

RESOLUTION NO. 2010-_____
RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
DENYING THE ALLAN AND JOANNA BERLAND APPEAL AND CONDITIONALLY
APPROVING THE RASOOLI (T-MOBILE) DESIGN REVIEW.
17 WOLFE CANYON ROAD, KENTFIELD
ASSESSOR'S PARCEL 071-101-08

SECTION I: FINDINGS:

- I. WHEREAS, Town Consulting (on behalf of T-Mobile and the property owner, Aliagni Rasooli) has requested Design Review Approval to allow upgrade and improvements to an existing T-Mobile Telecommunications facility located on a utility pole on Wolfe Grade, and construction of a new, 55 square foot equipment enclosure designed to resemble a garden shed on the adjacent Rasooli property, located slightly downslope from the Wolfe Grade right-of-way, set into the hillside. Two existing antennas mounted on the upper portion of the utility pole will be replaced. Cabinets on the lower portion of the pole will be removed and housed within the new structure. A GPS pole antenna approximately 2 inches in diameter will project above the roof of the structure. Power and cables will be routed underground from the existing utility pole to the new structure, which will maintain the following setbacks from the nearest corresponding property lines: (1) 4 feet from the northwesterly rear property line; (2) 33 feet from the southeasterly front property line; (3) Over 200 feet from the northeasterly side property line; and (4) Over 100 feet from the southwesterly side property line. The appellants request that the Board of Supervisors overturn the Planning Commission's approval and deny the project. The subject property, Assessor's Parcel 071-101-08, at 17 Wolfe Canyon Road in Kentfield, is located in the R-1:B-2 (Single-family Residential, 10,000 minimum lot size) zone district.
- II. WHEREAS, on December 8, 2009, the Community Development Agency issued an administrative decision of Design Review approval in accordance with Marin County Code Section 22.42.060 (Design Review) with conditions.
- III. WHEREAS, on December 23, 2010, Allan and Joanna Berland filed a timely appeal of the Design Review approval to the Marin County Planning Commission.
- IV. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on February 8, 2010, to consider the merits of the project and appeal, and hear testimony in favor of, and in opposition to, the project. The Planning Commission denied the Berland appeal, in part, and approved the Rasooli (T-Mobile) Design Review, with revised conditions of approval that modified the project, including a requirement for post construction monitoring of noise and a new condition stating that no further co-location of equipment shall occur on the property.
- V. WHEREAS on February 23, 2010, Allan and Joanna Berland filed a timely appeal of the Design Review approval with revised conditions, approved by the Planning Commission to the Marin County Board of Supervisors.
- VI. WHEREAS the Board of Supervisors conducted a duly noticed public hearing on May 11, 2010, to consider the project.

- VII. WHEREAS the Marin County Board of Supervisors finds that the project, as modified by conditions of approval, 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 construction of a new telecommunications facility would not result in environmental impacts. The applicant has submitted a report prepared by Hammett & Edison, Inc., dated July 10, 2009, which evaluates human exposure to radio frequency electromagnetic fields from the proposed telecommunications facility. The report concludes that the facility will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact to the public.
- VIII. WHEREAS the Marin County Board of Supervisors finds that the project as conditionally approved is consistent with the Marin Countywide Plan (CWP) due to the following factors:
- A. The proposed project, as conditioned, is consistent with the SF5 (Single-family, 2-4 units/acre) land use designation for the project site and would not interfere with the existing residential use of the immediate property and of adjacent properties.
 - B. As conditioned, the proposed project is consistent with the CWP Public Facilities and Services Policies PFS-5.c, d, and e in that the applicant provided photo-simulations and story poles to accurately depict potential visual impacts, upgrade and modification of the existing facility would not pose a significant threat to people, threatened or endangered species, or migratory birds, and because the project involves changes to an existing facility.
 - C. As conditioned, and pursuant to CWP Policy PFS-5.b, the stealth design of the proposed equipment shed will minimize visual impacts.
 - D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
- IX. WHEREAS the Marin County Board of Supervisors finds that the Mandatory Findings for a Design Review per Section 22.42.060 of the Marin County Development Code can be made for the proposed facility, including a reduction in the setback from the rear property line for the equipment enclosure based on the following findings:
- A. The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community.**

The project would be consistent for the reasons discussed below in Finding H.

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

The project would be consistent for the reasons discussed below in Finding H.

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

The project would be consistent for the reasons discussed below in Finding H.

