area within which it is located, which happens to be a residential area.

Finally, there are no policies in the CWP, the Kentfield/Greenbrae Community Plan, or regulations in the Development Code that conflict with the policies of the TFPP in regard to the location of this project, and the proposed project would be consistent with all policies of the TFPP.

3. The appellants assert that the project would have a substantial effect on the property values of the neighborhood, and that the County foregoes the tax benefit of the project by allowing it to be located on private property.

The question of effects on property values and the speculation of effects on County revenue are irrelevant to the applicable County policies and regulations, and therefore are not considered when the County evaluates the project on its merits.

**CONCLUSION:**

The Berland appeal does not have sufficient basis to overturn the Planning Commission's conditional approval of the project. The proposed project meets all telecommunication standards and standards for Design Review. Required modifications address concerns raised by the appellants and other neighbors. The telecommunications carrier is allowed to upgrade an existing facility in order to meet its coverage needs.

**REVIEWED BY:**

<input type="checkbox"/>	Auditor Controller	<input type="checkbox"/>	N/A
<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
<input type="checkbox"/>	Human Resources	<input type="checkbox"/>	N/A

Respectfully Submitted,

Reviewed By:

Daniella Hamilton  
Planner

Brian C. Crawford  
Agency Director

**Attachments:**

1. Recommended Resolution denying the Berland Appeal and conditionally approving the Rasooli (T-Mobile) Design Review.
2. Berland Petition for Appeal, with attachment, received February 23, 2010
3. Updated project plans including updated visual simulations, alternative site analysis, RF Evaluation, landscape plan (sheet L1) and acoustic report.
4. Planning Commission Minutes, February 8, 2010
5. Planning Commission Resolution approving the Rasooli (T-Mobile) Design Review, February 8, 2010

*In order to conserve resources, the following attachment has been provided only to the Board of Supervisors. Copies are available for review in Room 308, Community Development Agency between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.*

6. Planning Commission Staff Report, February 8, 2010, with attachments.
7. Public comments received since distribution of the Planning Commission packet.