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

The project would be consistent for the reasons discussed below in Finding H. In addition to burying the cables and sinking the piers, there will be only minor excavation to create a pad to support the equipment enclosure.

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

The project would be consistent for the reasons discussed below in Finding H.

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

The green building standards do not apply to the project.

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

The project would be consistent for the reasons discussed below in Finding H.

- H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the criteria for wireless communications facilities contained therein, as follows:**

The project is consistent with the Marin Countywide Plan because it is consistent with the Telecommunications Facilities Policy Plan (TFPP) and with the criteria for wireless communications facilities contained therein for the reasons discussed below.

1. The TFPP policies state that residential districts are least favorable for location of telecommunications facilities and equipment. However, there are some instances when locating facilities and equipment in residential districts is necessary in order to provide service to that service area. Due to the potential for land use conflicts with residential uses, it is sometimes appropriate to set limits for future co-location or clustering of equipment in residential districts. The proposed project is located on both public right of way and the adjacent, residentially zoned, property. The extent of any future upgrade or co-location of T-Mobile telecommunications equipment on the residentially zoned project site shall be limited to the area within the proposed 55 square foot equipment

enclosure, and no additional telecommunications providers may cluster, share, or co-locate new or upgraded facilities on the subject property.

2. 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 existing facility is collocated with the land lines on a telephone pole in the Wolf Grade Road right of way. Locating the equipment for the facility upgrade on an adjacent property minimizes the potential adverse effects to the surrounding area, in comparison to the equipment being installed in the public right of way, because it can be more effectively screened from view in its proposed location. Based on these factors, the facility is consistent with the location standards contained in the TFPP. Therefore, the proposed project would be consistent with the Land Use Compatibility Policies of the TFPP.
3. 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 several adjacent residences, and of Wolfe Canyon Road. 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 oak woodland bounded by the pavement of Wolfe Canyon Road and framed by the wooden fences of neighboring residences on the far side of Wolfe Canyon Road, across the street from the project site. The redwood fence enclosure situated on an elevated platform, as proposed by the applicant, is somewhat out of context in this setting. Rather than locating the equipment and enclosure entirely on a platform supported by piers, a level pad shall be excavated to support the equipment and enclosure at grade, thus reducing the profile and perceived mass of the new structure.

In keeping with Policy VIS 2.2.14, one of the most successful techniques for minimizing or avoiding visual effects is to use "stealth design" to integrate antennas and other telecommunications equipment into the design of structures so they are not readily recognizable to the casual observer. Therefore, the enclosure shall be constructed as a shed with a roof to maintain a visual relationship between the enclosure and the existing fences along Wolfe Canyon Road. The roof will also serve to contain the noise generated by the facilities within the enclosure. 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 does not include any landscaping. 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 mimic the natural oak woodland character of the site, maximize screening of the site from adjacent residences, while complying with Fire Protection standards. Based on these factors, the proposed facility is consistent with the Visual and Aesthetic Compatibility policies contained in the TFPP.

4. 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 power density at the proposed facility would not exceed 2.6 percent of the maximum public exposure limit established by the Federal Communication Commission at the second-floor elevation of any nearby residence. Based on these factors, the proposed facility is consistent with the Electromagnetic Field Emissions policies contained in the TFPP.
5. 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 the existing utility pole, 35 feet above grade, and would not be accessible to the public. The equipment cabinet would be located in a new equipment storage area within a new wooden enclosure that 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 created by automobiles driving along Wolf Grade Road and a condition of approval would require the applicant to submit pre- and post-installation noise studies to confirm that noise associated with operation of this facility does not exceed the noise exposure standards from the Countywide Plan. The new antenna cabinets to be mounted on the existing utility pole, as well as the equipment enclosure, would be accessed from Wolfe Grade Road. 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.

- X. WHEREAS the Marin County Board of Supervisors finds that the Berland Appeal lacks sufficient bases and merit to overturn the Community Development Agency's conditional approval of the Rasooli (T-Mobile) Design Review.

A. An application for a Use Permit should have been required in addition to Design Review because the project is a new facility. The Planning Commission found that no Use Permit was required for the project because the project is an upgrade to an existing minor 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 scale of the equipment and relocating the equipment from the pole to the adjacent property require a full 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).”

B. 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 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. The CWP includes Goal PFS-5: *Minimization of Telecommunications Facilities and Related Impacts*. Supporting CWP Policies include PFS-5.1 *Implement the Telecommunications Facility Policy Plan*, and PFS-5.2 *Consolidate Telecommunications Facilities*. The proposed project is consistent with the CWP because:

1. 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. 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).
2. The project incorporates design remedies, such as use of a garden shed to conceal equipment, to minimize visual impacts.
3. 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).
4. The upgrade of the existing telecommunications facility would not pose a significant threat, as evidenced by the findings of the Radio Frequency study prepared for the project that indicate public exposure to RF due to the project would be 2%-2.6% of the prevailing standards.
5. 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 Countywide Plan, 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.

C. The Appellant asserts 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 criteria of the CWP, the TFPP, Development Code, and local community plans, and are not considered when the County evaluates the project on its merits.

SECTION II: CONDITIONS OF APPROVAL:

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby denies the Berland Appeal and approves the Rasooli (T-Mobile) Design Review (DR 10-16) subject to the following conditions. The property is located a **17 Wolfe Canyon Road, Kentfield**, and is further identified as **Assessor's Parcel 071-101-08**.

Community Development Agency – Planning Division

1. The approved project consists of the proposed construction of a new, 55 square foot wooden enclosure within an 80 square foot lease area to house equipment cabinets relocated from the lower portion of an existing utility pole in the public right of way on Wolfe Grade, as well as the replacement of two existing T-Mobile antennas mounted on the upper portion of the utility pole. Power, Telco, and Coax conduit shall be routed underground from the existing utility pole to the proposed equipment enclosure. The wooden enclosure shall be located upslope from the edge of pavement on Wolfe Canyon Road, installed on an excavated pad with a wooden platform supported by concrete and reinforced steel piers. The platform shall be at existing grade. The wooden enclosure shall be constructed as a shed with a peaked roof with asphalt shingles. The peak of the roof shall not exceed 8 feet 6 inches when measured from the base of the platform. Located within the structure, a GPS pole antenna approximately 2 inches in diameter will project above the roof of the structure. The structure shall maintain the following setbacks from the nearest corresponding property lines: (1) 4 feet from the northwesterly rear property line; (2) 33 feet from the southeasterly front property line; (3) Over 200 feet from the northeasterly side property line; and (4) Over 100 feet from the southwesterly side property line.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Wolfe Grade BA00334A," consisting of 17 sheets prepared by SDG Architects, Inc., dated January 11, 2010 and received January 21, 2010, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein. The project shall be implemented in conformance with the modified project.
3. The subject property shall not be used in the future for the co-location, clustering, or sharing of other telecommunication equipment or additional telecommunication facilities located outside the equipment enclosure structure.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a survey of the property that clearly shows the property lines, adjacent rights of way, accurate location of the edge of pavement of Wolfe Grade and Wolfe Canyon Road, and the location of the approved development. The survey shall be recorded with the Marin County Recorder's office.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, the plans shall be incorporated into the approved project file as "Exhibit A-1" and shall supersede "Exhibit A."
 - a. The elevations of the wooden equipment enclosure shall be revised to depict a wooden, roofed, garden-shed type design using materials (for example, weathered redwood, decorative metal hinges, door handle, etc.) that are compatible with the character of fences and structures on neighboring properties at 1 and 6 Wolfe Canyon Road. The height of the roof shall be no more than 8 feet 6 inches above the base of the platform. The plans shall be revised to show the platform located on an excavated level pad, at grade, instead of perched on a platform supported by piers. The roof shall be asphalt shingles. There shall be no exterior lighting of the structure.
 - b. The landscape plan shall show existing vegetation to remain and to be removed entirely or in part (i.e., trimming), and indicate the location, species type, and size of vegetation proposed for planting. Landscaping shall be consistent with the predominant existing vegetation in the area and should consist of native, evergreen, and drought tolerant species unless other species are approved for the purpose of maximizing the amount of screening as soon as possible. Landscaping shall conform to the requirements of the Kentfield Fire Protection District and UFC (2008-7) requirements. Vegetation within 10 feet of the enclosure and equipment cabinets must be maintained by trimming annual grasses to a maximum height of 4 inches at all times. Adjacent trees and branches shall be trimmed to a minimum height of 8 feet above grade to eliminate ladder fuel effect. Landscape design shall soften the appearance of the equipment enclosure when viewed from Wolfe Canyon Road and adjacent properties.
6. Approved exterior building materials and colors shall substantially conform to the color/materials shown in the photo simulation which is identified as "Exhibit B," prepared by WW Design & Consulting, Inc, dated January 21, 2010, and on file with the Marin County Community Development Agency including:
 - a. Existing antennas on utility pole;
 - b. Proposed antennas on utility pole; and
 - c. Proposed T-Mobile equipment enclosure on hillside.
7. All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.
8. 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.

9. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing trees in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide confirmation to the Planning Division that the Fire Marshal has approved the Vegetation Management/Defensible Space Plan and that the project complies with all applicable fire safety requirements.
11. 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.
12. BEFORE ISSUANCE OF 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.
13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a noise study, prepared by a qualified noise engineer, which verifies that the approved facility shall operate in compliance with the noise exposure standards contained in Marin Countywide Plan Program NO-1.a Figure 3-43. Normal testing and maintenance activities shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Sunday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use of 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.
14. 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.

15. The approval 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.
16. There shall be no exterior lighting associated with the new shed enclosing telecommunications equipment on the Rasooli property.
17. 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.
18. 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. During construction the project site shall be accessed from Wolfe Grade Road or from the driveway of the existing residence at 17 Wolfe Canyon Road. 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 no

construction or maintenance vehicles shall be parked on the pavement of Wolfe Canyon Road at any time. Vehicular access to the project site shall not be taken directly from Wolfe Canyon Road. All contractor vehicles shall be parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

19. 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.
20. 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.
21. 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.
22. BEFORE FINAL INSPECTION, the applicant shall install all landscaping in accordance with the approved landscape plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections.
23. WITHIN 30 DAYS FROM THE COMMENCEMENT OF OPERATION OF THE EQUIPMENT IN THE EQUIPMENT SHED, the applicant shall submit a noise study confirming the noise levels generated by the equipment in the shed over a 24 hour period. The noise study shall also include a description of the environmental conditions that trigger the fans to go on and off, the base level of noise without the fans, the change in the level of noise as fans go into operation, the maximum noise generated by the fans, and the change in the level of noise as the fans turn off. The study shall confirm that the noise levels do not exceed the noise exposure standards contained in the Marin Countywide Plan Program NO-1.a Figure 3-43.
24. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Kentfield Fire Protection District have been met, including provision of containment of electrolyte and acid, contained in the batteries, stored on site.
25. BEFORE FINAL INSPECTION, the applicant shall install warning signage, in compliance with FCC requirements, warning maintenance workers of the presence of electromagnetic waves.
26. BEFORE FINAL INSPECTION, the Notice of Decision shall be recorded against the title to the property to alert future owners of the conditions and restrictions associated with this permit.

Department of Public Works – Land Use Division

27. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to the start of any construction in the County Road Right of Way.
28. All facilities shall be located, constructed, operated, and maintained in the time, place and manner that cause the least interference with the public's use of the public right-of-way as determined by and approved by the Road Commissioner/Director of Public Works.
29. Per MCC 24.04.016, if construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.
30. Erosion control measures shall be installed prior to site disturbing activities, and shall be maintained or modified to remain effective for the duration of the work.
31. Applicant shall obtain all necessary permits from other agencies.
32. Per MCC 23.18.093 any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain system. In addition: all construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.
33. Prior to Issuance of a Building Permit:
 - a. Sheet A-1 shall be corrected to remove proposed access easement from the right of way. The county will not grant a separate utility easement in its right of way.
 - b. Sheet C-1 shall be revised to correctly identify the Rasooli's property owner.
 - c. Site plan shall indicate construction access to the lease area, and construction staging areas.
 - d. Property owner shall provide written approval for proposed construction plans, including construction entrance over their parcel.
 - e. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
 - f. Submit Erosion and Siltation Control plan for work to be performed between October 15 and April 15, or indicate erosion control and debris barrier measures on site plan. You may refer to the Marin Stormwater Pollution Prevention Program's website, www.mcstoppp.org, for suggested methods and measures under Resources for: Construction: Construction Brochures: Minimum Erosion Control Measures and Pollution Prevention- It's Part of the Plan, among others. Plans shall indicate total acreage of site disturbance.

34. Applicant shall obtain an Encroachment Permit from the Department of Public Works for work in the road right of way.

35. PRIOR TO RECORDATION OF EASEMENTS: Sheet A-1 shall be corrected to remove proposed access easement from the right of way. The county will not grant a separate utility easement in its right of way.

SECTION III: VESTING:

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **May 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.

SECTION IV: VOTE:

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this ____th day of _____, 2010, by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK