RED SOD Exhibit C - Statement of Defense with attachments (9-2-22)

Statement of Defense

Enforcement Case ER2019.063.00

Seaplane Investment, LLC

September 2, 2022

Statement of Defense

Enforcement Case ER2019.063.00

Seaplane Investment, LLC

ATTACHMENT 1, 2 and 3

1.-3. Facts or allegations contained in the violation report that you admit, deny or have no personal knowledge (with specific reference to the paragraph number in the violation report):

Seaplane Investment, LLC ("Seaplane"), admits that it is the owner of certain real property and improvements as described in staff's letter of July 29, 2022. Seaplane admits paragraph I. With respect to paragraph II, without admitting violation, Seaplane admits "some" of required public access improvements are not currently maintained as required but is in the process of restoring said maintenance, as depicted in architectural materials submitted herewith.

Paragraph II.B. – Seaplane admits that some public access, including public shore pathways, requires additional maintenance.

Paragraph II.C. – Seaplane admits that, due to activities of multiple predecessors in interest to Seaplane, some fill has been placed in the shoreline band. Seaplane reserves the right to further present to the Commission evidence, as found in accompanying documents, that exists of parking and equipment storage, seaplane repair and maintenance, seaplane fueling tanks, and an elevated asphalt path across Yolo Street.

Paragraph II.D. – Seaplane denies installing a helicopter landing pad and paved walkways. Seaplane admits the existence of said installation and refers to the permit history contained in attachments hereto.

Paragraph II.E. – Seaplane admits reconfiguring the dock, as a matter of responding to emergency storm and flooding events of 2011, 2017 and 2019, as part of Seaplane's ongoing duty to repair and maintain the site in accordance with permits dating back to 1953.

Paragraph II.F. – Seaplane denies constructing a new concrete and rebar water access ramp in March 2022. Rather, Seaplane admits repairing an existing ramp which, as part of Seaplane's mandate pursuant to the Federal Aviation Act and original permitting, Seaplane believes it has a duty and right to repair.

Paragraph IV. – Seaplane admits that it controls property upon which activity occurred but does not admit to the illegality of any such activity.

Paragraph V. – Seaplane does not have knowledge of the complete history set forth in paragraph V, insofar as the phrase "many years" is vague. Seaplane includes with this correspondence, and incorporates multiple documents dating back to 1953, setting forth the permitting history of the site, which Seaplane relied upon in taking ownership of the property in July 2021.

Paragraph VI. – Seaplane, inasmuch as it took over the site on July 21, 2022, is unable to admit or deny the allegations set forth in paragraph VI.A, B, C, D or E, but provides herewith documentation of the history of the site insofar as Seaplane is aware of it.

Paragraph VI.G. - Seaplane is aware that some neighbors of the site disapprove of Seaplane's use and, in general, that complaints were made. Seaplane is also aware of and is addressing public access requirements and continues to investigate how to repair any fuel tank installation issues.

Paragraph VI.H. – Seaplane admits that BCDC staff visited the site. Seaplane cannot speculate on what staff observed or learned but admits that, due to emergency circumstances (storms and flooding in 2011 and 2017), the dock was reconfigured to repair damage in conjunction with Seaplane's duty and right to repair its facility.

Paragraph VI.I. – Seaplane admits the allegations of paragraph VI.I. but was not responsible for its predecessor's actions.

Paragraph VI.J. – The undersigned represents Seaplane Investments Inc.

Paragraph VI.K. – Admit.

Paragraph VI.L. – Without admitting the alleged violations, Seaplane admits that it received the referenced correspondence.

Paragraph VI.M. – Admit.

Paragraph VI.N. – Admit. Seaplane further avers that it is in negotiation with the County of Marin to acquire the Yolo Street right-of-way either by a quiet title action or a Resolution by the Board of Supervisors.

Paragraph VI.O. – Admit.

Paragraph VI.P. – Admit.

Paragraph VI.Q. – Admit.

Paragraph VI.R. – Without admitting the violations, Seaplane admits that the referenced correspondence was received as Seaplane was in the process of resolving the violations identified in paragraphs a, b, c and d.

Paragraph VI.S. – Admit.
Paragraph VI.T. – Admit.

Paragraph VI.U. – Admit.

Paragraph VI.V. – Admit.

Paragraph VI.W. – Seaplane has no information sufficient to enable it to respond to "a member of the public" notifying BCDC of Seaplane's activities but notes extensive history of antagonism from a handful of neighbors of Richardson Bay. Seaplane further admits that it repaired and maintained its ramp, as required by Seaplane's mandates under the Federal Aviation Act and in order to protect the public, as well as Seaplane's aircraft associated with the pre-existing, damages ramp. Seaplane submits herewith Declarations of Dennis Thorpe and Lauralyn J. Remo Temprosa. Seaplane's representative will testify that, in compliance with requirements under, without limitation, 49 U.S.C 44705, 44711, et seq, as referenced in paragraph 2 of the Thorpe declaration. Seaplane must maintain and repair the ramp in question.

Paragraph VI.X. – Admit.

Paragraph VI.Y. – Seaplane admits that the March 30th letter was sent.

Paragraph VI.Z. – Admit.

Paragraph VI.AA. – Seaplane admits that the undersigned submitted a letter but observes that the generalization that Seaplane claims that the property and operation is exempt from BCDC jurisdiction is not entirely accurate. Seaplane is regulated by FAA.

Paragraph VI.BB. – Admit in part. Seaplane denies the allegations in paragraph VI.BB to the extent that materials contained in the letter of July 29, 2022, specifically, declarations of Dennis ThorpE and Lauralyn J. Remo Temprosa, personnel of the FAA, identify the extent to which Seaplane is regulated by FAA, as does the documentation attached to said letters.

Paragraph VI.CC. – See response to IV and V, above.

Paragraph VII. – Seaplane admits that BCDC staff alleges violations of the identified sections.

Paragraph VIII. – Seaplane admits that BCDC proposes fines but does not agree that said fines are appropriate under the circumstances.

Statement of Defense

Enforcement Case ER2019.063.00

Seaplane Investment, LLC

ATTACHMENT 4

4. Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you; if you have or know of any documents, photographs, maps, letters, or other evidence that you believe are relevant, please identify it by name, date, type, and any other identifying information an provide the original or a copy if you can):

Seaplane wishes to work cooperatively with BCDC. Seaplane believes that mitigating circumstances regarding this enormously complex set of properties, uses and historical events require granular consideration in the context of Seaplane having taken over as a steward of the property in order to preserve historic uses (including that of the only private sea base in the State of California).

Seaplane will submit said documents, by hand delivery, on an external USB drive, on September 6, 2022.

Pursuant to Civil Code Sections 831 and 1112 Seaplane Owns a Fee Interest in the Portion of the Streets Bordering Its Lots. In response to the question raised regarding right-of-way, and as noted more fully below, my clients are the owners in fee of the one-half portions of the streets that border their property. Additionally, my clients have easement rights over all of these streets for ingress, egress and any other proper use. As such, at this time we see no reason to file a quiet title action. California Code of Civil Procedure §831 provides: "An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown." California Code of Civil Procedure §1112 provides: "A transfer of land, bounded by a highway, passes the title of the person whose estate is transferred to the soil of the highway in front to the center thereof, unless a different intent appears from the grant." Numerous California cases have held, based on these sections, that a deed conveying a piece of property by lot number includes a fee interest in one-half of the street or lane, which abuts the lot. One of the more recent cases, *Safwenberg v. Marquez* (1975) 50 Cal.App. 3rd 301, 306, held: "The fee in the half of the street along which the land abuts is part of the lot; any conveyance of the lot conveys the fee in the street as part of it... The policy behind the law is to avoid ownership in land in strips and gores by attaching the underlying fees of streets both active and abandoned to the adjoining lots." The deed to the Commodore Marina property conveyed the property by lot number (lots 164 and 167 on the Map of the Sausalito Land and Ferry Co.) and as such it is presumed that the title includes the fee interest in the half of the street (or streets) abutting the lots. Since Seaplane owns the lots on both sides of Yolo Street, it is presumed they own a fee interest in the entire street (as it borders the lots). November 9, 2020 Page 3. It should also be noted that in 2017, the County of Marin abandoned its interest in various streets in the area, including the portions of Bolinas Street, Pohono

Street and Parepa Street that border the property of Commodore Marina LLC. Thus, the County has no interest in the portions of these streets bordering my client's property.

Seaplane has Private Easement Rights to Use the Streets. Seaplane also has private easement rights in all the streets including Bolinas, Parepa, and Yolo. Over a hundred years ago, the California Supreme Court declared: "It is a thoroughly established provision in this state that when one lays out a tract of land into lots and streets and sells the lots by reference to a map which exhibits the lots and streets as they lie with relation to each other, the purchasers of such lots have a private easement in the streets opposite their respective lots for ingress and egress and for any use proper to a private way, and that this private easement is entirely independent of the fact of dedication to public use, and is a private appurtenance to the lots, of which the owners cannot be divested except by due process of law." *Danielson v. Sykes* (1910) 157 Cal. 686, 689. The Seaplane property is part of a subdivision created in 1869 when the "Official Map of Lands of the Sausalito Land and Ferry Company" was recorded with the Marin County Recorder. This map laid out the lots, blocks and streets that include the Commodore Marina lots and the surrounding streets. Accordingly, Seaplane has easement rights to use the streets, including Yolo Street. It should also be noted that Yolo Street is undeveloped and does not serve as access to any developed parcels. The "paper" street beyond the Seaplane property is underwater and the land around it is either owned or leased by Seaplane. Accordingly, any use of this street does not affect the easement rights of other lot owners. In sum, Seaplane owns a fee interest in the one-half portions of Bolinas and Parepa Streets along the border of its lots and owns a fee interest in all of Yolo Street as it borders its lots. Seaplane also has private easement rights to use these streets as more fully described above. At this point, my client sees no need to file a quiet title action relating to these rights but reserves the right to do so in the future; however, Seaplane is in discussions with the County of Marin to finalize Seaplane's fee title to Yolo Street.

Statement of Defense

Enforcement Case ER2019.063.00

Seaplane Investment, LLC

ATTACHMENT 5

5. Any other information, statement, etc. that you want to make:

Permits for various operations at the subject property have been in existence since at least 1953, as identified in Attachment 6.

Seaplane also believes it relevant that in June and July 2020, at the onset of COVID, Seaplane was engaged in constructive discussions with BCDC's representatives, but, as was the case with many businesses and government agencies, those discussions were variously interrupted and postponed due to the effects of COVID. Moreover, in July 2020, due to orders from the Governor's office as implemented by the County of Marin, Seaplane's business was shut down during its most revenue-intensive time of year. Accordingly, Seaplane lost over One Million Dollars ($1,000,000) in revenue and continues to recover from said losses. Seaplane firmly intends to continue to apply as much of said revenue to remediation of the site, in conformance with BCDC direction.

Imposition of the fines identified by staff in the letter of July 29, 2022, will cripple Seaplane's ability to continue its remediation efforts. Seaplane has, in the past 60 days, hired a new architectural firm, CRKW Studio, Inc., whose latest plans and drawings accompany this submittal, and with whom Seaplane looks forward to working collaboratively, along with BCDC, to meet the permit updating requirements at issue in this matter. Seaplane proposes to use its resources to achieve compliance.

Statement of Defense

Enforcement Case ER2019.063.00

Seaplane Investment, LLC

ATTACHMENT 6

6. Documents, exhibits, declaration under penalty of perjury or other materials that you have attached to this statement to support your answers or that you want to be made part of the administrative record for this enforcement proceeding Please list in chronological order by date, author, title and enclose a copy with this completed form):

1. See references to links to Dropbox as set herein. Seaplane provides, with this response, an external USB drive containing the permitting history of which it is aware with respect to the property.

2. Documents generated by the Federal Aviation Administration entitled, "Declaration of Dennis M. Thorpe" and "Declaration of Lauralyn J. Remo Temprosa", filed in U.S. District Court, Northern District of California, San Francisco Division, *Seaplane Adventures v. County of Marin, California,* Case No. 20-6222 WHA.

3. Plans, drawings and notes generated by CRKW, Inc., the architectural firm hired by Seaplane in 2022, to assist its completion of Seaplane's remediation plan.

4. PDF of planning records for Seaplane site, provided by Marin County Community Development Agency.

Statement of Defense

Enforcement Case ER2019.063.000

Seaplane Investment, LLC

ATTACHMENT 7

7. Name of any person whose declaration under penalty of perjury was listed in the violation report as being part of the staff's case who the respondent wants to cross-examine, all documents about which you want to cross-examine the person, area or areas of information about which the respondent wants to cross-examine the witness, information that the respondent hopes to elicit in cross-examination, and the reason(s) why some other method of proving this information is unnecessary.

While Seaplane has no current plans to cross-examine anyone, in an abundance of caution, it reserves the right to cross-examine Adrienne Klein and to produce testimony of Aaron Singer, a managing member of Seaplane.

RED SOD Exhibit C1 - CRKW drawings and plans 9.2.22

SITE INFORMATION

CODE SUMMARY:

ACCESSOR PARCEL NUMBER: 052 - 247 - 01 / 052 - 247 - 02

2019 CBC	CALIFORNIA BUILDING CODE
2019 CEC	CALIFORNIA ELECTRIC CODE
2019 CMC	CALIFORNIA MECHANICAL CODE
2019 CPC	CALIFORNIA PLUMBING CODE
2019 CEnC	CALIFORNIA ENERGY CODE
2019 CFC	CALIFORNIA FIRE CODE
2019 CGC	CALIFORNIA GREEN BUILDING STANDARDS

2019 CBC, CMC, CEC, CPC, CFC (based on the 2018 IBC, 2018 UMC, 2018 UPC, 2018 IFC and 2017 NEC-NFPA 70) 2019 California Green Building Standards Code (also known as the CAL Green Code) and 2019 Energy Standards, and as amended by State of California and local jurisdictional code amendments that are applicable to this project.

INDEX:

SHEET NO.	SHEET NAME
GENERAL	
G0-00	PROJECT INFORMATION
G0-01	SITE PLAN
G0-02	ACCESSIBILITY DETAILS

PROGRAMING

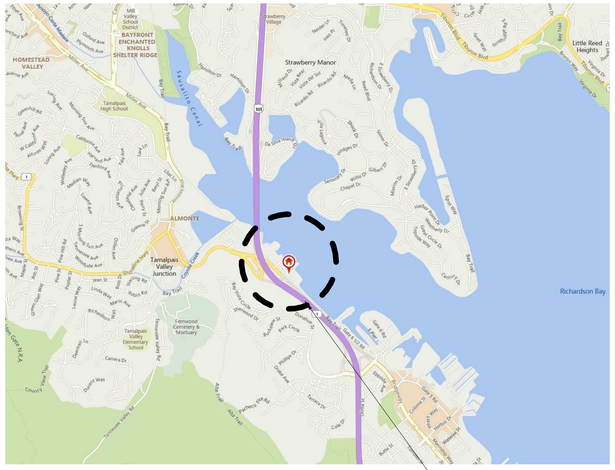
240-242 REDWOOD HIGHWAY SEAPLANE IMPROVEMENTS; (BCDC PERMIT APPLICATION NO.1973.014.05, ENFORCEMENT CASE ER2019.063.00

IMAGE:

EXISTING EXTERIOR BUILDING ILLUSTRATION FOR REFERENCE, NO CHANGE

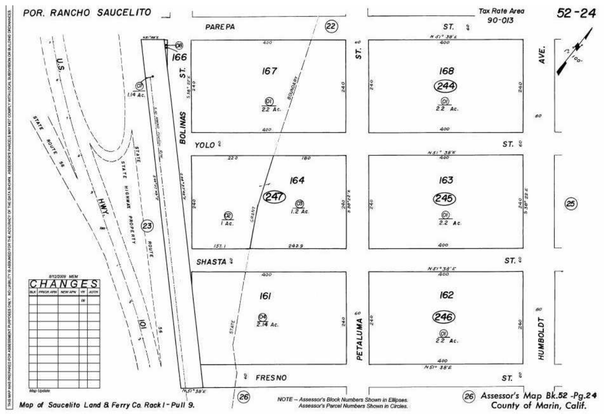
GENERAL NOTE:

LOCATION AND VICINITY:

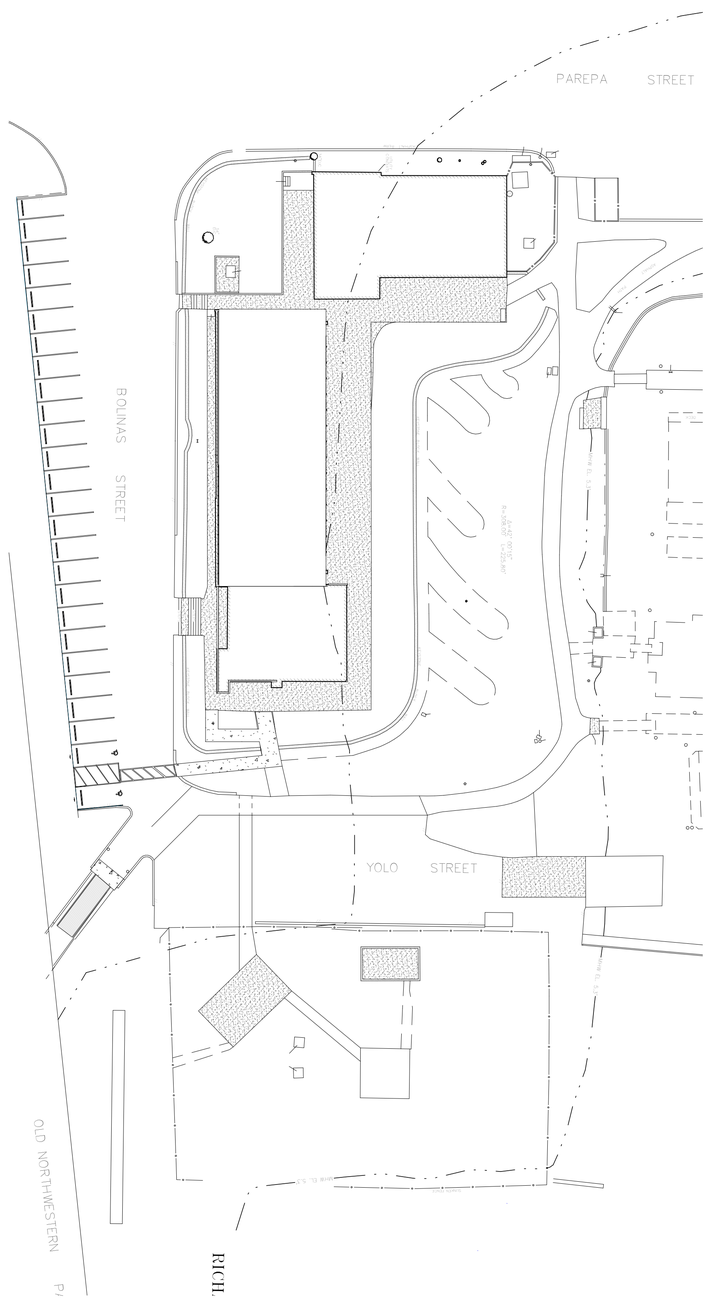


242 REDWOOD HWY MILL VALLEY CA, 94941
APN.: 052 - 247 - 01 / 052 - 247 - 02

AREAL VIEW



SITE :



PROJECT:
242 REDWOOD HWY
MILL VALLEY CA 94941
APN.: 052-247-01 / 052-247-02

OWNER:
SEAPLANE INVESTMENTS LLC
loring@bldsf.com
415.298.5331

TENANT:
SEAPLANE ADVENTURES
aaron@seaplane.com
415.272.6540

Stamp:

No.	Description	Date
		09/02/2022

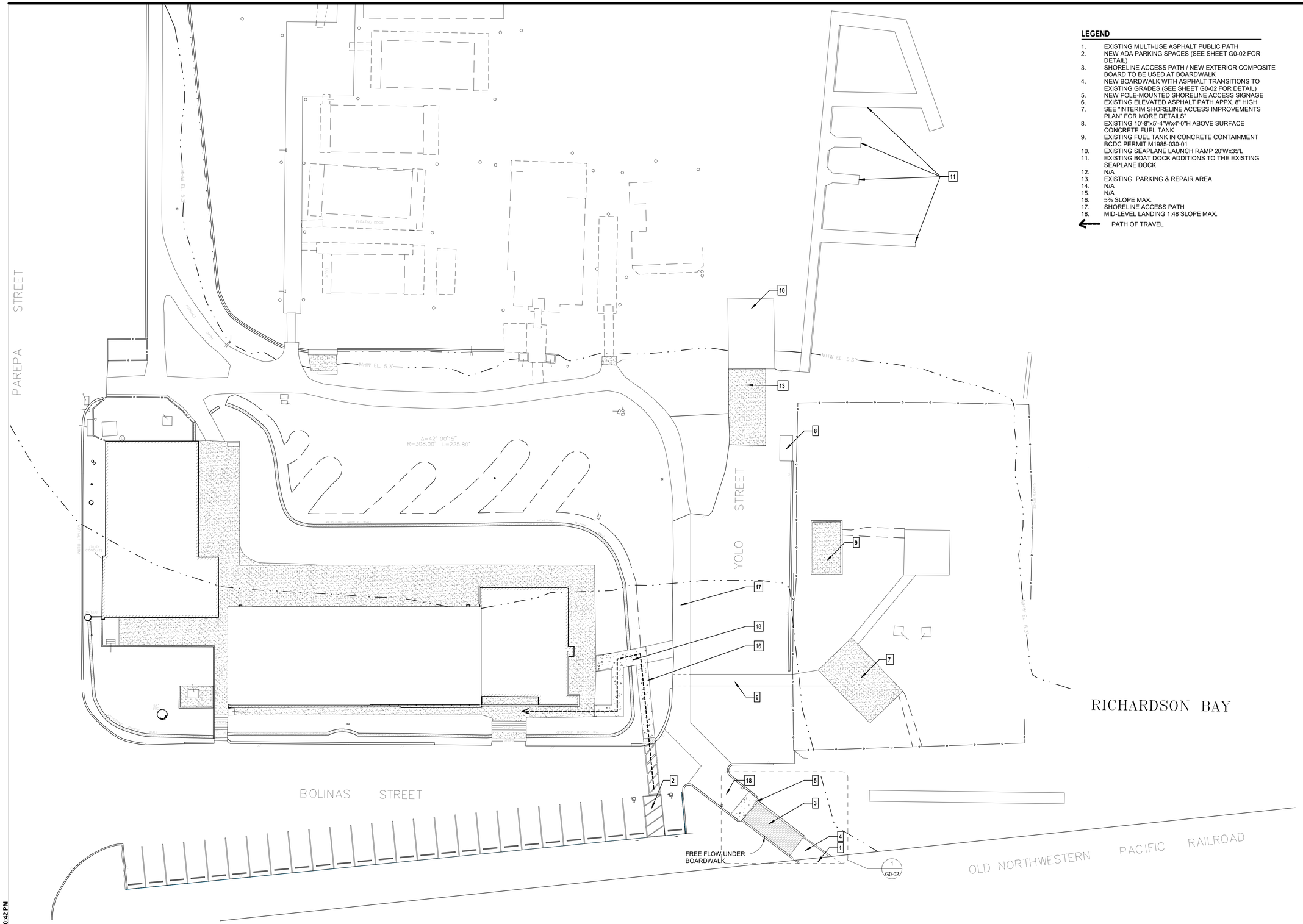
Keyplan:

Title:
PROJECT INFORMATION

Checked by: **Checker** Scale: **1" = 30'-0"**

Sheet no:
G0-00

9/2/2022 3:50:41 PM



LEGEND

1. EXISTING MULTI-USE ASPHALT PUBLIC PATH
2. NEW ADA PARKING SPACES (SEE SHEET G0-02 FOR DETAIL)
3. SHORELINE ACCESS PATH / NEW EXTERIOR COMPOSITE BOARD TO BE USED AT BOARDWALK
4. NEW BOARDWALK WITH ASPHALT TRANSITIONS TO EXISTING GRADES (SEE SHEET G0-02 FOR DETAIL)
5. NEW POLE-MOUNTED SHORELINE ACCESS SIGNAGE
6. EXISTING ELEVATED ASPHALT PATH APPX. 8" HIGH
7. SEE "INTERIM SHORELINE ACCESS IMPROVEMENTS PLAN" FOR MORE DETAILS"
8. EXISTING 10'-8"x5'-4"Wx4'-0"H ABOVE SURFACE CONCRETE FUEL TANK
9. EXISTING FUEL TANK IN CONCRETE CONTAINMENT BCDC PERMIT M1985-030-01
10. EXISTING SEAPLANE LAUNCH RAMP 20'Wx35'L
11. EXISTING BOAT DOCK ADDITIONS TO THE EXISTING SEAPLANE DOCK
12. N/A
13. EXISTING PARKING & REPAIR AREA
14. N/A
15. N/A
16. 5% SLOPE MAX.
17. SHORELINE ACCESS PATH
18. MID-LEVEL LANDING 1:48 SLOPE MAX.

PATH OF TRAVEL

SITE PLAN | 1" = 20'-0" | 1 / G0-01

PROJECT:

242 REDWOOD HWY
MILL VALLEY CA 94941
APN.: 052-247-01 / 052-247-02

OWNER:
SEAPLANE INVESTMENTS LLC
loring@bldsf.com
415.298.5331

TENANT:
SEAPLANE ADVENTURES
aaron@seaplane.com
415.272.6540

Stamp:

No.	Description	Date
		09/02/2022

Title:
SITE PLAN

Checked by: **Checker** Scale: **As indicated**

Sheet no:
G0-01

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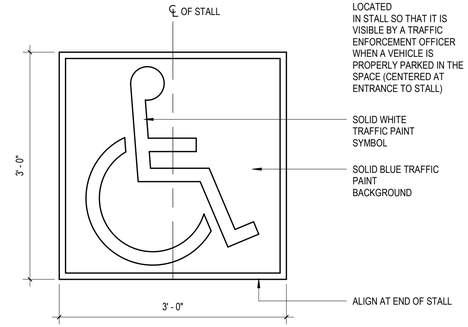
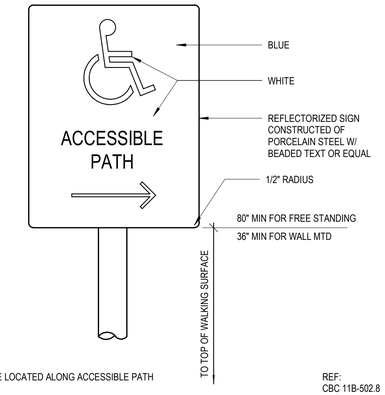


NOTES:

SYMBOL MUST BE LOCATED IN STALL SO THAT IT IS VISIBLE BY A TRAFFIC ENFORCEMENT OFFICER WHEN A VEHICLE IS PROPERLY PARKED IN THE SPACE (CENTERED AT ENTRANCE TO STALL)

REF :
CBC 11B-703.7.2.1

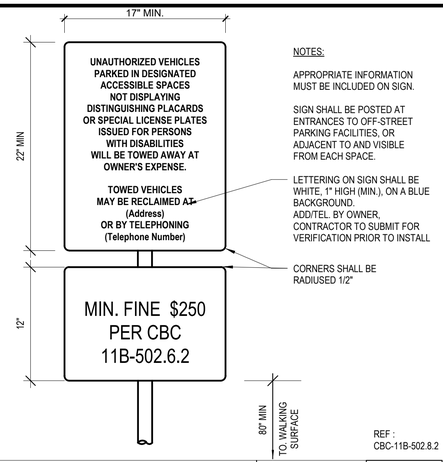
ACCESSIBLE SYMBOL | 1" = 1'-0" | 12 / G0-02



1 SIGN TO BE LOCATED ALONG ACCESSIBLE PATH

REF:
CBC 11B-502.8

SIGNAGE ACCESSIBLE PARKING PATH1 | 3" = 1'-0" | 9 / G0-02



NOTES:

APPROPRIATE INFORMATION MUST BE INCLUDED ON SIGN.

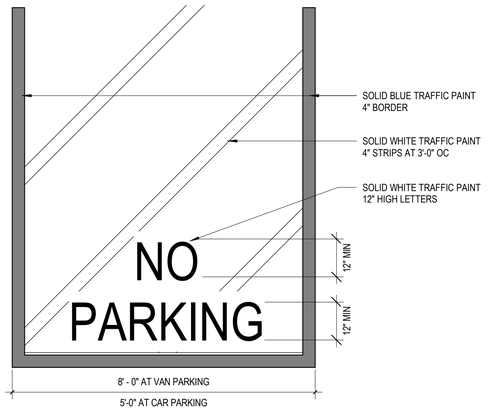
SIGN SHALL BE POSTED AT ENTRANCES TO OFF-STREET PARKING FACILITIES, OR ADJACENT TO AND VISIBLE FROM EACH SPACE.

LETTERING ON SIGN SHALL BE WHITE, 1" HIGH (MIN.), ON A BLUE BACKGROUND.
ADD/TEL. BY OWNER, CONTRACTOR TO SUBMIT FOR VERIFICATION PRIOR TO INSTALL

CORNERS SHALL BE RADIUSED 1/2"

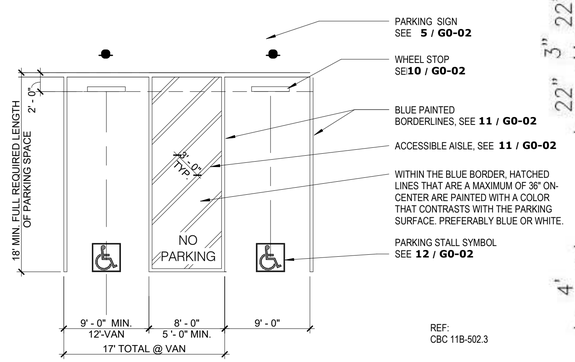
REF :
CBC-11B-502.8.2

SIGNAGE UNAUTHORISED2 | 1 1/2" = 1'-0" | 6 / G0-02



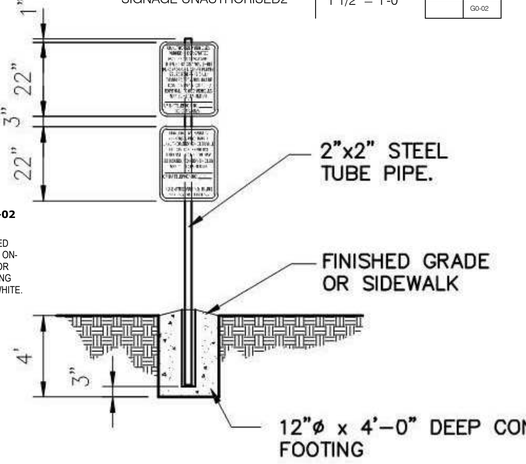
REF :
CBC 11B-502.3

ACCESSIBLE AISLE SYMBOL2 | 1/2" = 1'-0" | 11 / G0-02

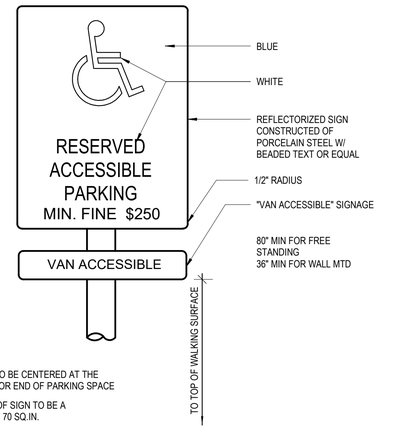


REF:
CBC 11B-502.3

DOUBLE STALL - STRAIGHT2 | 1/8" = 1'-0" | 8 / G0-02



CAST IN PLACE SIGN POST2 | 12" = 1'-0" | 5 / G0-02

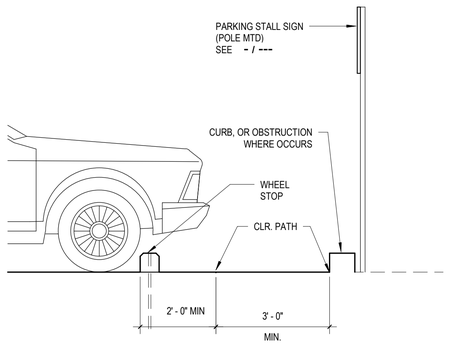


1 SIGN TO BE CENTERED AT THE INTERIOR END OF PARKING SPACE

2 AREA OF SIGN TO BE A MIN OF 70 SQ.IN.

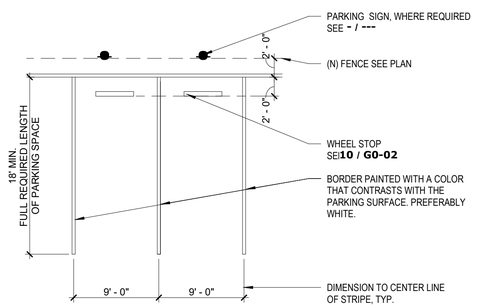
REF :
CBC 11B-502.6

VAN ACCESSIBLE PARKING SPACE2 | 3" = 1'-0" | 2 / G0-02

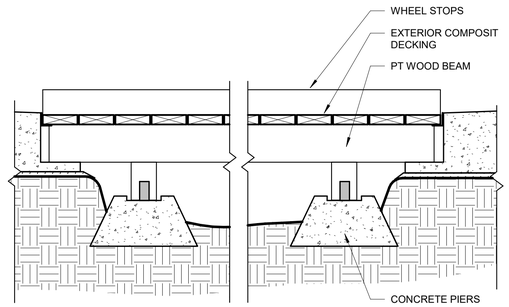


REF :
CBC 11B-502.7

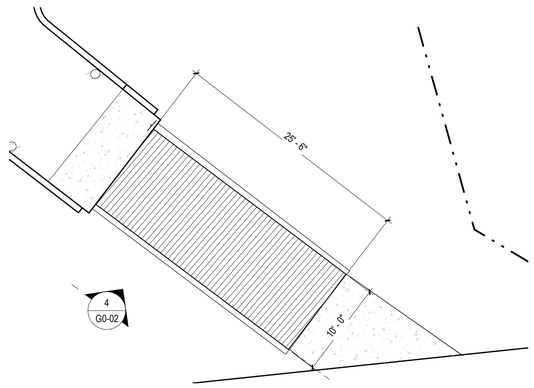
SECTION AT WHEELSTOP/SIGN1 | 1/2" = 1'-0" | 10 / G0-02



SINGLE STALL1 | 1/8" = 1'-0" | 7 / G0-02



BOARDWALK SECTION | 1" = 1'-0" | 4 / G0-02



BOARDWALK | 1/8" = 1'-0" | 1 / G0-02

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PROJECT:
242 REDWOOD HWY
MILL VALLEY CA 94941
APN.: 052-247-01 / 052-247-02

OWNER:
SEAPLANE INVESTMENTS LLC
loring@bldsf.com
415.298.5331

TENANT:
SEAPLANE ADVENTURES
aaron@seaplane.com
415.272.6540

Stamp:

No.	Description	Date
		09/02/2022

Keyplan:

Title:
ACCESSIBILITY DETAILS

Checked by: **Checker** Scale: **As indicated**

Sheet no:
G0-02

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Attorneys for the U.S. Department of Transportation and Federal Aviation Administration

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SEAPLANE ADVENTURES, Plaintiff, v. COUNTY OF MARIN, CALIFORNIA, Defendant.	CASE NO. 20-6222 WHA **DECLARATION OF DENNIS M. THORPE**

I, Dennis M. Thorpe, declare as follows:

1. I am employed by the Federal Aviation Administration ("FAA") as the Manager of the Oakland Flight Standards District Office ("FSDO") in Alameda, California. I submit this declaration,

based on information available to me in connection with my position, to provide the Court with information about certain safety-related certifications that the plaintiff in this action, Seaplane Adventures, has received from the FAA.

2. In order for an entity to operate as an air carrier, it must receive an air carrier certificate from the FAA. *See* 49 U.S.C. §§ 44705, 44711. The FAA grants such a certificate if it finds that the air carrier "properly and adequately is equipped and able to operate safely under" aviation safety rules set out by statute and by FAA regulations. *Id.* § 44705; 14 CFR Part 119. San Francisco Seaplane Tours, Inc. ("SFST") has been granted an air carrier certificate (as noted below, SFST is authorized to do business as "Seaplane Adventures"). SFST's certificate became effective in 2006. A true and accurate copy of the certificate is annexed hereto as Exhibit A.

3. SFST has also been issued operations specifications ("OpSpecs") describing the kinds of operations it can conduct and certain applicable authorizations, limitations, and procedures. *See* 14 CFR §§ 119.7, 119.33(a)(3). The OpSpecs indicate that SFST is authorized to do business as "Seaplane Adventures." The OpSpecs authorize SFST to provide on-demand operations in common carriage pursuant to 14 CFR § 119.21(a)(5) and in compliance with FAA safety regulations set forth in 14 CFR Part 135. SFST's current OpSpecs were last updated in 2019 and are on file with the FAA.

4. SFST has also obtained a Letter of Authorization ("LOA") that authorizes it to conduct nonstop passenger-carrying flights that begin and end at the same airport, and are conducted within a 25-statute mile radius of the airport, in accordance with FAA safety regulations set forth in 14 CFR Part 91. *See* 14 CFR §§ 91.147, 119.1(e)(2). SFST's current LOA was last updated in 2017 and is on file with the FAA.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 16th day of June 2021, in Alameda, California.

DENNIS M THORPE

Digitally signed by DENNIS M THORPE
Date: 2021.06.16 10:06:30 -07'00'

Dennis M. Thorpe

Exhibit A

US Department
of Transportation
**Federal Aviation
Administration**

Air Carrier Certificate

This certifies that

SAN FRANCISCO SEAPLANE TOURS, INC.
242 REDWOOD HIGHWAY
MILL VALLEY, CA 94941

has met the requirements of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and standards prescribed thereunder for the issuance of this certificate and is hereby authorized to operate as an air carrier and conduct common carriage operations in accordance with said Act and the rules, regulations, and standards prescribed thereunder and the terms, conditions, and limitations contained in the approved operations specifications.

This certificate is not transferable and, unless sooner surrendered, suspended, or revoked, shall continue in effect indefinitely.

By Direction of the Administrator.

Certificate number: 020A052Y

Effective date: August 10, 2006

Issued at Alameda, CA

David M. Smith
(Signature)

Manager
(Title)

Western Pacific/Oakland FSDO
(Region/Office)

FAA Form 8430-18 (6-87)

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PLANNING INFORMATION PACKET (PIP)
P2981

Date: April 20, 2021
Prepared By: Joshua Bertain, Community Development Technician
Applicant: Steve Price
Property Owner: Commodore Marina LLC
Property Addresses: 220, 240, 242 Redwood Highway, Mill Valley - APN 052-247-01,
No assigned address – APN 052-247-02 and,
No assigned address – APN 052-247-03
Assessor's Tax Parcel Number (APN): 052-247-01, 052-247-02, 052-247-03
Zoning: Bayfront Conservation, Resort and Commercial Recreation District (BFC-RCR)

Development Standards

Front Yard Setback	Side Yard Setback	Rear Yard Setback	Floor Area Ratio	Height Limit
Determined by site constraints and implemented through discretionary review (Master Plan/Design Review)				30' (primary), 16' (accessory)

Countywide Plan Land Use Designation: Recreational Commercial

Community Plan Area: Tamalpais

Countywide Plan Corridor: Baylands

Is Property Located in the Wildland Urban Interface Zone? No

Utilities Information:

Water:	Marin Municipal Water District	(415) 945-1455
Sanitary :	Sausalito – Marin City Sanitary District	(415) 332-0244
Fire:	Southern Marin Fire Protection District	(415) 388-8182

Other Helpful Phone Numbers:	*All (415) Area Code*
California Building Code questions:	473-6550 (Building & Safety Division)
Onsite wastewater systems and water well questions:	473-6907 (Environmental Health Services)
Grading, drainage, parking, and roadway questions:	473-6528 (Department of Public Works)
Zoning and Development Standards questions:	473-6269 (Planning Division)

Planning Information Packet (PIP) # P2981
Permit History

Current Assessor Parcel Number: 052-247-01, -02
Historic Assessor Parcel Number(s): 052-243-01, -02, 052-242-01

Planning Permit History

Please see attached

1. County Initiated Review of 1981 Use Permit P1758, August 28, 2017
2. Use Permit Renewal UP 07-24 (New Use Permit # UP 13-5), November 30, 2012, ten-year Extension of Use Permit 97-217
3. Use Permit Extension UP 97-217 (New Use Permit # UP 07-24), December 13, 2007, five-year extension of Use Permit 97-217
4. Price Design Review Clearance (DC 05-043), April 19, 2005, Design Review Clearance to repave existing heliport landing and parking areas
5. Use Permit Extension (EX 02-19), May 23, 2002, five-year extension of Use Permit 97-217
6. Use Permit Reconciliation and Extension of UP 96-003 and UP 97-217, July 25, 2000, 1-year extension to reconcile expiration dates of Use Permits 96-003 and 97-217 to expire on May 8, 2002
7. Use Permit 97-217, May 8, 1997, Use Permit (children's recreation center, 8 artist studios, property management office: 5-year term)
8. Use Permit 96-003/Design Review Exemption 96-292, February 29, 1996, Use Permit (heliport use; 5-year term) and Design Review Exemption
9. Pre-application 95-105, April 26, 1995, BOS resolution 95-105 denying heliport appeal
10. Use Permit, February 9, 1981, Modification to sea plane Use Permit
11. Use Permit and Plan Approval, April 24, 1972, Use Permit and Plan Approval for a mortuary
12. Sign Permit, March 2, 1964, Sign Permit for "Commodore Aviation"
13. Sign Permit, August 12, 1957, Sign Permit for "Commodore Aviation"
14. Use Permit, November 10, 1953, Use Permit to construct, operate, and maintain a Sea Plane Base, Flight School, Maintenance & Repair of Aircraft
15. Use Permit, February 6, 1950, 5-year Use Permit for the construction, maintenance and operation of a Sea Plane Base, Hangers, Office and Yacht Harbor and accessory buildings

Code Enforcement History

All closed, no attachments provided

1. Case # 13101, APN 052-247-01, October 30, 2016, Hours of operation (noise)
2. Case # 12322, APN 052-247-01, May 29, 2015, Commodore Marina, Slip 1
3. Case # 4866, APN 052-247-01, October 23, 2009, Dock, electrical enclosure deteriorated, unsafe piling, unprotected aviation fuel tanks
4. Case # 4521, APN 052-247-01, June 27, 2008, non-compliant w/ permit regarding number of plane/helicopter flights per day
5. Case # 3686, APN 052-247-01, August 25, 2005, non-compliant w/ permit regarding hours of operation and number of flights per day
6. Case # 5390, APN 052-247-01, December 1, 1987, Construction of Seaplane docks without Building Permits or Planning review

Building Permit History

No attachments provided

Date Approved	Date Issued	Permit Number	Permit Type
4/27/2004	N/A	868686	New single-family dwelling (teardown/rebuild)
6/20/2001	7/23/2001	88645	Retrofit damaged dock original permit never picked up
4/21/2000	4/24/2000	83216	Heater, water heater
4/21/2000	N/A	868686	Retrofit Damaged Dock
N/A	7/21/1997	71755	Drywall and electrical repair
1/8/1998	N/A	868686	Interior partitions and sheetrock ceiling
N/A	6/7/2006	110393	Re-roof
N/A	12/2/2009	125019	Replace broken conduit relocate meters
N/A	10/5/2007	116866	Re-roof commercial building
N/A	N/A	2494	Condition of Marina

Attachments

Planning Permit History (as listed above):

1. County Initiated Review of 1981 Use Permit P1758, August 28, 2017
2. Use Permit Renewal UP 07-24 (New Use Permit # UP 13-5), November 30, 2012, ten-year Extension of Use Permit 97-217
3. Use Permit Extension UP 97-217 (New Use Permit # UP 07-24), December 13, 2007, five-year extension of Use Permit 97-217
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Planning Information Packet (PIP) # P2981
Permit History

Miscellaneous Attachments:

16. Aerial Photo
17. Zoning Map

Planning and Building permit records can also be accessed via:
https://www.marincounty.org/depts/cd/customer-service/records-search

The Marin County Community Development Department provides this information 'AS IS' and does not guarantee its accuracy or suitability for use.

Planning Permit History

1. County Initiated Review of 1981 Use Permit P1758, August 28, 2017

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC17-007

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS MODIFY THE COMMODORE MARINA LLC SEAPLANE BASE USE PERMIT

ASSESSOR'S PARCELS: 052-247-01 and -02

* *

SECTION I: FINDINGS

1. **WHEREAS,** the Marin County Planning Commission has reviewed the 1981 Commodore Marina Seaplane Base Use Permit in reliance on a stipulation of the original 1953 Use Permit for the seaplane base which stated the following: "The Marin County Planning Commission reserves the right to revoke or review this Use Permit, after holding a public hearing thereon, said revocation and review to be instigated by the Commission at no particular time, but only when changed conditions seem to warrant." Those changed conditions warranting the Commission's review include changes to zoning regulations since the Use Permit and subsequent amendments were issued, increased development in the area, and changes to the Federal legal framework enabling local regulation of seaplane businesses. The property is located at 242 Redwood Highway and is further identified as Assessor's Parcels 052-247-01 and -02.

2. **WHEREAS**, on August 28, 2017, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider the project.

3. **WHEREAS,** the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines because it involves the continued operation of a legal seaplane base.

4. **WHEREAS,** the project would be consistent with Countywide Plan policy TR-1.7 "Direct Aviation Uses to Appropriate Locations" and program TR-1.p "Limit Aviation Uses" because it would not eliminate the ability of the seaplane base to continue operating.

5. **WHEREAS,** the project is consistent with the goals and policies of the Richardson Bay Special Area Plan and Tamalpais Area Community Plan because it would preserve natural resources and navigation channels on Richardson Bay and maintain existing access from the shoreline.

6. **WHEREAS,** the project is consistent with the mandatory findings for Use Permit revocation or modification under the express terms of the existing Use Permit.

   A. **That circumstances have changed since the grant of the Use Permit in 1953, as modified in 1981, by virtue of (1) changes to zoning regulations and increased development in the area; and (2) changes to the Federal legal framework governing local regulation of seaplane businesses; and that, therefore, the Use Permit should be modified.**

The changed circumstances that support modifying the conditions of the Use Permit are discussed below.

1. *Zoning Changes and Increased Development*

   In 1981, when the current Use Permit was approved, the property was zoned RCR (Resort, Commercial, Recreational). At that time, any resort or commercial recreation use was allowable, subject to securing a Use Permit. The current Use Permit was granted by the Planning Commission under this authority. In 1983, the BFC (Bayfront Conservation) overlay zone was applied to the property. While this did not change the underlying uses allowable, it did heighten the priority of environmental protection in recognition of the natural resources and habitats that shorelines and tidelands provide.

   The neighborhoods surrounding the inlet between De Silva Island and Seminary Drive have undergone substantial new development since 1981, including the De Silva Island development and homes and apartment buildings adjacent to the shoreline along Seminary drive. This area is also environmentally sensitive due to shoreline habitat. While this area may have always been sensitive, the importance of wetlands and shoreline habitats is better understood now then it was in 1981 when the Use Permit was previously modified. As a result, the BFC overlay district provides more stringent environmental protections than were in place in 1981. Seaplanes continue to use the inlet for maneuvers prior to take-off although it is outside of the airstrip established by the Federal Government in 1949.

   In 2003, the Development Code was adopted, which contained land use tables specifying which uses are allowable in each zoning district. The Development Code's land use tables, still in effect today, do not list "Airparks" as an allowable use in the RCR district.

   The regulatory circumstances have changed in two important respects since approval of the 1981 Use Permit: (1) applying the BFC overlay zone to better protect the bayshore environment; and (2) the zoning under the Development Code no longer allows airparks as a conditionally permitted use in RCR zones.

2. *Federal Law*

   While a review of the zoning history reveals that the seaplane base would not be permitted today, the changes to the legal framework for regulation since the original 1953 Use Permit was issued are perhaps more far reaching in their effects. Presumably unknown to the Planning Commission at the time they modified the Use Permit in 1981, the US Supreme Court had in 1973 issued a ruling in the City of Burbank v. Lockheed Air Terminal case that prohibited local jurisdictions from regulating aircraft noise, viewing it as an element of aviation regulation that was left exclusively to the authority of the Federal Government. This Federal preemption calls into question the validity of the 86 decibel noise limit, which is the lynchpin of the 1981 Use Permit. Further review of the Use Permit also indicates that the other operational restrictions related to take offs and landings may be difficult to enforce because local regulation is preempted by Federal law.

Based on the issues described above, the conditions of approval need to be modified to reflect the Federal preemption of conditions 1, 3, and 6 of the 1981 Use Permit as shown struck out below.

~~1. No approaches over Strawberry Point except in the judgment of the pilot when necessary for safe operation. This condition is not intended to allow repeated approaches over Strawberry Point under unsafe conditions. Strawberry Point shall be defined as the area south of the Seminary.~~

2. Richardson Bay to be used for arrivals and departures only, i.e., no touch and go operations. A school shall be allowed to operate from the base, but training maneuvers, with the exception of sailing or idling type and initial takeoff and final landing must take place in other areas.

~~3. No power approaches to be used except when necessary for safe operations.~~

4. Transient airplanes will not be allowed the use of base facilities by the operator.

5. Maximum of four commercial aircraft at the base, but only two may be simultaneously used for revenue producing purposes.

~~6. At no time should any aircraft operated by the commercial operator exceed 86 decibels.~~

Conditions 2, 4, and 5 remain valid.

B. That the public necessity, convenience, and general welfare do require the modification of the Use Permit.

In order for the seaplane base operations to continue in a manner that does not adversely affect the public welfare, it must be carefully managed and regulated. This includes reviewing changed circumstances that may need to be reflected in modified conditions and ensuring that those conditions are clear and enforceable. Changed circumstances support modifying the conditions of the Use Permit, as indicated above in Finding A.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the Board of Supervisors modify the Commodore Marin Seaplane Base Use Permit to eliminate conditions 1, 3, and 6 of the 1981 Use Permit. All other conditions of the 1981 Use Permit should remain valid.

SECTION III: ADOPTION

ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 28th day of August, 2017.

AYES: MARGOT BIEHLE, CHRISTINA L. DESSER, DON DICKENSON, DAVID PAOLI, PETER THERAN

RECUSED: MARGARET CURRAN, JOHN ELLER,

NOES: NONE

MARGOT BIEHLE, VICE CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Recording Secretary

2. Use Permit Renewal UP 07-24 (New Use Permit # UP 13-5), November 30, 2012, ten-year Extension of Use Permit 97-217

COUNTY OF MARIN

COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

NOTICE OF USE PERMIT RENEWAL

November 30, 2012

Steven Price
242 Redwood Highway
Mill Valley, CA 94941

RE: Renewal of Price Use Permit (UP 13-5)
242 Redwood Highway, Mill Valley
Assessor's Parcels 052-247-01,02

Dear Mr. Price::

The Community Development Agency, Planning Division, has examined your application to renew Use Permit 07-24. Your proposal is to match the existing uses approved by the previous Use Permit, therefore the project will conform to that Use Permit. The project continues to meet current standards.

Therefore, Use Permit 07-24 is hereby renewed, and the new Use Permit number is UP 13-5 (project I.D. 12-0302). Conditions of approval established in UP 07-24 are incorporated into UP 13-5. The Use Permit is valid until November 30, 2022 unless the conditions of approval are violated, in which case this Use Permit may be revoked.

If you wish to renew this Use Permit, a renewal application must be submitted at least 60 days before current Use Permit expiration.

Contact me at 415-473-3658 if you have any questions.

Sincerely,

Ben Berto
Principal Planner

CC: file

Up\Price 13-5\Ext Notice 113012.doc

3. Use Permit Extension UP 97-217 (New Use Permit # UP 07-24), December 13 2007, five-year extension of Use Permit 97-217

Marin County
Community Development Agency

Alex Hinds, Director

NOTICE OF DECISION

Applicant's Name: Steve Price

Application (type and number): Use Permit Extension (EX 07-24)

Assessor's Parcel Number: 052-247-01, -02

Project Location: 242 Redwood Highway, Mill Valley

For inquiries, please contact: Benjamin Berto, Principal Planner

Decision Date: December 13, 2007

DETERMINATION: Approved with Conditions

Minutes of the December 13, 2007, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-12.

Marin County Community Development Agency

Jeremy Tejirian
Hearing Officer

Steve Price
242 Redwood Highway
Mill Valley, CA 94941

Jack Krystal
1299 4th Street
Suite 202
San Rafael, CA 94901

Margaret Zegart
118 Highland Lane
Mill Valley, CA 94941

C5. USE PERMIT EXTENSION (EX 07-24): STEVE PRICE

The applicant is proposing a 5-year extension of a 2002 Use Permit approval, to continue to allow the following in Commodore Center: continuation of a 1,200 square foot children's recreation center and day camp; (2) a maximum of eight artist studios totaling 7,067 square feet of building area; and (3) a 1,240 square foot on-site property management office. Parking for the uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and up to 47 on-street parking spaces (current utilization of street parking is considerably less). No changes are proposed from the previously approved use. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort Recreational Commercial). The subject property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel 052-247-01 & 02.**

In response to the Hearing Officer, staff acknowledged an additional comment letter from Margaret Zegart, and has made modifications to the resolution as noted in his supplemental memorandum dated December 13, 2007. Modifications are to Condition of Approval #8, and the vesting period is to be extended for five years.

The public testimony portion of the hearing was opened.

Margaret Zegart, Bayfront Coalition, spoke regarding the issue of the bayfront area under the BCDC Commission. She would like to see a reference to the fact that the property is along the bay trail and signage should include public shore signing and the public shore parking should be indicated.

Steve Price spoke regarding the annual event use that teaches employees wilderness activities for children. The event is held for one weekend a year in June and the parking issue has been rectified.

Jack Crystal spoke in favor of the project.

The public testimony portion of the hearing was closed.

The Hearing Officer responded to the concerns raised by stating that the signage for the trails is not consistent with the BCDC requirements, and is not within the County's authority. He further stated that Adventures Cross Country holds a training event within the week, and is not a special event and shall be regarded as grandfathered.

Eric Steger, Department of Public Works, noted that because of amended Condition of Approval #8, the County may not require an applicant to get a Building Permit, and as an alternative the third line should be changed where it says, "shall complete said work...." to "and shall proved letter of certification from the architect certifying that said work has been completed."

The Hearing Officer approved Price Use Permit Extension, based on the Findings and subject to the Conditions set forth in the Resolution as modified.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 07-181

A RESOLUTION APPROVING RENEWAL OF THE PRICE USE PERMIT
242 REDWOOD HIGHWAY, MILL VALLEY
ASSESSOR'S PARCEL NUMBERS 052-247-01, -02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application for a five-year renewal of an existing Use Permit approval to allow continuation of the following uses in the Commodore Center: (1) a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) eight artist studios totaling 7,067 square feet of building area; and (3) a 1,240 square foot on-site property management office. Parking for the uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and 47 on-street parking spaces. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 13, 2007, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 because temporarily continuing existing uses in existing buildings would not create potential significant environmental impacts.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements pursuant to Section 22.47.010(3) because it involves the minor matter of a temporary continuation of existing uses that are generally compatible with the land use designations contained in the Countywide Plan and Tamalpais Area Community Plan and the purpose and intent of the governing resort and commercial recreation zoning district.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.48.040 of the Marin County Code), as specified below.

A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

The proposed detached uses are allowed as a conditional use within the governing BFC-RCR zoning district because the district allows uses which are related to resort and recreational activities with a purpose to create and protect resort facilities, public access, and recreational opportunities. Residential, industrial, institutional, general commercial, mobile home parks, and floating home marinas are not permitted under this zoning district. The proposed children's recreation center and day camp is compatible with the purpose of the zoning district

by serving as a drop-in camp and activity center for children to gain hands-on recreational and educational opportunities in woodshop, machinery and electronics, and various crafts. Similarly, the artist studios provide commercial space for local businesses with a connection to the recreation industry (for example, Adventures Cross-country, one of the businesses). The on-site property management office is consistent with the zoning to the extent that it provides office/commercial uses that are accessory and support other permitted uses on the property. The proposed uses continue to be characterized as interim in nature, to cease or be incorporated into a Master Plan for redevelopment of the entire property. Staff therefore agrees with the applicant's request that the Use Permit be authorized for a term of five years. The applicant has indicated that a five-year term would provide the Commodore Center with an interim source of revenue while transportation-related plans are developed and approved in the area, and the applicant then prepares a Master Plan for the area.

B. The proposed use is consistent with the Countywide Plan and applicable Community Plans.

The proposed uses are consistent with the Countywide Plan because (1) it would continue use of a mixed-use development that is generally compatible with the *Recreational Commercial* land use designation of the property, including recreational and educational uses relating to a children's recreation center and day camp, artist studios, and a houseboat marina *(Policy CD-14.3)*; (2) the uses are located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 5 to 30 percent floor area ratio range that corresponds to the governing land use designation *(Policy CD-14.3)*; (3) the proposed Use Permit extension would not affect shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property *(Policies EQ-2.42, EQ-2.44, EQ-2.66, EQ-2.87);* (4) the project will continue to provide employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor *(Policy CD-8.6);* and (5) significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services do not occur with the existing project and therefore would not result from the same, proposed, continued project *(Policy CF-5.1)*.

The proposed project is consistent with the Tamalpais Area Community Plan because: (1) the project would result in interim recreational and educational uses that are generally compatible with the SC (Shoreline Commercial) land use designation of this property *(Programs LU32.1a and LU32.1e);* (2) the proposed uses would be located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 30 percent maximum floor area ratio designated for the property *(Program LU32.1e(a))*; (3) conditions of approval continue to limit traffic impacts during the evening peak hours of use and traffic impact costs have previously been borne by the developer for the proposed uses *(Program LU32.1e(d))*; (4) no portion of the proposed improvements would encroach into submerged portions of the property below the line of highest tidal action *(Program LU32.1e(e))*; and (5) provision of public access, including limiting on-street parking spaces solely for public access purposes, is undesirable and infeasible at this time due to the interim nature of the existing, proposed uses, the absence of a long-term Master Plan to redevelop the entire project site, and the absence of an overall improvement plan for the area *(Program LU32.1e(f))*. The houseboat marina is a legal non-conforming use of the property under the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning. The day care center, artist's studios, and management office were permitted under the terms of the previous five-year Use Permit granted by the County in 2002.

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

The proposed project is categorically exempt from the California Environmental Quality Act and involves no changes to the physical environment.

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

The proposed use would be compatible with existing and future land uses in the area. The use in interim in nature, continues uses previously approved in a Use Permit Renewal in 2002, for which no complaints have been received. The Use Permit Renewal runs for a period of five (5) years.

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

No changes are proposed to the physical environment of the buildings or site.

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

The granting of 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 because:

1. The proposed project involves continuation of interim recreational and educational uses within existing buildings on the Commodore Center that would not impact shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property.

2. The Department of Public Works staff has reviewed the existing and proposed uses and has determined that there is an adequate number of on- and off-street parking spaces available to accommodate the proposed project. However, DPW reports that the applicant has not completed the parking upgrades required by the Use Permit Extension approved in 2002, including additional information on the handicapped parking plans and subsequent installation of improvements (see Attachment 6). Given the lack of visible striping on the site at this time, staff is recommending that the applicant be required to vest the Use Permit Renewal within 6 months by applying for, receiving approval of, and completing the parking lot restriping by that period. Prior to June 11, 2008, the applicant will have to demonstrate to the satisfaction of CDA and DPW that he has fully complied with the parking conditions.

3. The proposed project would not change the existing level of use or exceed the capacity of roadways and freeway interchanges in the surrounding Shoreline Area, as defined by the Tamalpais Area Community Plan. The Stinson Beach/Highway 101 interchange (Manzanita Interchange) which serves the subject and surrounding properties in the Shoreline Area currently experiences some traffic congestion, although the recent interchange signalization project directly west of Highway 101 has substantially reduced delays. As part of the 1997 Use Permit request, the applicant submitted a traffic report which estimated trip generation characteristics of the (then) existing and proposed uses.

The 1997 report found that the project would increase the number of daily trips from the property from 164 trips to 254 trips, including a 23 trip increase in the number of p.m. peak trips (between 5 p.m. and 6 p.m. daily). Although the report concluded that the overall traffic impact of the uses on nearby intersections would be limited, the applicant imposed restrictions on the proposed uses, so that the number of additional peak evening trips generated would be limited to no more than one trip. These restrictions include: (1) prohibiting trip-generating activities for the artist studios during the peak evening hour as a term of the lease; (2) requiring clients of the Kids' Headquarters to pick up the children after 6 p.m. and ensuring that no more than one trip would occur within the peak evening hour; and (3) scheduling work hours for the two employees of the on-site property management office until 6 p.m. daily. Staff has received no complaints about traffic in connection with this site or any uses therein.

4. Adequate domestic water and sewage disposal services continue to be available from the Marin Municipal Water District and Sausalito - Marin City Sanitary District, respectively, to service the proposed project.

5. The grant of the proposed Use Permit on the subject property would not be detrimental to the health, safety, morals, comfort, or welfare of persons working or residing in the surrounding neighborhood.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit 07-24, subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 07-24 is approved to continue for a six-month period (or until June 11, 2008) the following: (1) a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) eight artist studios totaling 7,067 square feet of building area; and (3) a 1,240 square foot on-site property management office. The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

2. Use and operation of the artist studios, children's recreation center and day camp, and the property management office shall be subject to the following restrictions:

Use	Occupancy	Days & Hours
Artist Studios	Maximum 8 artists	7 days a week 10:00 a.m. to 10:00 p.m.
Children's Center/Day Camp	Maximum 3 staff	7 days a week 8:30 a.m. to 6 p.m.
Property Management Office	Maximum 2 employees	Monday through Friday 9:00 a.m. to 7:00 p.m.

3. In order to ensure that the interim uses of the property approved herein would not generate traffic trips during the daily peak evening traffic period between 5:00 p.m. and 6:00 p.m., the following restrictions shall apply during the week (Monday through Friday).

   a. The artist studios shall be closed during the peak evening traffic period. This use shall not generate traffic trips during this period relating to arrival or departure of the artist, supply deliveries/pickup, or visitors.

   b. No more than one pick-up or drop-off trip may occur between the hours of 5:00 p.m. and 6:00 p.m. in conjunction with the children's recreation center and day camp. Pick-up of children after 6:00 p.m. is encouraged and permitted.

   c. Use of the on-site property management office shall not result in the generation of any traffic trips during the peak evening traffic period, including arrival or departure of employees, supply deliveries/pickup, or visitors.

4. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the heliport is permitted subject to the terms of Use Permit 96-003 (Deputy Zoning Administrator Resolution 96-016). Use of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

5. This approval does not authorize expansion of any of the existing buildings.

6. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval area violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

7. Any modification to the use or operation of the uses approved herein shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

Marin County Department of Public Works - Land Use and Water Resources

8. The handicapped parking spaces shall be re-striped and re-signed to conform to current California Title 24, federal ADA standards and Marin County Code. Within 6 months (by June 11, 2008) the applicant shall provide letter certification by a licensed architect stating that accessible path of travel is a barrier free access POT without any abrupt level changes exceeding ½" beveled at 1:2 maximum slope, or vertical level changes not exceeding ¼ " maximum and at least 48" wide. Surface is slip resistant, stable, firm, and smooth. Cross slope does not exceed 2% and slope in the direction of travel is less than 5% unless otherwise indicated. Also within 6 months, the applicant shall obtain all necessary permits and approvals from the County, and shall provide a letter of certification from the architect certifying that said work has been completed. Failure to perform this work as conditioned shall result in the Use Permit being considered unvested and declared null and void.

9. Provide and show on plans all required signage and markings.

10. Provide and show on plans standard paths of travel from the disabled parking spaces to the respective building entrances.

11. Provide and show on plans the required loading spaces per MCC 24.04.370.

12. The pavement stripings shall be maintained by the applicant as necessary to clearly demarcate on an ongoing basis the parking, including handicapped accessibility.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of five (5) years from the date of approval, subject to the provision that Condition of Approval 8. shall be complied with in full by June 11, 2008 (the date listed in the Condition) or vesting of this Use Permit shall be deemed lapsed. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit on **December 13, 2012.** The applicant shall be subject to payment of applicable review fees.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $600.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **December 28, 2007.**

SECTION IV: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 13th day of December 2007.

JEREMY TEJIRIAN, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

4. Price Design Review Clearance (DC 05-043), April 19, 2005, Design Review Clearance to repave existing heliport landing and parking areas

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
ALEX HINDS, DIRECTOR

DESIGN REVIEW CLEARANCE DETERMINATION

April 19, 2005

Steve Price
San Francisco Seaplane Tours
242 Redwood Highway
Mill Valley, CA 94941

RE: Price Design Review Clearance (DC 05-043)
242 Redwood Highway, Mill Valley
Assessor's Parcel 052-247-02

Dear Mr. Price:

This is to inform you that on April 18, 2005, the Community Development Director determined that the proposed project, as described below, has received Design Review Clearance in accordance with Marin County Code Section 22.42.020(B). Plans submitted for this determination are on file in the Community Development Agency - Planning Division identified as "Exhibit A," prepared by Lawrence Doyle, as marked by the applicant, received October 7, 2004.

PROJECT DESCRIPTION:

The applicant is requesting approval to repave existing paved areas on the subject property, and replace an existing fence around the heliport landing area with a new fence of the same height. The existing paved areas proposed to be repaved include the heliport landing area and the adjacent paved parking and access area. No fill is proposed to be place on the site as part of this project.

Zoning for the subject parcel is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation area).

FINDINGS FOR DESIGN REVIEW CLEARANCE (SECTION 22.42.020(B) OF MARIN COUNTY CODE):

The proposed work is minor and incidental to the existing use of the property as a legal nonconforming heliport and within the intent and objectives for Design Review, based on the following findings:

1. The project proposes repaving of existing paved areas and would not alter the appearance of the site or impact existing bay views from the subject or surrounding properties.

2. The proposed project would not alter existing uses on the property or expand the extent of existing paved areas.

3. The proposed replacement fencing would be the same height and in the same location as the existing fence and would not alter the appearance of the site.

4. The proposed repaving repair work would not exceed 25 percent of the value of existing improvements on the property related to the legal nonconforming use of the site as a heliport.

5. The project is consistent with the intent 22.42.020(B) (Design Review) of the Marin County Code.

In addition, the proposed project has been determined to be exempt from the provisions of Marin County Code Chapter 22.52 (Tidelands Permit) as minor and incidental work because the proposed repaving and fence replacement would not result in the placement of additional fill on the site, increase the extent of existing paved areas on the property, or alter the appearance of the site.

Please be advised that the proposed work is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission (BCDC). Accordingly, you must contact BCDC staff to determine whether any permits are required for the work.

This Clearance determination is only valid for the above-described project. The work approved herein must be substantially completed before April 19, 2006 or all rights granted in this approval shall lapse.

RIGHT TO APPEAL:

If you disagree with the decision regarding this Design Review Clearance, you may appeal it to the Planning Commission. A Petition for appeal and a $545.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than 4:00 p.m., May 2, 2005.

Sincerely,

Christine Gimmler
Senior Planner

cc: Bay Conservation and Development Commission

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5. Use Permit Extension (EX 02-19), May 23, 2002, five-year extension of Use Permit 97-217

Marin County
Community Development Agency

Alex Hinds, Director

NOTICE OF DECISION

Applicant's Name:	Steve Price
Application (type and number):	Use Permit Extension (EX 02-19),
Assessor's Parcel Number:	052-247-01, -02
Project Location:	242 Redwood Highway, Mill Valley
For inquiries, please contact:	Benjamin Berto, Principal Planner
Decision Date:	May 23, 2002
DETERMINATION:	**Approved with Conditions**

Minutes of the May 23, 2002, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-15.

Marin County Community Development Agency

Thomas K. Lai, AICP
Hearing Officer

C3. USE PERMIT EXTENSION: STEPHEN PRICE

Proposal to allow the following improvements in Commodore Center: to legalize a 1,200 square foot children's recreation center and day camp; (2) to allow interior remodeling for eight artist studios totaling 7,067 square feet of building area; and (3) to allow a 1,240 square foot on-site property management office. The proposed uses would occupy portions of existing buildings on a property currently developed with a seaplane center (Commodore Seaplanes), a heliport, and a houseboat marina (Commodore Marina). Parking proposed for existing and proposed uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and 47 on-street parking spaces. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort Recreational Commercial). The subject property is located at **242 Redwood Highway, Mill Valley** and is further identified as **Assessor's Parcel 052-247-01, -02.**

At the request of the Hearing Officer, staff summarized his supplemental memorandum regarding a letter from Margaret Zegart dated May 21, 2002, requesting a 2-year approval for the project, and annual reviews thereafter. Staff stated that the issues in Ms. Zegart's letter have been addressed in the Conditions of Approval and does not recommend any modifications to the conditions at this time.

The public testimony portion of the hearing was opened.

Steve Price, applicant, responded to Ms. Zegart's letter, explaining that the recreational vehicle is being used as a residence by one of the pilots for security reasons, and will be removed in June.

The public testimony portion of the hearing was closed.

The Hearing Officer stated for the record that Ms. Zegart may file a complaint with the Code Enforcement Division regarding the recreational vehicle that is parked in the right-of-way. The complaint will be treated as a separate action and will not affect this decision.

The Hearing Officer approved the Price Use Permit Extension, based on the Findings and subject to the Conditions set forth in the Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 02-134

A RESOLUTION APPROVING THE PRICE USE PERMIT
242 REDWOOD HIGHWAY, MILL VALLEY
ASSESSOR'S PARCEL NUMBERS 052-247-01, -02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application for a five-year extension of an existing Use Permit approval to allow continuation of the following uses in the Commodore Center: (1) a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) eight artist studios totaling 7,067 square feet of building area; and (3) a 1,240 square foot on-site property management office. Parking for the uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and 47 on-street parking spaces. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on May 23, 2002, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 because temporarily continuing existing uses in existing buildings would not create adverse environmental impacts.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because: (1) it would continue use of a mixed-use development that is generally compatible with the *Recreational Commercial* land use designation of the property, including legalization of recreational and educational uses relating to a children's recreation center and day camp and artist studios *(Policy CD-14.3)*; (2) the uses are located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 5 to 30 percent floor area ratio range that corresponds to the governing land use designation *(Policy CD-14.3)*; (3) the proposed Use Permit extension would not affect shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property *(Policies EQ-2.42, EQ-2.44, EQ-2.66, EQ-2.87* (4) the project will continue to provide employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor *(Policy CD-8.6);* and (5) significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services do not occur with the existing project and therefore would not result from the same, proposed, continued project *(Policy CF-5.1)*.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Tamalpais Area Community Plan because: (1) the project would result in interim recreational and educational uses that are generally compatible with the SC (Shoreline Commercial) land use designation of this property *(Programs LU32.1a and LU32.1e);* (2) the proposed uses would be located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 30 percent maximum floor area ratio designated for the property *(Program LU32.1e(a))*; (3) conditions of approval continue to limit traffic impacts during the evening peak hours of use and traffic impact costs have previously been borne by the developer for the proposed uses *(Program LU32.1e(d))*; (4) no portion of the proposed improvements would encroach into submerged portions of the property below the line of highest tidal action *(Program LU32.1e(e))*; and (5) provision of public access, including limiting on-street parking spaces solely for public access purposes, is undesirable and infeasible at this time due to the interim nature of the existing, proposed uses, the absence of a long-term Master Plan to redevelop the entire project site, and the absence of an overall improvement plan for the area *(Program LU32.1e(f))*.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements pursuant to Section 22.47.010(3) because it involves the minor matter of a temporary continuation of existing uses that are generally compatible with the land use designations contained in the Countywide Plan and Tamalpais Area Community Plan and the purpose and intent of the governing resort and commercial recreation zoning district.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that any remodeling work that may be associated with the proposed project is exempt from Tidelands Permit pursuant to Section 22.77.010(3) of the Marin County Code because it would be minor and incidental in nature and involving only interior remodeling of existing buildings that are located upland of the mean high tide for Richardson Bay.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code), as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

A. The proposed project involves continuation of interim recreational and educational uses within existing buildings on the Commodore Center that would not impact shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property.

B. The Department of Public Works staff has reviewed the proposed extension of existing uses and finds no issue with the supply of on- and off-street parking spaces available to accommodate the proposed project, with required changes to the handicapped parking (please see Attachment 6). These include 17 on-site parking spaces for the houseboat marina, and 50 on-street parking spaces (including 3 handicapped spaces) for the existing remaining uses: Commodore Seaplanes, heliport, Kid's Headquarters, artist studios and property management office. A waiver of the County's parking requirements contained in Title 24 of the Marin County Code is appropriate in conjunction with the proposed development for the following reasons: (1) use of street parking within the Bolinas Avenue and Yolo Street rights-of-way would not impact traffic on adjoining property because the rights-of-way do not serve through traffic, terminate in Richardson Bay, and function as private driveways for the Commodore Center; (2) the proposed uses are intended to represent an interim use of the property and would only utilize a portion of the right-of-way for parking until a comprehensive Master Plan is submitted for review and approval by the County; and (3) although most of the required parking spaces could be developed on site to meet County Code requirements,

stringent imposition of such requirements in connection with the proposed interim uses would require extensive site modifications that may be inconsistent with the ultimate Master Plan objectives for the property. These modifications include removal of existing mature pine trees, site grading that would reduce the amount of open space, and relocation of two of the heliport's fuel tanks and landing/take-off pad that may affect surrounding wetland areas. Based on these factors, existing on- and off-street parking spaces, with the modified handicapped parking spaces, are adequate to support existing and currently proposed uses at the Commodore Center. The handicapped spaces are required in the Conditions of Approval to conform to current California Title 24 standards for handicapped parking within 30 days.

C. The proposed project, because it involves no change from current use, would not change the existing level of use or exceed the capacity of roadways and freeway interchanges in the surrounding Shoreline Area, as defined by the Tamalpais Area Community Plan. The Stinson Beach/Highway 101 interchange (Manzanita Interchange) which serves the subject and surrounding properties in the Shoreline Area currently experiences some traffic congestion, although the recent interchange signalization project directly west of Highway 101 has substantially reduced delays. As part of the 1997 Use Permit request, the applicant submitted a traffic report which estimated trip generation characteristics of the existing and proposed uses at that time. The 1997 report found that the project would increase the number of daily trips from the property from 164 trips to 254 trips, including a 23 trip increase in the number of p.m. peak trips (between 5 p.m. and 6 p.m. daily). Although the report concluded that the overall traffic impact on nearby intersections would be limited, the applicant agreed to additional restrictions on the proposed uses, so that the number of additional peak evening trips generated would be limited to no more than one trip. These restrictions included: (1) prohibiting trip-generating activities for the artist studios during the peak evening hour as a term of the lease; (2) requiring clients of the Kids' Headquarters to pick up the children after 6 p.m. and ensuring that no more than one trip would occur within the peak evening hour; and (3) scheduling work hours for the two employees of the on-site property management office until 6 p.m. daily.

   The Department of Public Works Traffic Division staff reviewed this application and found no issue with continuation of the proposed interim use of the Commodore Center with respect to traffic hazards or congestion on surrounding intersections.

D. Adequate domestic water and sewage disposal services continue to be available from the Marin Municipal Water District and Sausalito - Marin City Sanitary District, respectively, to service the proposed project.

E. The applicant has agreed to install fencing around the front yard play area, and to provide a drip irrigation system in the courtyard, enhancing the safety and aesthetics of the project.

F. The grant of the proposed Use Permit on the subject property would not be detrimental to the health, safety, morals, comfort, or welfare of persons working or residing in the surrounding neighborhood.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit 02-19, subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 02-19 is approved to continue for a five-year period the following: (1) a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) eight artist studios totaling 7,067 square feet of building area; and (3) a 1,240 square foot on-site property management office. The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

2. Use and operation of the artist studios, children's recreation center and day camp, and the property management office shall be subject to the following restrictions:

Use	Occupancy	Days & Hours
Artist Studios	Maximum 8 artists	7 days a week 10:00 a.m. to 10:00 p.m.
Children's Center/Day Camp	Maximum 3 staff	7 days a week 8:30 a.m. to 6 p.m.
Property Management Office	Maximum 2 employees	Monday through Friday 9:00 a.m. to 7:00 p.m.

3. In order to ensure that the interim uses of the property approved herein would not generate traffic trips during the daily peak evening traffic period between 5:00 p.m. and 6:00 p.m., the following restrictions shall apply during the week (Monday through Friday).

   a. The artist studios shall be closed during the peak evening traffic period. This use shall not generate traffic trips during this period relating to arrival or departure of the artist, supply deliveries/pickup, or visitors.

   b. No more than one pick-up or drop-off trip may occur between the hours of 5:00 p.m. and 6:00 p.m. in conjunction with the children's recreation center and day camp. Pick-up of children after 6:00 p.m. is encouraged and permitted.

   c. Use of the on-site property management office shall not result in the generation of any traffic trips during the peak evening traffic period, including arrival or departure of employees, supply deliveries/pickup, or visitors.

4. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the heliport is permitted subject to the terms of Use Permit 96-003 (Deputy Zoning Administrator Resolution 96-016). Use of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

5. Any plan submitted for a building permit shall conform substantially to plans identified as "Exhibit A," entitled "Commodore Center," consisting of four sheets, dated January 1997 with revisions dated March 3, 1997, prepared for Steven D. Price, and on file in the Community Development Agency.

6. Work authorized by this Use Permit approval is limited to interior remodeling within existing buildings at the Commodore Center, as depicted on "Exhibit A." This approval does not authorize expansion of any of the existing buildings.

7. The applicant shall install a 4' chainlink fence around the perimeter of the day care front lawn play area within 30 days of the effective date of application approval.

8. The applicant shall install landscaping and a permanent drip irrigation system in the courtyard area within 90 days of the effective date of application approval.

9. Prior to issuance of any building permit, the applicant shall submit to the Community Development Director a copy of a draft lease agreement to be used for the artist studios verifying that a term of the lease has been included which would require closure of the artist studios during the daily peak evening traffic period between 5:00 p.m. and 6:00 p.m. The use may not generate traffic trips during this period relating to arrival or departure of the artist, supply deliveries/pickup, or visitors. In addition, the lease shall prohibit the conduct of art shows, commercial retail galleries, or related events on the subject property.

10. Construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sundays or Holidays.

11. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval area violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

12. Any modification to the use or operation of the uses approved herein shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

Marin County Department of Public Works - Land Use and Water Resources

13. The handicapped parking spaces shall be re-striped and re-signed to conform to current California Title 24 standards, subject to review and approval by the Department of Public Works. All work shall be completed within 30 days of the effective approval date of this application.

14. The applicant shall maintain the interim parking plan for the duration of the Use Permit, subject to an annual compliance review. Following the five-year period, and subject to authorization of a Use Permit renewal/amendment and/or a Master Plan by the Planning Division, permanent off-street parking spaces shall be provided for this project.

Tamalpais Fire Protection District

15. PRIOR TO FINAL INSPECTION, the applicant shall demonstrate compliance with the following requirements: (1) the address shall be posted in accordance with the requirements of the Uniform Fire Code; (2) smoke detectors shall be installed in accordance with the Uniform Building Code; (3) a remotely-located, second means of egress shall be provided for each floor above the first; and (4) a fire detection system shall be installed in the building in accordance with the standards as established by the National Fire Protection Association and connected to the headquarters of the Tamalpais Fire Protection District through an approved U.L. central/monitoring station.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of five (5) years from the date of approval, subject to an annual administrative permit compliance review by the Community Development Director to determine compliance with the conditions of approval. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit on **May 30, 2007.** The applicant shall be subject to payment of applicable review fees prior to the conduct of the annual compliance reviews.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **May 31, 2002.**

SECTION IV: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 23rd day of May 2002.

THOMAS K. LAI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

6. Use Permit Reconciliation and Extension of UP 96-003 and UP 97-217, July 25, 2000, 1-year extension to reconcile expiration dates of Use Permits 96-003 and 97-217 to expire on May 8, 2002

Marin County
Community Development Agency

Alex Hinds, Director

NOTICE OF USE PERMIT EXTENSION

July 25, 2000

Steven D. Price
Commodore Center
242 Redwood Highway
Mill Valley, Ca 94941

RE: Request for Extension to Use Permit Expiration Date
Price (Heliport) Use Permit 96-003
Assessor's Parcels 052-247-01 and -02

Dear Mr. Price:

This letter responds to your letter dated July 17, 2000, which requests an extension to the 1996 Use Permit approval for the heliport (Use Permit 96-003) to coincide with the expiration date of the 1997 Use Permit approval for The Planet, Adventures Cross Country, artist studios, and management office (Use Permit 97-217). Currently, Use Permit 96-003 is set to expire on March 1, 2001, while Use Permit 97-217 is set to expire on May 8, 2002.

The Agency Director finds that your request to reconcile the various Use Permit expiration dates is reasonable and logical and, accordingly, hereby grants an extension to the expiration date for Use Permit 96-003 to **May 8, 2002** to coincide with the expiration date of Use Permit 97-217. An application for Master Plan or Use Permit Renewal must be submitted to the Community Development Agency at least 60 days before the expiration date for the Use Permits.

If you disagree with this decision, you may appeal it to the Planning Commission. A Petition for Appeal and a $525.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than 4:00 p.m., **August 1, 2000**.

If you have any further questions, please call me at (415) 499-7521.

Sincerely,

Dean R Powell

Dean R. Powell, AICP
Principal Planner

cc: Tamalpais Design Review Board

i:/cur/drp/letters/PriceUP96-003.doc

7. Use Permit 97-217, May 8, 1997, Use Permit (children's recreation center, 8 artist studios, property management office: 5-year term)

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF DECISION

Applicant's Name:	Steve Price 655 Redwood Hwy., #185 Mill Valley, CA 94941
Application (type and number):	Use Permit 97-217
Assessor's Parcel Number:	052-247-01, -02
Project Location:	242 Redwood Hwy., Mill Valley
For inquiries, please contact:	Tom Lai, AICP, Senior Planner
Decision Date:	May 8, 1997
DETERMINATION:	**Approved with Conditions**

Minutes of May 8, 1997, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1 - 15.

Marin County Community Development Agency

Brian C. Crawford, AICP, Hearing Officer

TKL:ps/forms/dza-dec.doc

cc Supervisor Annette Rose
Tam DRB
Dept. of Public Works - Traffic Division
Dept. of Public Works - Land Use
Margaret Zegart
Linda Rames, Almonte District Improvement Club
Dave Kersting, The Planet

2. PRICE USE PERMIT

Proposal to: (1) legalize a 1,200 square foot children's recreation center and day camp (Kid's Headquarters - The Planet); (2) allow interior remodeling for 8 artist studios totaling 7,067 square feet; and (3) allow a 1,240 square foot on-site property management office. The proposed uses would occupy existing buildings on a property currently developed as a heliport, seaplane center (Commodore Seaplanes), and houseboat marina (Commodore Marina). Parking proposed for existing and proposed uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and 47 on-street parking spaces. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort Recreational Commercial). The property is located at 242 Redwood Highway, Mill Valley, and is further identified as Assessor's Parcel Numbers 052-247-01, -02.

(Tape 1, Side A @ 4.0)

In response to a question from the hearing officer, staff stated that no correspondence had been received since the public notice and staff report were distributed. Seeing no one present to speak against this item, the hearing officer closed the public hearing.

The hearing officer approved the attached Resolution based on the findings and subject to the conditions. This decision is not necessarily final and may be appealed to the Marin County Planning Commission within five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 97-120

A RESOLUTION APPROVING THE PRICE USE PERMIT
242 REDWOOD HIGHWAY, MILL VALLEY
ASSESSOR'S PARCEL NUMBERS 052-247-01, -02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application for Use Permit approval for the following uses in the Commodore Center: (1) to legalize a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) to allow interior remodeling for eight artist studios totaling 7,067 square feet of building area; and (3) to allow a 1,240 square foot on-site property management office. The proposed uses would occupy portions of existing buildings on a property currently developed as a seaplane center (Commodore Seaplanes), heliport, and houseboat marina (Commodore Marina). Parking proposed for existing and proposed uses includes 17 on-site parking spaces, 3 on-street handicapped spaces, and 47 on-street parking spaces. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on May 8, 1997, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 because interior improvements to existing buildings would not create adverse environmental impacts.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because: (1) it would result in a mixed-use development that is generally compatible with the *Recreational Commercial* land use designation of the property, including legalization of recreational and educational uses relating to a children's recreation center and day camp and artist studios *(Policy CD-14.3)*; (2) the proposed uses would be located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 5 to 30 percent floor area ratio range that corresponds to the governing land use designation *(Policy CD-14.3)*; (3) the proposed project would not affect shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property *(Policies EQ-2.42, EQ-2.44, EQ-2.66, EQ-2.87)*; (4) the proposed interior improvements would be built in accordance with Marin County standards for geotechnical engineering and seismic safety, as imposed through the building permit process *(Policy EH-5.1)*; (5) the project would provide employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor *(Policy CD-8.6)*; and (6) significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation or other services would not result from the proposed project *(Policy CF-5.1)*.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Tamalpais Area Community Plan because: (1) the project would result in interim recreational and educational uses that are generally compatible with the SC (Shoreline Commercial) land use designation of this property *(Programs LU32.1a and LU32.1e);* (2) the proposed uses would be located within two existing buildings totaling 13,158 square feet and representing a 17.8 percent floor area ratio which is within the 30 percent maximum floor area ratio designated for the property *(Program LU32.1e(a))*; (3) conditions of approval would limit the intensity of the use so that impacts to traffic circulation would be limited during the evening peak hours of use and would require the payment of appropriate traffic mitigation fees that, in combination with future redevelopment of the surrounding area, would pay for comprehensive traffic improvements in the Shoreline Area *(Program LU32.1e(d))*; (4) no portion of the proposed improvements would encroach into submerged portions of the property below the line of highest tidal action *(Program LU32.1e(e))*; and (5) provision of public access, including limiting on-street parking spaces for public access purposes in conjunction with the proposed application, is undesirable and infeasible at this time due to the interim nature of the proposed uses, the existing use of portions of the property as a heliport and seaplane center, and the absence of a long-term Master Plan to redevelop the entire project site *(Program LU32.1e(f))*.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements pursuant to Section 22.47.010(3) because it involves an adaptive re-use of existing buildings which have been previously utilized for more intensive commercial and utility uses and because the scope of the work is minor and limited to interior remodeling for interim uses that are generally compatible with the land use designations contained in the Countywide Plan and Tamalpais Area Community Plan and the purpose and intent of the governing resort and commercial recreation zoning district.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Tidelands Permit pursuant to Section 22.77.010(3) the Marin County Code because it entails work that is considered minor and incidental in nature and involving interior remodeling of existing buildings that are located upland of the mean high tide for Richardson Bay.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code), as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

A. The proposed project would result in interim recreational and educational uses within existing buildings on the Commodore Center that would not impact shoreline or tideland resources, public access, water quality, or wildlife and plant habitat areas on or surrounding the property.

B. An adequate number of on- and off-street parking spaces would be available to accommodate the proposed project. These include 17 on-site parking spaces for the houseboat marina, and 50 on-street parking spaces (including 3 handicapped spaces) for the existing remaining uses (Commodore Seaplanes and heliport) and proposed uses (artist studios and Kids' Headquarters). A waiver of the

County's on-site parking requirements contained in Title 24 of the Marin County Code is appropriate due to the following reasons: (1) use of street parking within the Bolinas Avenue and Yolo Street rights-of-way would not impact traffic on adjoining property because the rights-of-way do not serve through traffic, terminate in Richardson Bay, and function as private driveways for the Commodore Center; (2) the proposed uses are intended to represent an interim use of the property and would only utilize a portion of the right-of-way for parking until a comprehensive Master Plan is submitted for review and approval by the County; and (3) although most of the required parking spaces could be developed on site to meet County Code requirements, stringent imposition of such requirements in connection with the proposed interim uses would require extensive site modifications that may be inconsistent with the ultimate Master Plan objectives for the property. These modifications include removal of existing mature pine trees, site grading that would reduce the amount of open space, and relocation of two of the heliport's fuel tanks and landing/take-off pad that may affect surrounding wetland areas. Based on these factors, adequate on- and off-street parking spaces would be available to support existing and proposed uses at the Commodore Center.

C. The proposed project would not result in a level of use which exceeds the capacity of roadways and freeway interchanges in the surrounding Shoreline Area of the Community Plan. As part of the proposed Use Permit, the applicant submitted a traffic study, prepared by Robert L. Harrison, a qualified traffic consultant, which provides an estimate of the trip generation characteristics of the existing and proposed uses. The report indicates that the project would increase the number of daily trips from the property from 164 trips to 254 trips. According to the report, although the number of peak evening trips (between 5 p.m. and 6 p.m. daily) is projected to increase by 23 trips (from 17 to 40 trips), the overall impact of the existing and proposed uses would be limited on the existing traffic conditions at street intersections in the surrounding neighborhood.

   Furthermore, the applicant has indicated that restrictions can be placed on the proposed uses so that the number of new peak evening trips generated by the proposed uses could be limited to less than one trip. These restrictions would be accomplished by reducing or avoiding trip generation activities during the peak evening hour by: (1) prohibiting trip-generating activities for the artist studios during the peak evening hour as a term of the lease; (2) requiring clients of the Kids' Headquarters to pick up the children after 6 p.m. and ensuring that no more than one trip would occur within the peak evening hour; and (3) scheduling work hours for the two employees of the on-site property management office until 6 p.m. daily. A condition requiring payment of traffic mitigation fees for the one peak evening hour trip would ensure compliance with the adopted traffic mitigation fee requirements for the Shoreline Area.

D. Adequate domestic water and sewage disposal services are available from the Marin Municipal Water District and Sausalito - Marin City Sanitary District, respectively, to service the proposed project.

E. The grant of the proposed Use Permit on the subject property would not be detrimental to the health, safety, morals, comfort, or welfare of persons working or residing in the surrounding neighborhood.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit 97-217, subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 97-217 is approved for the following: (1) to legalize a 1,200 square foot children's recreation center and day camp (Kids' Headquarters - The Planet); (2) to allow interior remodeling for eight artist studios totaling 7,067 square feet of building area; and (3) to allow a 1,240 square foot on-site property management office. The property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel Numbers 052-247-01, -02.**

2. Use and operation of the artist studios, children's recreation center and day camp, and the property management office shall be subject to the following restrictions:

Use	Occupancy	Days & Hours
Artist Studios	Maximum 8 artists	7 days a week 10:00 a.m. to 10:00 p.m.
Children's Center/Day Camp	Maximum 3 staff	7 days a week 8:30 a.m. to 6 p.m.
Property Management Office	Maximum 2 employees	Monday through Friday 9:00 a.m. to 7:00 p.m.

3. In order to ensure that the interim uses of the property approved herein would not generate traffic trips during the daily peak evening traffic period between 5:00 p.m. and 6:00 p.m., the following restrictions shall apply during the week (Monday through Friday).

   a. The artist studios shall be closed during the peak evening traffic period. This use shall not generate traffic trips during this period relating to arrival or departure of the artist, supply deliveries/pickup, or visitors.

   b. No more than one pick-up or drop-off trip may occur between the hours of 5:00 p.m. and 6:00 p.m. in conjunction with the children's recreation center and day camp. Pick-up of children after 6:00 p.m. is encouraged and permitted.

   c. Use of the on-site property management office shall not result in the generation of any traffic trips during the peak evening traffic period, including arrival or departure of employees, supply deliveries/pickup, or visitors.

4. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the heliport is permitted subject to the terms of Use Permit 96-003 (Deputy Zoning Administrator Resolution 96-016). Use of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

5. Plans submitted for a building permit shall conform substantially to plans identified as "Exhibit A," entitled "Commodore Center," consisting of four sheets, dated January 1997 with revisions dated March 3, 1997, prepared for Steven D. Price, and on file in the Community Development Agency.

6. Work authorized by this Use Permit approval is limited to interior remodeling within existing buildings at the Commodore Center, as depicted on "Exhibit A." This approval does not authorize expansion of any of the existing buildings.

7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit to the Community Development Director a copy of a draft lease agreement to be used for the artist studios verifying that a term of the lease has been included which would require closure of the artist studios during the daily peak evening traffic period between 5:00 p.m. and 6:00 p.m. The use may not generate traffic trips during this period relating to arrival or departure of the artist, supply deliveries/pickup, or visitors. In addition, the lease shall prohibit the conduct of art shows, commercial retail galleries, or related events on the subject property.

8. Construction activity is only permitted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sundays or Holidays.

9. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval area violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

10. Any modification to the use or operation of the uses approved herein shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

Marin County Department of Public Works - Land Use and Water Resources

11. The parking area shall be re-striped and re-signed, subject to review and approval by the Department of Public Works, and based on the parking plan depicted on Sheet 4 of "Exhibit A." Sheet 4 shall be re-titled "Interim Parking Plan."

12. The applicant shall maintain the interim parking plan for the duration of the Use Permit, subject to an annual compliance review. Following the five-year period, and subject to authorization of a Use Permit renewal/amendment and/or a Master Plan by the Planning Division, permanent off-street parking spaces shall be provided for this project.

Marin County Department of Public Works - Traffic Division

13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall pay a traffic mitigation fee of $3,306.41 (based on March 1991 dollars) for the one additional evening peak hour trip that would be generated by this project, and as adjusted by the Saylor/ENR index to account for construction cost changes from March 1991 until the time the fee is paid.

14. As part of the annual compliance review, the applicant shall pay an annual fee of $400 to the Traffic Division for the duration of the Use Permit in order to cover the County's costs of providing random, periodic inspections of the facility to determine compliance with the maximum of one evening peak hour trip per day. Should additional evening peak hour trips be generated by the development, the applicant shall be subject to payment of additional traffic mitigation fees that correspond to the additional trips.

Tamalpais Fire Protection District

15. PRIOR TO FINAL INSPECTION, the applicant shall demonstrate compliance with the following requirements: (1) the address shall be posted in accordance with the requirements of the Uniform Fire Code; (2) smoke detectors shall be installed in accordance with the Uniform Building Code; (3) a remotely-located, second means of egress shall be provided for each floor above the first; and (4) a fire detection system shall be installed in the building in accordance with the standards as established by the National Fire Protection Association and connected to the headquarters of the Tamalpais Fire Protection District through an approved U.L. central/monitoring station.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit by securing a Building Permit ;and/or other permits for all of the approved work and by substantially completing the improvements in accordance with the secured permits by **May 8, 1999**, 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 22.88.050 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of five (5) years from the date of approval, subject to an annual administrative permit compliance review by the Community Development Director to determine compliance with the conditions of approval. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit on **May 8, 2002.** The applicant shall be subject to payment of applicable review fees prior to the conduct of the annual compliance reviews.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **May 15, 1997.**

SECTION IV: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 8th day of May, 1997.

Brian C. Crawford

BRIAN C. CRAWFORD, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Patrice Stancato

Patrice Stancato
DZA Secretary

8. Use Permit 96-003/Design Review Exemption 96-292, February 29, 1996, Use Permit (heliport use; 5-year term) and Design Review Exemption

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF DECISION

Applicant's Name:	Steve Price 655 Redwood Hwy., #185 Mill Valley, CA 94941
Application (type and number):	Use Permit 96-003/Design Review Exemption 96-292
Assessor's Parcel Number:	052-247-01, 02
Project Location:	240 Redwood Highway Mill Valley, CA
For inquiries, please contact:	Thomas Lai
Decision Date:	February 29, 1996
DETERMINATION:	**Approved With Conditions**

Minutes of February 29, 1996, Deputy Zoning Administrator's hearing attached specifying action and applicable conditions 1-10.

Brian C. Crawford, AICP
Hearing Officer

/forms/dza-dec.doc

cc: Scott Hochstrasser, I.P.A.
Brad Sears
Linda Rames
Margaret Kett Zegart
Joyce Lynn
Marcia Simon
Clayton Mitchell
Norman Zilber
Supervisor Annette Rose

2. USE PERMIT/DESIGN REVIEW EXEMPTION: PRICE

Application to modify the hours of operation for the Marin Heliport allowing six weekday flights between 6:00 a.m. and 6:30 p.m. and six weekend flights between 9:00 a.m. and 6:00 p.m. The subject property is located at **240 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01 & 02.**

(Tape 1, Side A @ 10.6)
After a brief recess, the hearing officer reconvened the hearing. Staff reported that no correspondence had been received subsequent to the public notice being distributed. The hearing officer opened the public hearing. Scott Hochstrasser stated that he was present to represent the property owner. He requested that Condition #6 be modified to allow the continued use of the Kid's Headquarters, an aftercare program for elementary children, for 120 days from approval or coterminous with the end of the school year which is June 15, 1996.

Mr. Hochstrasser also requested that Section III of the Resolution be changed from staff's recommendation that the Use Permit be valid for a period of two years from the date of approval to at least a period of five years. He explained that the heliport has been operating under a non-conforming use for many years and is only before the Deputy Zoning Administrator to allow modification to the hours. This time frame will give the property owner a reasonable expectation for continuing this use. He stated that Condition #9 reiterates that this Use Permit is subject to revocation procedures if any of the terms of the approval are violated and therefore gives the County a tremendous amount of authority and power to pull the permit for review at any time. The property owner does not have a problem with an annual review after the first year or two of operation. However, limiting the permit to two years, which means having to pay the fees and go through the process all over again, seems to be excessive. The property owners have made a substantial investment in improving this property, well over $100,000 in cleaning up the site. In order to recover a reasonable return with that kind of investment, some kind of substantial continued use is necessary.

Staff did not have any objections to the modification of Condition #6 as presented by Mr. Hochstrasser. In response to extending the term of the Use Permit from two to five years, staff responded that there is a concern because this property is currently underdeveloped and Mr. Price has plans to redevelop and put new uses on this entire site. Staff is concerned that the County should have the ability, through the Master Plan review, to reconsider the heliport use. Staff further stated that should it be determined that a five-year term is appropriate, staff will recommend an annual permit compliance review plus additional language that ties the term to a Master Plan approval. The hearing officer suggested that the new language state that the Use Permit is valid for a period of five years or approval of a Master Plan, whichever occurs first. Mr. Hochstrasser asked about the process involved in an annual review. The hearing officer stated that, according to Section III, the review will be done administratively and internally to evaluate any complaints which may have been received from the time the permit is approved. The applicant will not have to submit any applications or pay any fees. This is tied into Condition #9 wherein the permit is subject to revocation if any complaints are received. Steve Price, the new owner, was present and stated that he plans to close escrow for purchase of the subject property by the end of March. He also said that he will be working with the community to come up with mutually acceptable uses for the site before submitting a Master Plan for the property's development.

The hearing officer stated that the expansion of the time frames for conducting the flights are minor and incidental with respect to historic and current operations, that the expansion of the time frames is consistent with the RCR zoning district, and that the nature of the land use is not changing. Therefore, the hearing officer approved the project based on staff's recommendations and findings, and subject to the revised conditions of approval as follows: (a) Condition #6 shall be revised to require that the Kids Headquarters educational use shall be terminated no later than June 15, 1996 and an inspection shall be conducted on or shortly after that date to verify that the property is being used for the heliport/seaplane/houseboat landing only and, (b) Section III, Vesting, Permit Duration and Appeal Rights, shall be revised to reflect that the Use Permit shall be valid for a period of five years from the date of approval or until a

Master Plan is submitted and approved for the property, whichever occurs first. Alsc under this Section, the language shall be amended to read that this permit is subject to an annual administrative review by the Community Development Director. This decision is not necessarily final and may be appealed to the Marin County Planning Commission within five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 96-016

A RESOLUTION APPROVING THE PRICE USE PERMIT
ASSESSOR'S PARCEL NUMBERS 052-247-01, 02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m.. The heliport currently operates between 6:30 a.m. and 5:45 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on weekends. The proposed project would retain the existing limit of six flights per day. A total of three full-time employees would be utilized during business hours. Zoning for the 4.4 acre property is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The subject property is located at 240 Redwood Highway, Mill Valley, and is further identified as Assessor's Parcel Numbers 052-247-01, 02.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 29, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the project is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the operation of an existing facility with negligible expansion would not create adverse environmental effects.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is generally consistent with the goals and policies contained in the Marin Countywide Plan and the Tamalpais Area Community Plan because: (1) the project would continue use of the existing heliport facility to allow the helicopter operator to provide traffic reports for public news broadcasts during the early morning and late afternoon commute periods; (2) the project would continue provision of employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor; and (3) the project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements because the project would not significantly expand or modify the operation of the heliport beyond the level of use that was acknowledged by the Board of Supervisors through adoption of Resolution Number 95-105 on May 2, 1995. The Board determined that the legal non-conforming level of use for the heliport consists of a maximum of six flights per day between the hours of 6:30 a.m. and 5:45 p.m. during weekdays and 9:00 a.m. and 4:00 p.m. during weekends. With exception to the proposed modifications to the hours of operation, the heliport would be limited to six flights per day, would retain the existing number of employees, and would occupy the existing amount of land and building area on the subject property.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that continuation of the heliport use on the subject property is generally consistent with the intent and objectives of the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning district because it provides a public service relating to the broadcast of traffic reports and the provision of emergency operations such as medical flights. Additionally, the proposed changes to the hours of operation does not significantly expand or modify the underlying nature or intensity of the heliport use and would not affect the established number of daily flights, the number of employees, or the land and building area occupied by the use.

VII. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code), as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

1. Continued operation of the heliport on the subject property would not adversely affect the surrounding area because the use has existed continuously since 1962, and the proposed changes in the hours of operation would not result in a significant disruption of surrounding areas beyond the level which has historically existed and which currently exists.

2. The project does not significantly expand or modify the heliport use because the present and acknowledged level of six flights per day and three full-time employees would be retained, and because the facility would not expand beyond the existing land and building area that is presently occupied by the use on the subject property.

3. The Department of Public Works has determined that existing off-street parking would not be adversely affected by the modified hours of operation because the existing number of flights and employees would remain unchanged.

4. The heliport facility would not result in adverse visual impacts to surrounding areas because conditions of approval would require the applicant to submit a landscape plan to incorporate shrubs along the perimeter foundation of a fuel storage tank to provide visual screening.

5. The grant of this Use Permit for continued use of the heliport with modifications to the hours of operation would not be detrimental to the health, safety, morals, comfort, or welfare of persons residing in the surrounding neighborhood.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from the requirements for Design Review pursuant to Marin County Code Section 22.82.030(4) because: (1) the proposed modification to the hours of operation is minor and incidental to the heliport use; and (2) the project would not result in substantial alternation of the existing buildings or heliport facilities beyond minor exterior improvements associated with routine maintenance and upkeep of the property.

IX. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Tidelands requirements pursuant to Marin County Code Section 22.77.010 because minor exterior improvements associated with routine maintenance and upkeep of the property are considered minor and incidental.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit subject to the conditions of approval as specified below.

Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 96-003 is approved for the continued use and operation of the Marin Heliport over a portion of the property located at 240 Redwood Highway, Mill Valley, and further identified as Assessor's Parcel Numbers 052-247-01, 02. This Use Permit approves the

heliport as a conforming use on the subject property and replaces the previous non-conforming status of this use, which may now occur only with a valid use permit and which is subject to the restrictions contained herein.

2. Use and operation of the heliport shall be limited to a maximum of six flights per day and the following hours:

   Monday to Friday: 6:00 a.m. to 6:30 p.m.

   Saturday, Sunday: 9:00 a.m. to 6:00 p.m.

   (A flight is defined as one take-off and landing operation.)

3. A maximum of three full-time employees is permitted in conjunction with the heliport. Commercial office functions beyond that associated with administrative activities for the heliport are not permitted.

4. Helicopter take-off, landing, refueling, and storage shall be restricted within the existing facilities located on Assessor's Parcel Number 052-247-02. Administrative activities shall be limited to the southerly portion of the building which fronts Bolinas Avenue and located on Assessor's Parcel Number 052-247-01. Expansion of the existing building and land area occupied by the heliport is not permitted.

5. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

6. The Kids Headquarters educational use shall be terminated no later than June 15, 1996. The applicant shall secure an inspection from the Community Development Agency Planning Division staff to take place on or shortly after that date to confirm that the subject property is utilized only by the heliport, seaplane, and houseboat marina. The Kid's Headquarters (The Planet) is not permitted under the terms of this Use Permit approval.

7. WITHIN 60 DAYS FROM THE DATE OF THIS APPROVAL, the applicant shall submit a landscape plan for review and approval which incorporates sufficient number of shrubs along the perimeter of the fuel storage tank for visual screening. The landscaping shall consist of drought tolerant and native species that are also tolerant of salt water intrusion, wind, salt spray, and saline soils associated with a bayfront environment.

8. WITHIN SIX MONTHS FROM THE DATE OF THIS APPROVAL, the applicant shall demonstrate that all approved landscaping has been planted along with an automatic drip irrigation system.

9. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

10. Any modification to the use or operation of the heliport shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

SECTION III: VESTING, PERMIT DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit approval by completing all of the required work within six months from the date of this approval, or all rights granted in this approval shall lapse. An extension of up to 30 additional days may be granted by the Community Development Director if the applicant submits a letter requesting the extension and demonstrates due diligence in meeting the required conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of five years from the date of approval or until a Master Plan is submitted and approved for the property, whichever occurs first, subject to an annual administrative review by the Community Development Director to determine compliance with the conditions of approval. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 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 **March 7, 1996**.

SECTION IV:

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 29th day of February, 1996.

Brian C. Crawford

BRIAN CRAWFORD, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Patrice Stancato

Patrice Stancato
Deputy Zoning Administrator Secretary

9. Pre-application 95-105, April 26, 1995, BOS resolution 95-105 denying heliport appeal

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 95-105

A RESOLUTION DENYING THE HELI USA APPEAL AND SUSTAINING THE PLANNING COMMISSION'S DETERMINATION THAT THE CURRENT LEVEL OF USE ON THE HELIPORT PROPERTY EXCEEDS THE LEGAL NON-CONFORMING USE ESTABLISHED IN 1981 AND REAFFIRMED 1983

ASSESSOR'S PARCEL NO. 052-247-01,02

* *

SECTION I: FINDINGS

I. WHEREAS, the Marin County Board of Supervisors finds that Isidoor Bornstein has filed, on behalf of Heli USA, an appeal of the Planning Commission's Determination that the current level of use on the heliport property exceeds the legal non-conforming use established in 1981 and reaffirmed in 1983. The appellant contends that the legal non-conforming use is the use established by SFO Helicopters in 1966. The basis for this statement is the appellants' position that a legal non-conforming use may change from a high level of use, to a less intensive use and then re-establish to the higher intensity of use at a later date. The appellant also claims that the levels of use established in 1981 and reaffirmed in 1983 do not accurately reflect the level of use that was occurring on the property at that time.

II. WHEREAS, the Board of Supervisors recognizes the heliport use became legal non-conforming on November 15, 1966 when the property was rezoned from M-1-H (Light Industrial District) to R-C-R (Resort, Commercial, Recreational). The legal non-conforming use was reduced for a period of more than six months in 1976 when SFO Helicopters ceased business and left the site, limiting the heliport use to the level of operation established by Commodore Helicopters.

III. WHEREAS, the Board of Supervisors finds that Commodore Helicopters level of use was established by Lu Hurley, the operator of Commodore Helicopters in letters dated January 9, 1981 and February 20, 1981 ("the Hurley Letters"). The level of use was reaffirmed by the Planning Department in a letter to the Board of Supervisors dated August 5, 1983 ("the Board Letter"). The Board of Supervisors finds that these three letters describe the level of heliport use in 1981 as, 3.5 flights per day in the winter months and 6 flights per day in the summer months. Of these flights approximately 6 charter flights occurred lasting 1 to 1.5 hours each month between 9:00 a.m. and 4:00 p.m., two traffic report flights were flown each weekday between 6:30 a.m. and 5:45 p.m. and refueling flights for helicopters engaged in tourist flights at Pier 43 in San Francisco also occurred. The Board of Supervisors finds that the maximum intensity of the legal non-conforming use established by the County records is 6 flights per day, whether for tourist, charter or refueling purposes.

IV. WHEREAS, the Board of Supervisors finds that the legal non-conforming level of use is also described in a February 5, 1985 site inspection memo from Debbi Poiani, in a technical report for the Noise Element of the Countywide Plan, written by Illingworth and Rodkin dated October 14, 1987, and verified in a telephone conversation with a Commodore representative on February 25, 1991 as documented in the Noise Element of the Countywide Plan. The Board of Supervisors finds that these documents establish the legal non-conforming use to be, 3.5 flights per day in the winter, 6 flights per day in the summer, with an average of 25 flights per week

V. WHEREAS, the Board of Supervisors finds that while the pilot logs submitted by the appellant provide an overview of the daily heliport activities, the logs do not provide conclusive evidence that the levels of use documented in 1981 and 1983 the Hurley Letters and the Board Letter were inaccurate.

VI. Whereas, the Board of Supervisors finds that refueling of helicopters engaged in tourist flights from Fisherman's Wharf no longer occurs at the Marin heliport and ceased operation in approximately 1988. However, refueling flights nevertheless, are included in the total number of flights established as legal non-conforming.

VII. WHEREAS, the Board of Supervisors interprets Marin County Code, Title 22, Section 22.78.010 to require that once a use ceases it may not be re-established unless it is conforming to the zoning district. In 1976 the number of flights was reduced by 14 flights per day as documented in SFO Helicopters Flight Guide and Schedule dated 10-27-74. This reduction in flights dramatically changed the level of the legal non-conforming use. Documentation of Commodore's heliport use in 1976 was established by the operator of Commodore Helicopters in the Hurley Letters and reaffirmed by the Board Letter. The Board of Supervisors finds that the reduction in flights for a period of more than six months in 1976 constituted a change in use. The re-establishment of the 1966 use almost 30 years later would be considered an increase in the legal non-conforming use.

VIII. WHEREAS, the Board of Supervisors finds that the type of flight, such as tourist, charter and refueling, does not necessarily describe the intensity of heliport use. Therefore the Board has determined that the historically documented 6 daily flights, which includes all types of flights, be a daily maximum rather than distinguishing between tourist, charter and refueling flights. A flight is defined as one take off and one landing.

IX. WHEREAS, the Board of Supervisors conducted a public hearing on May 2, 1995, and reviewed the administrative record, and based on the record finds, that the Hurley Letters and the Board Letter clearly document that the legal non-conforming level of use (3-6 flights per day between 6:30 a.m. and 5:45 p.m. weekdays and 9:00 a.m. and 4:00 p.m. week-ends) and that the current level of use (7-20 flights per day between 5:00 a.m. and 7:30 p.m.) exceeds the legal non-conforming use.

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Board of Supervisors hereby denies the appeal of Isidoor Bornstein, on behalf of Heli USA, and sustains the Planning Commission's determination that the allowable legal non-conforming use is a maximum of 6 flights per day between 6:30 a.m. - 5:45 p.m. weekdays and between 9:00 a.m. - 4:00 p.m. on the weekends. Any helicopter flights or other activities not specified above are prohibited unless a Master Plan/Use Permit is applied for and approved.

SECTION II: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 2nd day of May, 1995 by the following vote to wit:

AYES: SUPERVISORS Harry J. Moore, Gary Giacomini, John B. Kress, Annette Rose

NOES: None

ABSENT: SUPERVISOR Harold C. Brown, Jr.

ANNETTE ROSE
President of the Board of Supervisors

ATTEST:

Martin J. Nichols
Acting Clerk of the Board of Supervisors

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

April 26, 1995

Steve Price
San Francisco Seaplane Tours, Inc.
242 Redwood Highway
Mill Valley, CA 94941

RE: Preapplication Review for Landor Property
240 Redwood Highway, Mill Valley
Assessor's Parcel Numbers 052-247-01, 02, 03

Dear Mr. Price:

Thank you for your letter of March 14, 1995 in which you requested a preapplication review to determine the feasibility of allowing various interim uses on the Landor property. These would include a refreshment stand, delicatessen, jet ski maintenance and sales, art studio, art classroom, and a small property management office. You have indicated that physical improvements would include minor repair (replacement of windows and installation of a new roof), removal of toxic contaminants, repainting the building exteriors, and new landscaping. Due to various work commitments, I have been unable to provide a timely response to your preapplication review and am appreciative of your patience in receiving this belated response.

This letter attempts to supplement the preliminary analysis and identification of issues contained in two previous preapplication reviews that have been prepared by Planning staff for the subject property. These are included as attachments for your use. Specifically, this preapplication will address the feasibility of each of the interim uses that you contemplate to conduct.

Project Feasibility

Development of the Landor property is subject to various plan policy and zoning restrictions. Without reiterating the analyses contained in the previous preapplication reviews, the primary issues associated with the conduct of the proposed interim uses include the following: (1) conformance with the Marin Countywide Plan policies which designate the property for recreational-commercial uses; (2) conformance with the Tamalpais Area Community Plan which encourages resort and resort-oriented recreational facilities that are balanced with the need for public access, shoreline recreation, open space, habitat preservation, water quality; and (3) conformance with the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning district which limits uses to those that are related to water-oriented resort and recreational activities. Specifically, with respect to the zoning requirements, the BFC-RCR zoning district allows uses that are related to a resort or that are desirable or necessary for public service, utility service or for the recreation industry, but specifically prohibits residential, industrial, institutional, general commercial, mobile home parks, and floating home marinas. The existing heliport, seaplane, and houseboat uses are considered non-conforming with respect to the current zoning.

Although you have indicated that the proposed uses would only be temporary in nature and would be followed by a subsequent application for entitlements to allow long-term uses that would conform with plan policy and zoning requirements, the interim uses would nevertheless be subject to the same plan

3501 Civic Center Drive, #308, San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

policy and zoning requirements. The County is prohibited under State Law from granting entitlements that authorize non-conforming uses, which would be equivalent to the grant of use variances.

The following provides staff's preliminary assessment for each of the contemplated interim uses on the Landor property.

1. Refreshment Stand

   A refreshment stand constitutes a general commercial use that is not consistent with governing policies and zoning regulations, unless it can be demonstrated that this use is incidental to a larger activity which is related to a permitted use for resort or commercial recreational purposes, including a swimming and/or picnicking park.

2. Delicatessen

   Concurrent with this preapplication, staff is reviewing a proposal to operate Sally's, an arts-oriented cafe, in approximately 2,000 square feet of ground floor area in the main building on the Landor property. It is staff's opinion that the proposed delicatessen is also considered a general commercial use. Although a component of the delicatessen would provide for the display of artwork, the primary use would still constitute a general commercial food establishment. In order for this type of use to be acceptable, the scale and configuration of the delicatessen and art components would need to be modified so that the overall use is related to a recreational activity that is open to the public, such as a museum or educational center, with a food service component that is incidental to that primary use, similar to a cafe component in a book store.

3. Jet Ski

   The maintenance, storage, and sales of jet ski equipment would also constitute a general commercial use that is not consistent with the governing policies and zoning regulations, unless it is subordinate to a water-oriented recreational use, such as jet ski recreation. Some issues that would need to be addressed if the primary use is proposed for jet ski recreation with incidental rental, sales, maintenance, and storage components would include impacts relating to noise, shoreline resources, personal safety, and possible opposition from the surrounding community.

4. Art Studio and Classroom

   Although artists' studio and classrooms are not entirely resort or recreational commercial in nature, it is staff's opinion that these uses would be consistent with applicable policies and regulations provided it is related and incidental to a primary recreational use, such as a museum or education center that is open to the public.

5. Management Office

   The use of a small office for management of the property would be a permitted use provided the scale of this use (number of employees, floor area, hours, etc.) is clearly minor and incidental to the rest of the uses in the building. General office uses are not permitted under the zoning.

Applicable Permits

Under the governing BFC-RCR zoning district, development on the subject property is subject to Master Plan and Precise Development Plan requirements contained in Chapter 22.45 and Tidelands Permit requirements contained in Chapter 22.78 of the Marin County Code.

1. Master Plan Waiver

Provided the scale and mix of uses conform to applicable policies in the Marin Countywide Plan and the Tamalpais Area Community Plan, and an amendment to these plan documents is not required, the Community Development Director may waive Master Plan requirements in favor of a Use Permit. In order for a Use Permit to be approved, a mandatory finding contained in Section 22.88.020 of the Marin County Code would need to be made to determine that the proposed uses would not result in a detriment to the public health, safety, or general welfare. Some considerations that would be used in making this determination are discussed in the following section on development issues. Enclosed is a fact sheet which discusses the Use Permit process in greater detail.

2. Precise Development Plan Waiver

Based on the scale of the proposed improvements, the Community Development Director may waive Precise Development Plan requirements in favor of a Design Review. In order for a Design Review to be approved, mandatory findings contained in Section 22.82.040 of the Marin County Code would need to be made. Some of the issues associated with the proposed development that would be addressed through Design Review would include whether proposed roofing materials and building colors are compatible with the surrounding area, and whether proposed landscaping is suitable for a bayfront environment and would not inhibit visual or physical access toward the shoreline. Enclosed is a fact sheet which discusses the Design Review process in greater detail.

3. Tidelands Permit

Development of the property is subject to approval of a Tidelands Permit. Pursuant to requirements contained in Chapter 22.77 of the Marin County Code. The intent for this permit is to promote, preserve and enhance tidelands, shorelines, waterways, beaches, and salt marshes as vital natural resources which provide scenic views, open space, wildlife habitat, and recreational and water-oriented resources. The Community Development Director may waive Tidelands Permit requirements for minor maintenance work to existing buildings or work that is found to be minor or incidental. Enclosed is a fact sheet which discusses the Tidelands Permit process in greater detail.

4. Bayfront Conservation District

The BFC overlay zoning district requires that all development be preceded by an Environmental Assessment to evaluate the physical, policy, and environmental constraints of the property, including visual impacts, public access, traffic, water quality, and sensitive shoreline habitat areas. This requirement may be waived by the Community Development Director depending on the scale of the proposed improvements. However, the Director may require additional studies that address specific bayfront resources as part of the waiver process.

Development Issues

The scale and mix of uses would be determined by the project's ability to address the following development issues.

1. Traffic and Circulation

The proposed interim uses would be reviewed to determined if they would exceed the capacity of surrounding roadways and freeway interchanges. Based on the discussion contained in the previous preapplication reviews, intensification of uses on the Landor property could adversely affect traffic circulation and exacerbate the existing substandard traffic conditions. Therefore, staff recommends that a traffic study be prepared to determine whether there is sufficient capacity in the surrounding

roadway network to accommodate the trips that would be generated by the proposed uses without triggering roadway and interchange improvements. In the event the proposed uses do not exceed the capacity, the project would be subject to payment of its fair share for future traffic improvements through a traffic mitigation fee.

2. Off-street Parking

The Tamalpais Area Community Plan contains policies that require all parking for new or intensified uses on the subject property to be provided onsite and not in the surrounding public rights-of-way. In addition, Marin County Code Title 24 requires off-street parking to be provided for all uses on the property. Based on the site survey prepared by Anrig-Doyle and submitted in conjunction with your pre-application letter, the only off-street parking currently available on the subject property consists of the row of parking on the south side of Parepa Street that is used for the houseboat marina. The Department of Public Works staff has indicated that although existing on-street parking spaces could be considered in conjunction with the review of development on the subject property, off-street parking would need to be provided in general conformance with the parking guidelines contained in Title 24, which range from one space per 50 square feet of public area for a food service establishment to one space per four persons for a public exhibition hall.

Review of the site survey indicates that the property is very limited in its ability to provide additional off-street parking spaces without entailing substantial site and building alterations. It appears that the only feasible location for additional off street parking spaces is located on the southeast corner of Parepa Street and Bolinas Avenue. Using standard perpendicular parking spaces, staff estimates that up to eight off-street parking spaces could be provided in this location. As a general measure of conformity with the parking requirements, these eight spaces could accommodate a delicatessen with 400 square feet of public area, or less than half the 1,000 square foot size that is contemplated for Sally's. Conversely, using the Uniform Building Code's standard occupancy requirements for an exhibition hall, the potential off-street parking spaces would allow for 120 square feet of exhibition space.

Conclusion

Based on the preliminary analysis above, it would be difficult to undertake interim uses on the Landor property without comprehensively addressing all of the policy and zoning constraints. Although some of the proposed uses, namely the delicatessen, jet ski, and art-related educational uses, may be modified to more closely reflect resort and recreational commercial uses, it is staff's opinion that it would be very difficult to provide a sufficient number of off-street parking spaces to meet County requirements without involving substantial modifications to the existing building and site. If that were undertaken, it is likely that the scope of the modifications (conversion of a portion of the building into a parking garage, etc.) could conflict with other governmental regulations, such as the Federal Emergency Management Administration's minimum threshold for raising the building to meet flood elevations. Staff is also concerned about the cumulative effects associated with intensification of uses on the property that may have physical ramifications to long-term development.

Environmental Review

Pursuant to the California Environmental Quality Act, the project may be exempt from environmental review if it meets applicable plan policy and zoning requirements and if it does not result in potential impacts associated with aesthetics, wildlife resources, water quality, archaeology, and traffic. However, depending on the scale and scope of the interim uses, environmental review may be required. In the event it is required, the first step in the environmental review process involves the preparation of an Initial Study to examine potential significant effects on the environment that may result from the project. Depending on the outcome of this Initial Study, which would be circulated for public comment and review, the project would either result in the adoption of a Negative Declaration of

Environmental Impact or the requirement to prepare an Environmental Impact Report. Enclosed is a fact sheet which discusses the environmental review process in greater detail.

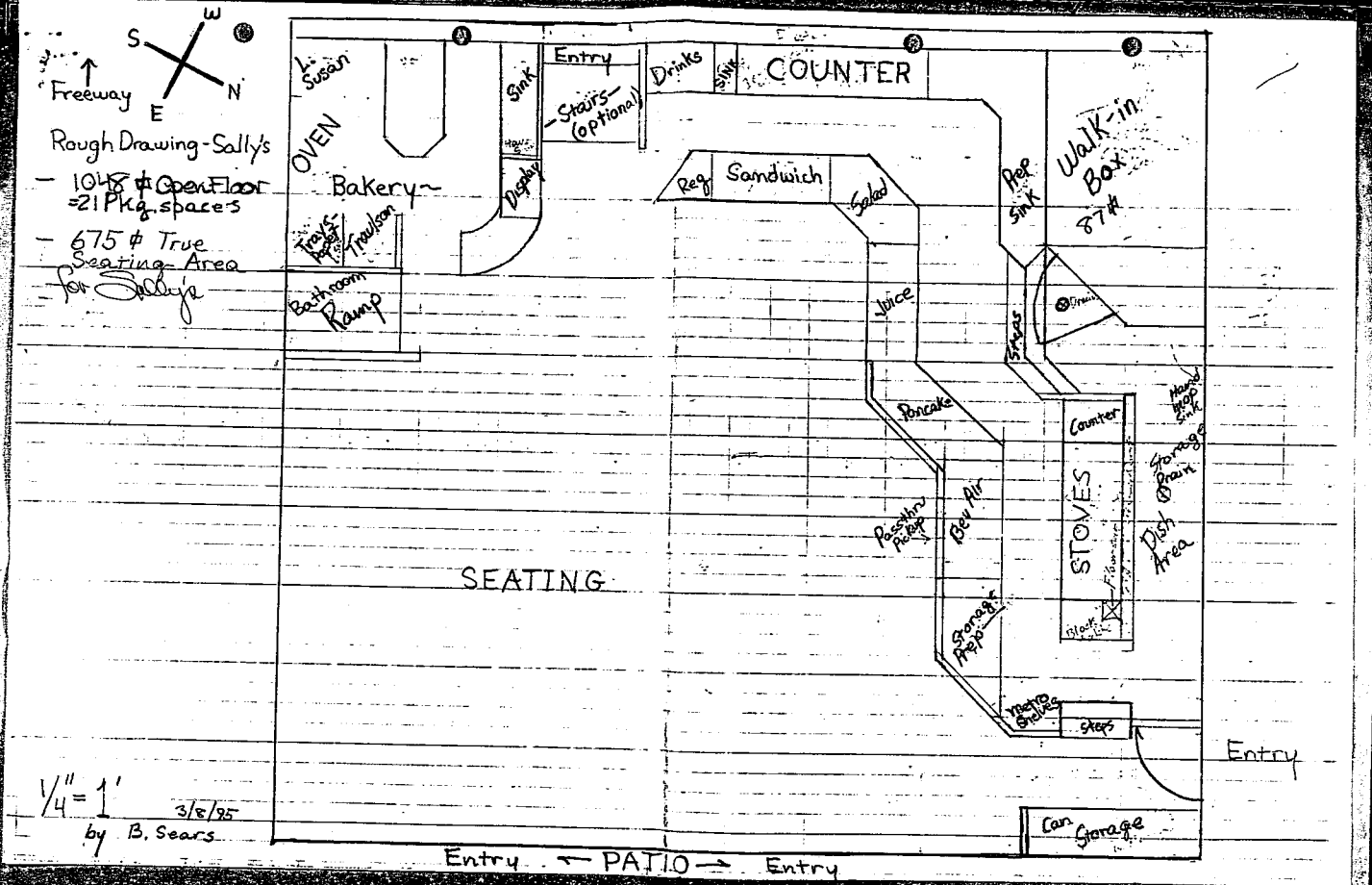
Please note that your pre-application fees will be applied toward your application fees should you wish to proceed with an application for a Design Review and Use Permit for the proposed project and if you apply within one year from the date of this letter. I can be reached at (415) 499-6292 if you have further questions regarding this matter.

Sincerely,

Thomas Lai, AICP
Senior Planner

Attachment: (1) Community Development Agency Letter, (8/15/94)
(2) Community Development Agency Letter, (3/23/94)
(3) Fact Sheets (Design Review, Use Permit, Tidelands Permit, Environmental Review)

cc: Sally Seymour (Sally's Cafe) (Attachments Included)
Brad Sears (Attachments Included)
Mark Riesenfeld, AICP, Director
Denise Pinkston, Planning Services Coordinator
Dean Powell, AICP, Principal Planner
Supervisor Annette Rose


W
S
Freeway
E
N
Rough Drawing - Sally's
– 1048 ft Open Floor = 21 Pkg. spaces
– 675 ft True Seating Area for Sally's
L. Susan
OVEN
Bakery
Sink
Display
Entry
Stairs (optional)
Drinks
Sink
COUNTER
Trays
Bathroom
Ramp
Req
Sandwich
Salad
Juice
Pancake
Pass thru Prep
Bev Air
Storage Prep
Prep Sink
Walk-in Box
87#
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Hand Wash Sink
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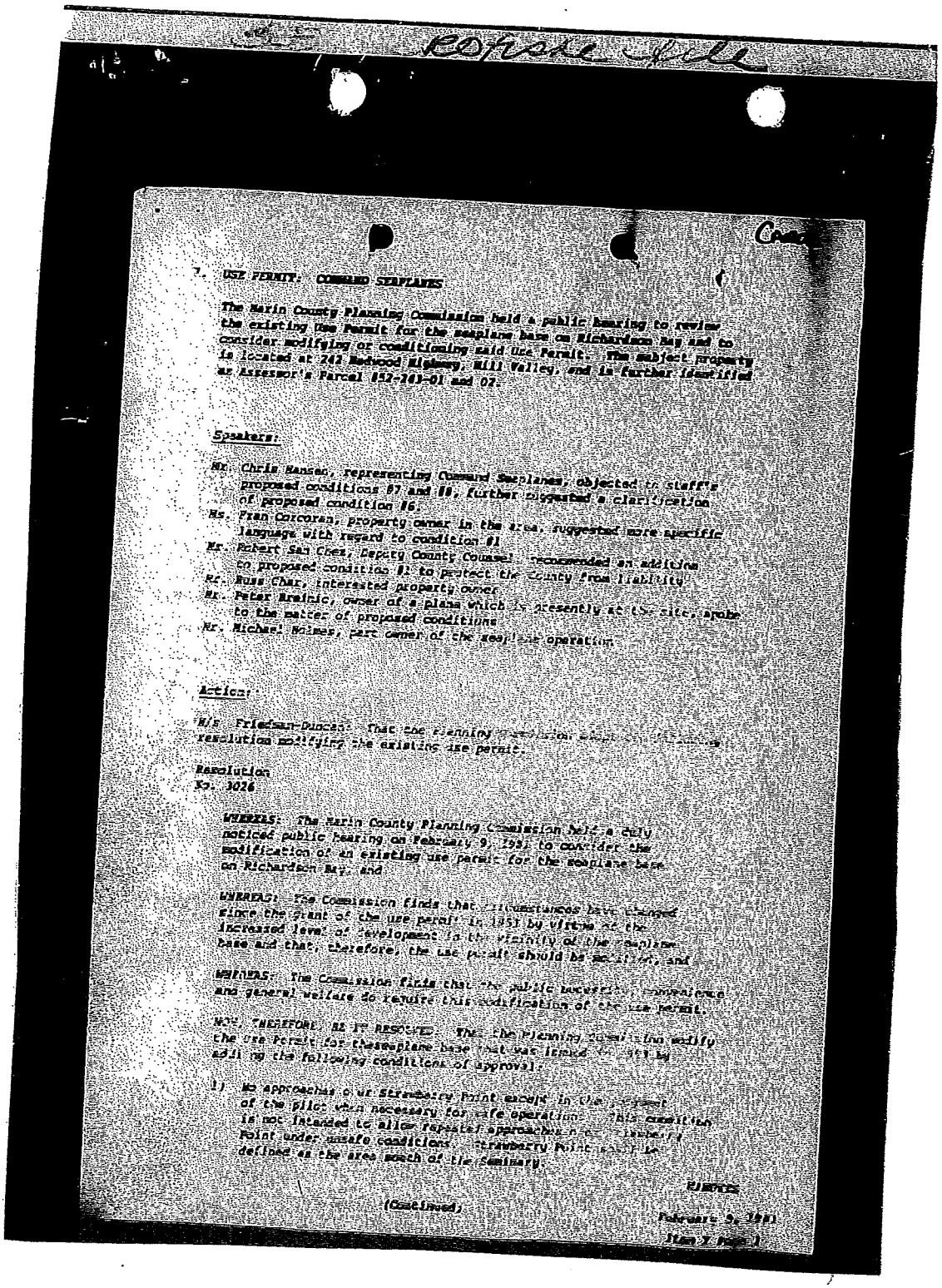
1/4" = 1'
3/8/95
by B. Sears

10. Use Permit, February 9, 1981, Modification to sea plane Use Permit



7. USE PERMIT: COMMAND SEAPLANES

The Marin County Planning Commission held a public hearing to review the existing Use Permit for the seaplane base on Richardson Bay and to consider modifying or conditioning said Use Permit. The subject property is located at 243 Redwood Highway, Mill Valley, and is further identified as Assessor's Parcel 052-161-01 and 02.

Speakers:

Mr. Chris Hansen, representing Command Seaplanes, objected to staff's proposed conditions #7 and #8, further suggested a clarification of proposed condition #6.
Ms. Fran Corcoran, property owner in the area, suggested more specific language with regard to condition #1
Mr. Robert San Chez, Deputy County Counsel recommended an addition to proposed condition #1 to protect the County from liability
Mr. Russ Chan, interested property owner
Mr. Peter Brainic, owner of a plane which is presently at the site, spoke to the matter of proposed conditions
Mr. Michael Holmes, part owner of the seaplane operation

Action:

M/S Friedman-Duncan: That the Planning Commission adopt the attached resolution modifying the existing use permit.

Resolution
No. 3026

WHEREAS: The Marin County Planning Commission held a duly noticed public hearing on February 9, 1981 to consider the modification of an existing use permit for the seaplane base on Richardson Bay, and

WHEREAS: The Commission finds that circumstances have changed since the grant of the use permit in 1957 by virtue of the increased level of development in the vicinity of the seaplane base and that, therefore, the use permit should be modified, and

WHEREAS: The Commission finds that the public convenience and general welfare do require this modification of the use permit.

NOW, THEREFORE, BE IT RESOLVED: That the Planning Commission modify the use permit for the seaplane base that was issued in 1957 by adding the following conditions of approval:

1) No approaches over Strawberry Point except in the event of the pilot when necessary for safe operation. This condition is not intended to allow repeated approaches over Strawberry Point under unsafe conditions. Strawberry Point shall be defined as the area south of the seminary.

(Continued)

PJ/mcm
February 9, 1981
Item 7 Page 1

2. Richardson Bay to be used for arrivals and departures only, i.e., no touch and go operations. A school shall be allowed to operate from the base, but training maneuvers, with the exception of sailing or idling type and initial takeoff and final landing must take place in other areas.

3. No-power approaches to be used except when necessary for safe operation.

4. Transient airplanes will not be allowed the use of base facilities by the operator.

5. Maximum of four commercial aircraft at the base, but only two may be simultaneously used for revenue producing purposes.

6. At no time should any aircraft operated by the commercial operator exceed 86 decibels.

The motion carried by the following roll-call vote:

AYES: Bull, Duncan, Friedman, Sessi

NOES: Applen, Evans, Eckelhoff

ABSENT: None

At this time the Chairman advised interested parties of the right to appeal this decision within five working days of this date (no later than Tuesday, February 17, 1981, 5:00 P.M.). (Monday, February 16th is an observed holiday).

11. Use Permit and Plan Approval, April 24, 1972, Use Permit and Plan Approval for a mortuary

Marin County
PLANNING
Department

Civic Center San Rafael California 94903 Telephone 479 1100 Werner von Gundell Director

April 25, 1972

Mr. Wendell M. Joost, Jr.
240 Redwood Highway
Mill Valley, Ca. 94941

Re: Planning Commission Action relating to the RCR Use Permit & Plan Approval for Wendell Joost, Jr. -- April 24, 1972

Dear Mr. Joost:

This letter will confirm the Planning Commission's action of April 24, 1972 regarding your application for an RCR Use Permit & Plan Approval for the establishment of a mortuary on Assessor's Parcel #52-242-01. Said action follows:

M/s Watkin-Azevedo: That the RCR Use Permit and Plans be approved subject to the following findings and conditions:

Findings:

1) That the establishment, maintenance or conducting of the use will not be detrimental to the health, safety, morals, comfort, convenience or welfare of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

2) The use will not be contrary to the purpose of the District in that it is necessary for public and utility service in the District (22.59.040.4).

Conditions:

1) This Permit is valid for a 6-month period; at that time the Staff will report to the Commission on the advisability of continuing this use. If continuance is approved, the Permit shall then be extended for an additional 6 months if requested.

2) This Permit shall not be valid until the debris in front of the building is removed, notably the broken-down truck and the school bus.

Mr. Wendell M. Joost, Jr.
April 24, 1972
Re: P.C. Actic[redacted]4/24/72

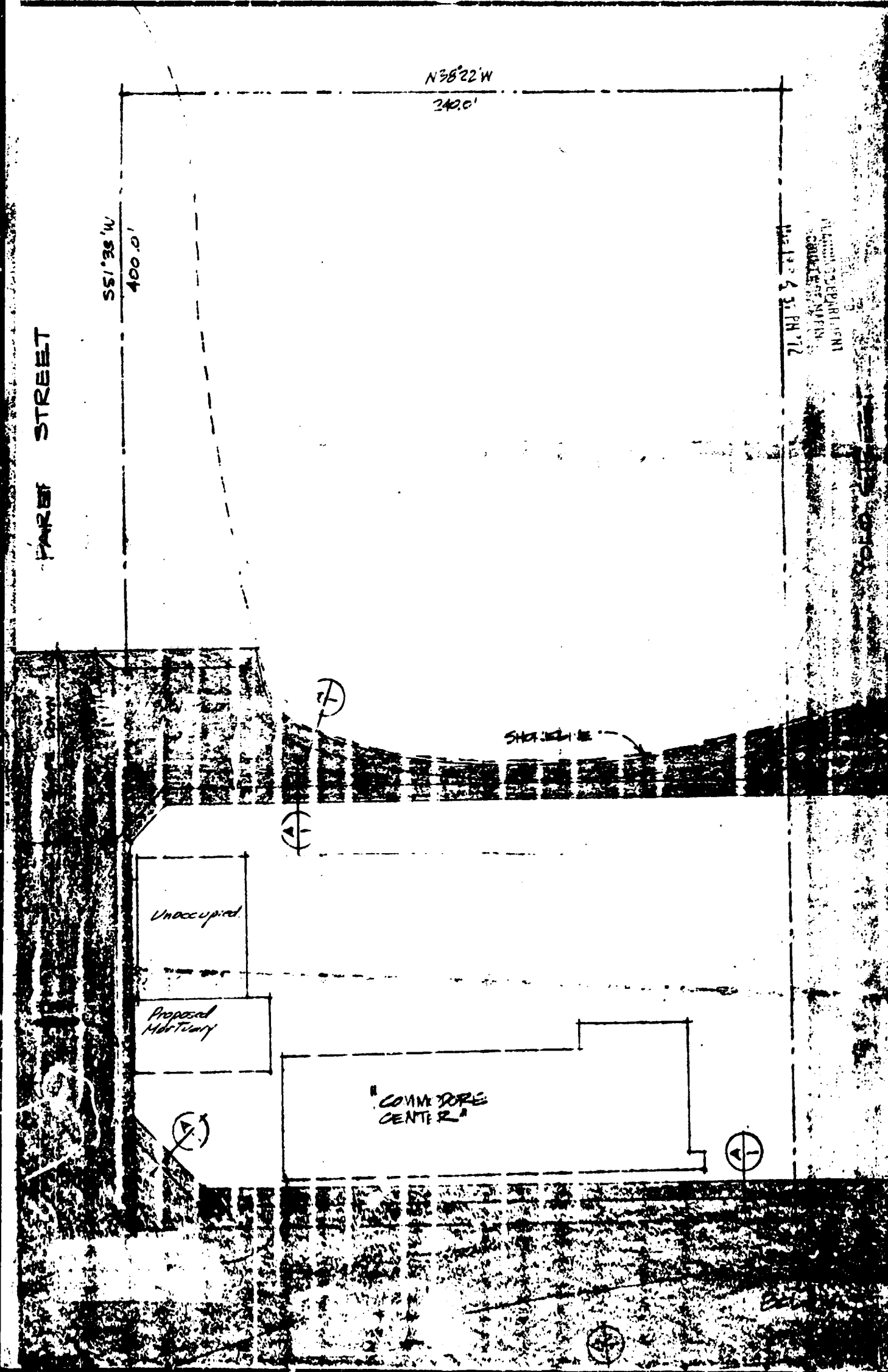
If you need additional information on this matter, please let me know.

Sincerely,

HARVEY E. BRAGDON
Chief Current Planning

HEB:bld

Site Plan 240 Redwood Hy



12. Sign Permit, March 2, 1964, Sign Permit for “Commodore Aviation”

APPLICATION FOR SIGN PERMIT
Under provisions of Ordinance No. 251 or Section 14 & 20 of
Ordinance No. 264, the Zoning Ordinance of the County of Marin

TO THE MARIN COUNTY PLANNING COMMISSION
CIVIC CENTER, SAN RAFAEL, CALIFORNIA

The undersigned hereby applies for a USE PERMIT (Sign Permit) to Erect
(erect, construct, alter, move)
in ~~R-1-H~~ zone district in See attached letter at
(locality) (street address)
240 Redwood Highway, Richardson Bay
(general description of location of sign) (streets, highways, etc.)
Sign to be used for indicate locale of heliport
To be placed on ground
(ground, fence, wall, tree, pole or other parts of building)
FRONTAGE: Length of building frontage [illegible]
Length of lot frontage ~~300'~~
Area of sign 17.3 sq. ft. Height 2' 4" Length 8' 4"
Distances from sign to front property line ~~325' See attached drawing~~
Height of sign above ground 12'
Color of signs: Background white Reflectors none
Painted Copy none Illuminations (other) ~~Inside Lighting~~
Neon ~~(None) Red plastic letters~~
Printed Copy on Sign HELIPORT
On both sides ? Yes ~~Not in use~~
Property now used for
Property described as Assessor's Parcel No. 52-242-01
~~Signature of~~ (Applicant) S.F.O. Helicopter Airlines Address S. F. Airport
operator
The foregoing information is in all respects true and correct to the best of my knowledge and belief.

Applicant's signature Bruce Feldhaus, V.P. Ops.
(owner or occupant of premises)
Phone 761-1630 Address SFO Helicopter Airlines San Francisco International Airport, San Francisco 28

PLEASE DRAW SKETCH OF PROPOSED SIGN AND ITS LOCATION ON REVERSE SIDE See attached letter

SIGN PERMIT or USE PERMIT for Sign as applied for above.

Date March 2, 1964

SIGN PERMIT IS HEREBY ISSUED TO S. F. O. Helicopter Airlines
for the sign described above. There is, are ____ conditions under which this Use Permit is issued. Failure to comply with all the aforementioned provisions and conditions shall be cause for the cancellation of this sign permit by the Marin County Planning Commission.

This Sign Permit is granted subject to the following conditions:

APPROVED AND CONFIRMED BY THE BOARD OF SUPERVISORS, COUNTY OF MARIN, STATE OF CALIFORNIA ON THE 10th DAY OF March, 1964

GEO. R. GNOSS, Clerk

MARIN COUNTY PLANNING COMMISSION

By S. D. Dobbs

S. D. Dobbs, Planning Director

THIS FORM TO BE FILLED OUT IN QUADRUPLICATE

APPLICATION FOR SIGN PERMIT - S. F. O. Helicopter Airlines
52-242-01 APPROVED

The Commission considered the application of S. F. O. Helicopter Airlines for a Sign Permit to permit the erection of a free-standing sign at the entrance to the Marin County Heliport, 240 Redwood Highway, Richardson Bay.

Mr. Talley reported that this sign will be installed by the County even though it belongs to S.F.O. and is being moved from the site which was abandoned on the Embarcadero in San Francisco. It will be installed near the entrance to the heliport. This is an interior lit, double-faced sign, with an area a little over 16 square feet.

Commissioner Warburg indicated there should be an investigation of a Marin County Real Estate sign and then reported back to him.

Mrs. Mary Donnelly raised the question as to whether this is a County sign and whether a permit is needed.

Mr. Talley stated that if the Department of Public Works installs and maintains the sign, it could be considered an official directional sign which designates the entrance to the County Heliport.

Commissioner Warburg brought up the point that the County and the State should be the first ones to abide by their own laws. He asked that all of the signs in that area be watched. He then moved that the Commission recommend to the Board of Supervisors the approval and confirmation of its decision to grant a Sign Permit to S. F. O. Helicopter Airlines for a 16 square foot sign as above set forth, and in accordance with plans submitted.

Commissioner Hankins seconded the motion and it carried unanimously with Commissioners Johnson and Upton absent.

The Chairman announced that this matter would be reported to the Board of Supervisors on Tuesday, March 10, 1964, at 2:00 P.M., in the Supervisors' Chambers, Civic Center, San Rafael. MAR 2 1964

13. Sign Permit, August 12, 1957, Sign Permit for “Commodore Aviation”

APPLICATION FOR SIGN PERMIT
Under provisions of Ordinance No. 251 or Sect[illegible] 20 of
Ordinance No. 264, the Zoning Ordinance of t[illegible]y of Marin
Filed August 12, 1957

TO THE MARIN COUNTY PLANNING COMMISSION
1711 Grand Avenue, San Rafael, California
The undersigned hereby applies for a USE PERMIT, to Erect
(erect, construct, alter, move

in _____ District in _____, at _____
Zone District Locality Street Address

#1. Fronting Hwy #1. #2. & #3. Fronting on Yolo St.
(General description of location of sign) Sts, Hwys, etc.

Sign to be used for IDENTIFICATION & ADVERTISING

To be placed on To Be Painted On Bldg.
(ground, fence, wall, tree, pole or other parts of buildings)

FRONTAGE: Length of building frontage [illegible]
Length of lot frontage 400'

Area of sign See attached sheet Height See attached Length See attached sheet
Distances from sign to front property line #1. 25' #2. & 3. 45'
Height of sign above ground Highest point - 35'
Color of signs: Background White Reflectors none
Painted Copy Yes Illuminations (other) none
Neon All signs non illuminated with spot lights.

Copy on Sign #1. COMMODORE AVIATION #2 & 3 See attached sheet
On both sides? yes on #2. no on #1 & 3

Property now used for Seaplane Base
Property described as Lot 187 - Sausalito Land and Ferry Co. Map
Owner or Proprietor Commodore Aviation Address Hwy 101 - Marin County

The foregoing information is in all respects true and correct to the best of my knowledge and belief. Applicant's signature [signature]

Phone SU 2-1100 Address Hwy 101 - Marin County
PLEASE DRAW SKETCH OF PROPOSED SIGN AND ITS LOCATION ON REVERSE SIDE

SIGN PERMIT or USE PERMIT for Sign as Applied for above.
Date August 20, 1957
Law

SIGN PERMIT IS HEREBY ISSUED TO Robert/- Commodore Aviation
for the sign described above. There is, are 2 conditions under which this Use Permit is issued. Failure to comply with all the aforementioned provisions and conditions shall be cause for the cancellation of this sign permit by the Marin County Planning Commission.

This Sign Permit is granted subject to the following conditions:

1. That no red, pink, orange or any other color which might be mistaken for red lighting is permitted to be installed on any structure or any sign or in any manner in connection with the use of this property.

2. That the overall area shall be reduced to 200 square feet, and the resulting signs are of the same general design as shown on the submitted plans.

I agree to conform to the above conditions:

Applicant _____

APPROVED AND CONFIRMED BY THE BOARD OF SUPERVISORS, COUNTY OF MARIN, STATE OF CALIFORNIA, ON THE 28th DAY OF August, 1957.

Geo. S. Jones, County Clerk

COUNTY PLANNING COMMISSION
COUNTY OF MARIN, CALIFORNIA

By B.D. Dobbs
B.D. Dobbs
Title Zoning Administrator

THIS FORM TO BE FILLED OUT IN QUADRUPLICATE

APPLICATION FOR SIGN PERMIT - "Commodore Aviation" - Robert Law

AUG 12 1957 GRANTED 10,487

The Commission considered the application of Robert Law for a sign permit for the erection of three signs at the Commodore Aviation place of business (1) fronting on the large building to read "Commodore Aviation" (2) on the upper section of the new hanger, which would be facing the northbound traffic on U.S. Highway 101 to read "Fly Over S.F. $2.50, (3) "Lake Tahoe Airlines - Clear Lake Airlines, Flight Training School."

Mr. Dobbs presented the plans for the signs to the Commission and described the wording and structures. He objected to the "Fly Over S.F."sign since it doesn't identify and departs from the dignified advertising appropriate to a business of this nature.

He stated that it is minimuzed by the distance from the Highway and the size of the building it is on, but this is the only sign which be objects to as such; the other objection being to the total of 237 square feet.

Mr. Dobbs said that this action (if to grant) would rescind any previous permits and after measuring the two buildings and not considering the five foot separation, he stated that there would be 200 feet of frontage.

Mr. Law said that they have had a lot of trouble determining how to advertise "Fly Over S.F." and that most of their business is from persons passing by who decide to take the flight on impulse. They want a sign that will make an impact on the travelling public.

Commissioner Cuzner moved that the Commission recommend to the Board of Supervisors the approval and confirmation of its decision to grant a sign permit to Robert Law provided the overall area is reduced to 200 square feet and the resulting signs are of the same general design as shown on the submitted plans.

AUG 12 1957

The motion was seconded by Commissioner Azevedo and unanimously carried.

The Chairman announced that this matter would be before the Board of Supervisors on Tuesday, August 20, 1957, at 2:00 P.M., in the Supervisors' Chambers, Court House, San Rafael.

14. Use Permit, November 10, 1953, Use Permit to construct, operate, and maintain a Sea Plane Base, Flight School, Maintenance & Repair of Aircraft

USE PERMIT

REVOCABLE ___ _____

Under the provisions of Section 20 of Ord. No. 264, the Zoning Ordinance of the County of Marin, State of California.

A USE PERMIT is hereby granted authorizing ~~(Name of person)~~ to ~~(Use of land, subject to the attached conditions:~~ construct, operate, and maintain a Sea Plane Base, Flight School, Maintenance & Repair of Aircraft, proposed to be conducted)

At ~~(Street address or location)~~ Highway 101 in ~~(Name of locality or community)~~ Mill Valley

between ~~(Street or Highway)~~ Highway 101 and ~~(Street or Highway)~~ Corte Madera Creek

on property legally described as: Lot 1-16 Block 164 167 Tract _____ Sausalito Land and Ferry Co. Map

or ~~(Here indicate any other legal description other than metes & bounds~~

situated in a ~~M-1-H~~ District.

Area of site ~~(Square ft. or acres)~~ 4.8/10 acres Dimensions of site 540 ft. by 400 ft.

Distance from front of structure to street line 10 ft.

Property owned by ~~(Name and address)~~ Albert Law, DBA, Commodore Air Service

If there are special conditions under which this Use Permit is granted, a statement of such conditions is attached hereto and the permit is conditional thereon.

The use permitted hereby shall be conducted and shall conform in all particulars to the provisions of all applicable laws and ordinances. Failure to comply with all the aforementioned provisions and conditions will be cause for the cancellation of this use permit by the County Planning Commission.

APPROVED AND CONFIRMED BY BOARD OF SUPERVISORS, COUNTY OF MARIN, STATE OF CALIFORNIA, ON THE NOV 10 1953 DAY OF _____ 19___.

Geo. S. Jones, County Clerk

MARIN COUNTY PLANNING COMMISSION

By Mary R. Summers

Mary R. Summers
Planning Director

Date November 10, 1953

This Use Permit was located in a historic Use Permit log. It was inserted into this file 11-26-86dp.

USE PERMIT

...der the provisions of Section 20 of ...264 the Zoning Ordinance of the County of Marin, State ...

...is hereby granted authorizing ... to ... (Use proposed to be conducted) ... At ... (Street address of property) ... between ... (Street or Highway) ... on property legally described as ... or ... (State any other legal description) ... District. ... of site ... (Square ft. or acres) ... Distance from front of structure to street line ... ft.

This permit was granted subject to the following condition:

1. That the Marin County Planning Commission reserve the right to revoke or review this Use Permit, after holding a public hearing thereon, said revocation and review to be instigated by the Commission at no particular time, but only when changed conditions seem to warrant such action.

MARIN COUNTY PLANNING COMMISSION

167

Mary R. Summers
Planning Director

November 10, 1953

I agree to conform to the above condition.

Property owned by ... (Name and address)

If the ... granted, a statement of such conditions is attached hereto and the permit is conditional thereon.

Applicant

The ... shall be conducted and shall conform in all particulars to the provisions of all applicable laws and ordinances. Failure to comply with all the aforementioned provisions and conditions will be cause for the cancellation of this ... by the Planning Commission.

Address

Date

APPROVED AND CONFIRMED BY BOARD OF SUPERVISORS, COUNTY OF MARIN, STATE OF CALIFORNIA, ON THE ... DAY OF ... 19...

Geo. S. Jones, County Clerk

MARIN COUNTY PLANNING COMMISSION

By ...

Mary R. Summers
Planning Director

Date November 10, 1953

15. Use Permit, February 6, 1950, 5-year Use Permit for the construction, maintenance and operation of a Sea Plane Base, Hangers, Office and Yacht Harbor and accessory buildings

USE PERMIT FIVE YEARS O[illegible]

Under the provisions of Section 20 of Ord. No. 264
the Zoning Ordinance of the County of Marin, State of California.

A USE PERMIT is hereby granted authorizing ALICE SMITH AND ROBERT LAW
(name of person, firm or corporation)

to permit the construction, maintenance and operation of a Sea Plane Base, Hangars,
(Use of land, building or structure proposed to be established and/or conducted)

Office and Yacht Harbor and accessory buildings thereto in accordance with the attached schedule of conditions.

At Manzanita in
(Street address or location on hwy.) (Name of locality or community)

between _____ and _____
(Street or highway) (Street or highway)

on property legally described as: Lot 1-16 1-16 Block 164 167 Tract Map of Sausalito Land & Ferry Company

or _____
(Here indicate any other legal description available other than metes & bounds)

situated in an M-1-H, Light Industrial District with Combining Highway Frontage Regulations District

Area of site 4 8/10 acres Dimensions of site 540 ft. by 400 ft.
(Square ft. or acres)

Distance from front of structure to street line Hangar 315, Office 215 ft.

Property owned by Alice P. Smith, Box 212, Sausalito
(Name and address)

If there are special conditions under which this Use Permit is granted, a statement of such conditions is attached hereto and the permit is conditional thereon.

The use permitted hereby shall be conducted and shall conform in all particulars to the provisions of all applicable laws and ordinances. Failure to comply with all the aforementioned provisions and conditions will be cause for the cancellation of this use permit by the County Planning Commission.

APPROVED AND CONFIRMED BY
BOARD OF SUPERVISORS,
COUNTY OF MARIN, STATE OF
CALIFORNIA, ON THE 6th
DAY OF Feb. 1950

Geo. S. Jones, County Clerk

MARIN COUNTY PLANNING COMMISSION

By Mary Robinson Gilkey
Mary Robinson Gilkey
Planning Technician

Date February 6, 1950

This Use Permit is granted subject to the following conditions:

1. That the permit be valid for a period of five years only unless and until further application is made and granted by the Marin County Planning Commission and the Marin County Board of Supervisors.

2. That all building plans be submitted to the Planning Commission for approval.

MARIN COUNTY PLANNING COMMISSION

Mary Robinson Gilkey

Mary Robinson Gilkey
Planning Technician

February 6, 1950

I agree to conform to the above condition.

Applicant _____

Address _____

Date _____

Miscellaneous Attachments

16. Aerial Photo

COUNTY of MARIN
GEOGRAPHIC INFORMATION SYSTEMS

County of Marin

Legend

- trans_BIKEWAY
- CALTRANS Road
  - Hwy 101
  - Hwy 37
  - Hwy 580
  - Shoreline
- County Maintained Roads
  - Arterial
  - Collector
  - Interstate
  - Local
  - Other Freeway
- Condominium Common Area
- Mobile Home Pad
- City
- Marin County Legal Boundary
- Address

Notes

0.1 0 0.03 0.1 Miles

NAD_1983_HARN_StatePlane_California_III_FIPS_0403

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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT SURVEY ACCURATE

17. Zoning Map

COUNTY of MARIN
GEOGRAPHIC INFORMATION SYSTEMS

County of Marin

Legend

- trans_BIKEWAY
- CALTRANS Road
  - Hwy 101
  - Hwy 37
  - Hwy 580
  - Shoreline
- County Maintained Roads
  - Arterial
  - Collector
  - Interstate
  - Local
  - Other Freeway
- Condominium Common Area
- Mobile Home Pad
- City
- Marin County Legal Boundary
- Address
- County Zoning (hollow fill)
- County Zoning
  - A-Agriculture and Conservation
  - Agriculture Limited Coastal Zone
  - A2-Agriculture Limited
  - AP-Admin and Professional
  - APR-Agriculture Residential Planne
  - APZ-Agriculture Production Zone
  - C1-Retail Business
  - CP-Planned Commercial
  - H1-Limited Roadside Business

1: 1,979

Notes

0.1 0 0.03 0.1 Miles

NAD_1983_HARN_StatePlane_California_III_FIPS_0403

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THIS MAP IS NOT SURVEY ACCURATE

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Attorneys for the U.S. Department of Transportation and Federal Aviation Administration

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SEAPLANE ADVENTURES, Plaintiff, v. COUNTY OF MARIN, CALIFORNIA, Defendant.	CASE NO. 20-6222 WHA **DECLARATION OF LAURALYN J. REMO TEMPROSA**

I, Lauralyn J. Remo Temprosa, declare as follows:

1. I am employed by the United States Department of Transportation, as the Associate Director for Air Carrier Fitness in the Office of the Assistant Secretary for Aviation and International

Affairs, a component of the Office of the Secretary of Transportation ("OST"). I submit this declaration, based on information available to me in my position, to provide the Court with information about the economic authority that the plaintiff in this action, Seaplane Adventures, has received from OST.

2. In order for a commercial air carrier to provide "air transportation"—defined as interstate air transportation, foreign air transportation, or the transportation of mail by air—it must either hold a certificate of public convenience and necessity issued by OST or be exempt from that requirement. *See* 49 U.S.C. §§ 41101(a) (certificate requirement); 40109(c) (exemption authority). Under 14 CFR Part 298, an "air taxi operator" is exempt from the certificate requirement if it registers with OST and meets certain requirements. An air taxi operator that registers under Part 298 has economic authority from OST to provide air transportation consistent with applicable regulations.

3. San Francisco Seaplane Tours, Inc. ("SFST") has registered with OST as an air taxi operator under Part 298. SFST's current registration became effective on May 14, 2021, and indicates that SFST does business as "Seaplane Adventures." SFST's prior registration, which became effective on April 23, 2019, did not reference the "Seaplane Adventures" name, but was otherwise identical. A true and accurate copy of the current registration is annexed as Exhibit A. A true and accurate copy of the prior registration is annexed as Exhibit B.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 16th day of June 2021, in Alexandria, Virginia.

Lauralyn J. Remo Temprosa

Exhibit A

Approved by OMB
OMB No. 2105-0565
Expires: 8/31/2022

PAPER WORK REDUCTION ACT OF 1995

This information is collected to determine whether air taxi operations meet the Department's criteria for an operating authorization under 14 CFR Part 298. We estimate that it will take 30-60 minutes to complete. The use of this form is mandatory. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The OMB Control Number for this collection is 2105-0565. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to: U.S. Department of Transportation, Office of Aviation Analysis (X-56), 1200 New Jersey Avenue, SE, Washington, DC, 20590.

U.S. Department of Transportation

Office of the Secretary of Transportation

AIR TAXI OPERATOR REGISTRATION AND AMENDMENTS UNDER PART 298 OF THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION

FOR USE BY DOT ONLY

Where to file: Submit this form, in duplicate, along with a Certificate of Insurance (OST Form 6410) evidencing required liability insurance coverage for the aircraft listed in Block 6 of this registration, to:

Federal Aviation Administration (FAA)
Air Transportation Division, AFS-200, Room 831
800 Independence Avenue, S.W., Washington, D.C. 20591

Exception: For air taxis located in the State of Alaska, submit this form and the OST Form 6410 to the Federal Aviation Administration (FAA), Alaskan Region Headquarters, AAL-231, 222 West 7th Avenue, Box 14, Anchorage, Alaska 99513.

Fees: The fee for the initial registration of an air taxi is $8. There is no filing fee for amendments to registrations previously filed.

Effective date of registration/amendments

MAY 14, 2021

1a. Name *(and DBA, if applicable)* and Mailing Address of the Registering Carrier:
San Francisco Seaplane Tours, Inc.
DBA Seaplane Adventures
242 Redwood Hwy
Mill Valley, CA 94941

1b. Telephone No. 415-332-4843 Fax No. _____

1c. Email: info@seaplane.com

3a. Federal Aviation Administration certificate number: O2QA052Y

3b. Address of local FAA office

Received – Air Transportation Division 5/6/2021

2a. Address of principal place of business *(if different from above)*:

2b. Telephone No. _____ Fax No. _____

3c. FAA Telephone No.: 510-748-0122

3d. FAA Principal Operations Inspector: David Jensen

4. This filing is the carrier's:

☐ Initial Registration ☒ Amendment to reflect changes since previous filing *(Complete item 9)*

If initial registration, give proposed date of commencement of operations: _____

5. Type of service the carrier intends to perform upon commencement of operations, or, for amendments, service the carrier is currently performing (check all that apply:

☒ Passenger ☐ Seasonal ☐ Air ambulance ☐ Mail under a U.S. Postal Service contract

☐ Cargo ☐ Other *(Please specify)*** _____

** For example, if the carrier performs other services such as fire fighting operations for the U.S. Forest Service, it should be indicated here.

Companies proposing or operating passenger services of five (5) or more round trips per week on at least one route between two or more points pursuant to published flight schedules which specify the times, days of the week, and places between which such flights are performed may not conduct such operations under this registration. Instead, such companies must be found "fit, willing, and able" to provide such services as a commuter air carrier. See 14 CFR 298, Subpart E.

6. Aircraft which the carrier proposes to operate in air taxi service or, for amendments, aircraft currently operated:

	Aircraft Make and Model	FAA Registration Number	Passenger Seats Installed*
1.	DeHavilland DHC-2	N5220G	6
2.	DeHavilland DHC-2	N123JL	6
3.			
4.			
5.			

(Add additional sheets if necessary)

* This does not include seats occupied by the pilot or co-pilot unless the latter is available for passenger use.

7. Is the registering carrier a U.S. citizen?

☒ YES ☐ NO

Note: An air taxi or commuter registered under Part 298 must be a citizen of the United States. 49 USC 40102(a)(15) defines a U.S. citizen as (a) an individual who is a U.S. citizen; (b) a partnership of which each member is a U.S. citizen; or (c) a corporation or association organized under the laws of the United States or a state, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

8. If this is an amendment, has the carrier carried passengers in foreign air transportation, that is, between any point in the United States and any point outside thereof, during the past 12 months:

☐ YES ☒ NO

9. REPORT CHANGES OR AMENDMENTS TO INFORMATION PREVIOULSLY FILED WITHIN 30 DAYS OF THE EFFECTIVE DATE:

a. Change in Carrier's Name and/or Address *(Please specify)*:

Former Name and Address:

San Francisco Seaplane Tours, Inc.
242 Redwood Hwy
Mill Valley, CA 94941

Current Name and Address:

San Francisco Seaplane Tours, Inc.
DBA Seaplane Adventures
242 Redwood Hwy
Mill Valley, CA 94941

b. Description of Any Other Changes or Amendments *(Including additions or deletions of aircraft, change in type of operations, registration numbers, etc.)*:

10. Certification

I certify that the information contained in this application is complete and accurate to the best of my knowledge. The carrier subscribes to the IATA Intercarrier Agreement; the IATA Agreement on Measures to Implement the IATA Intercarrier Agreement, and the ATA Agreement on Provisions Implementing the IATA Intercarrier Agreement to be Included in Conditions of Carriage and Tariffs (*see* OST Form 4523-A), and in accordance with those Agreements agrees under Article 22(1) of the Warsaw Convention or the Warsaw Convention as amended by the Hague Protocol that the liability limits for passenger injury or death in international transportation as defined in the Convention are waived in their entirety.

Signature: _____ *(See note)*

Date: May 5, 2021

Name: Saul Aaron Singer *(Please type)*

Place: Mill Valley, CA *(City and State)*

Title: Owner - President

Note: This registration must be signed by a responsible officer, such as the President, Vice President, Secretary or Treasurer, or partner or owner of the carrier.

TO ENSURE PROPER PROCESSING OF THIS REGISTRATION, PLEASE COMPLETE THIS FORM IN ITS ENTIRETY.

Exhibit B

Approved by OMB
OMB No. 2105-0565
Expires: 6/30/2019

PAPER WORK REDUCTION ACT OF 1995

This information is collected to determine whether air taxi operations meet the Department's criteria for an operating authorization under 14 CFR Part 298. We estimate that it will take 30-60 minutes to complete. The use of this form is mandatory. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The OMB Control Number for this collection is 2105-0565. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to: U.S. Department of Transportation, Office of Aviation Analysis (X-56), 1200 New Jersey Avenue, SE, Washington, DC, 20590.

U.S. Department of Transportation
Office of the Secretary of Transportation

AIR TAXI OPERATOR REGISTRATION AND AMENDMENTS UNDER PART 298 OF THE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION

FOR USE BY DOT ONLY

REGISTRATION APPROVED

Effective date of registration/amendments
APR 23 2019

Where to file: Submit this form, **in duplicate**, along with a Certificate of Insurance (OST Form 6410) evidencing required liability insurance coverage for the aircraft listed in Block 6 of this registration, to:

Federal Aviation Administration (FAA)
Air Transportation Division, AFS-200, Room 831
800 Independence Avenue, S.W., Washington, D.C. 20591

Exception: For air taxis located in the State of Alaska, submit this form and the OST Form 6410 to the Federal Aviation Administration (FAA), Alaskan Region Headquarters, AAL-231, 222 West 7th Avenue, Box 14, Anchorage, Alaska 99513.

Fees: The fee for the initial registration of an air taxi is $8. There is no filing fee for amendments to registrations previously filed.

1a. Name *(and DBA, if applicable)* and Mailing Address of the Registering Carrier:
San Francisco Seaplane Tours
242 Redwood Hwy
Mill Valley, CA 94941

1b. Telephone No. 415-332-4843 Fax No. 415-332-4851

1c. Email: info@seaplane.com

3a. Federal Aviation Administration certificate number:
02QA052Y

3b. Address of local FAA office:
Oakland FSDO
1420 Harbor Bay Pkwy
Alameda, CA 94502

2a. Address of principal place of business *(if different from above)*:

2b. Telephone No. _____ Fax No. _____

3c. FAA Telephone No.:
510-748-0122

3d. FAA Principal Operations Inspector:
Dave Jensen

4. This filing is the carrier's:

☐ Initial Registration ■ Amendment to reflect changes since previous filing *(Complete item 9)*

If initial registration, give proposed date of commencement of operations: _____

5. Type of service the carrier intends to perform upon commencement of operations, or, for amendments, service the carrier is currently performing (check *all* that apply:

■ Passenger ☐ Seasonal ☐ Air ambulance ☐ Mail under a U.S. Postal Service contract

☐ Cargo ☐ Other *(Please specify)*** _____

** For example, if the carrier performs other services such as fire fighting operations for the U.S. Forest Service, it should be indicated here.

Companies proposing or operating passenger services of five (5) or more round trips per week on at least one route between two or more points pursuant to published flight schedules which specify the times, days of the week, and places between which such flights are performed may not conduct such operations under this registration. Instead, such companies must be found "fit, willing, and able" to provide such services as a commuter air carrier. *See* 14 CFR 298, Subpart E.

AFS-200
APR 12 2019
Air Transportation Division

OST Form 4507 (Rev. 3-2013)

6. Aircraft which the carrier proposes to operate in air taxi service or, for amendments, aircraft currently operated:

	Aircraft Make and Model	FAA Registration Number	Passenger Seats Installed*
1.	DeHavilland DHC-2	N5220G	6
2.	DeHavilland DHC-2	N123JL	6
3.			
4.			
5.			

(Add additional sheets if necessary)

* This does not include seats occupied by the pilot or co-pilot unless the latter is available for passenger use.

7. Is the registering carrier a U.S. citizen?

☒ YES ☐ NO

Note: An air taxi or commuter registered under Part 298 must be a citizen of the United States. 49 USC 40102(a)(15) defines a U.S. citizen as (a) an individual who is a U.S. citizen; (b) a partnership of which each member is a U.S. citizen; or (c) a corporation or association organized under the laws of the United States or a state, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, which is under the actual control of citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

8. If this is an amendment, has the carrier carried passengers in foreign air transportation, that is, between any point in the United States and any point outside thereof, during the past 12 months:

☐ YES ☒ NO

9. REPORT CHANGES OR AMENDMENTS TO INFORMATION PREVIOULSLY FILED WITHIN 30 DAYS OF THE EFFECTIVE DATE:

a. Change in Carrier's Name and/or Address *(Please specify)*:

Former Name and Address: _____ *Current Name and Address:* _____

b. Description of Any Other Changes or Amendments *(Including additions or deletions of aircraft, change in type of operations, registration numbers, etc.)*:

~~None~~

Addition of N123JL to certificate

10. Certification

I certify that the information contained in this application is complete and accurate to the best of my knowledge. The carrier subscribes to the IATA Intercarrier Agreement; the IATA Agreement on Measures to Implement the IATA Intercarrier Agreement, and the ATA Agreement on Provisions Implementing the IATA Intercarrier Agreement to be Included in Conditions of Carriage and Tariffs (*see* OST Form 4523-A), and in accordance with those Agreements agrees under Article 22(1) of the Warsaw Convention or the Warsaw Convention as amended by the Hague Protocol that the liability limits for passenger injury or death in international transportation as defined in the Convention are waived in their entirety.

Signature: _____ *(See note)*

Date: March 31, 2019

Name: Saul Aaron Singer *(Please type)*

Place: Mill Valley, CA *(City and State)*

Title: President/CEO

Note: This registration must be signed by a responsible officer, such as the President, Vice President, Secretary or Treasurer, or partner or owner of the carrier.

TO ENSURE PROPER PROCESSING OF THIS REGISTRATION, PLEASE COMPLETE THIS FORM IN ITS ENTIRETY.

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
PRICE USE PERMIT (HELIPORT)

Item No:	2.	Application #:	UP 96-003/DX 96-292
Applicant:	Steve Price	Owner:	Clayton Mitchell and Susan Keegin
Property Address:	240 Redwood Highway, Mill Valley	APN:	052-247-01, 02
Hearing Date:	February 29, 1996	Planner:	Thomas Lai

RECOMMENDATION: **Approval with Conditions**
APPEAL PERIOD: **5 Working Days to Planning Commission**
LAST DATE FOR ACTION: **April 13, 1996**

PROJECT DESCRIPTION:

This is an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m.. The heliport currently operates between 6:30 a.m. and 5:45 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on weekends. The proposed project would retain the existing limit of six flights per day. (A flight is defined as one take-off and one landing operation.) A total of three full-time employees would be utilized during business hours.

GENERAL INFORMATION:

Countywide Plan Designation:	Dryland Portion : RT (Recreational Commercial, 5 to 30% floor area ratio) Submerged Portion : BFC-RT (Bayfront Conservation, Recreational Commercial, 5 to 30% floor area ratio)
Zoning:	BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation)
Lot size:	4.4 acres
Adjacent Land Uses:	Houseboat marina, seaplane base, office, and industrial
Vegetation:	Pine trees with understory of predominantly introduced shrubs and ornamentals adjoining wetlands
Topography and Slope:	Flat
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the operation of an existing facility involving negligible expansion would not create adverse environmental effects.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan, the Tamalpais Area Community Plan, and Title 22 (Zoning) of the Marin County Code. Please refer to the plan consistency findings contained in the attached resolution.

BACKGROUND:

The Marin Heliport was established in 1962 under the governing M-1-H (Light Industrial) zoning district at the time. The use became legal non-conforming when the County rezoned the property to a RCR (Resort, Commercial, Recreational) zoning district in 1966. On May 2, 1995, the Board of Supervisors acknowledged the legal non-conforming status of the heliport by identifying its use as six helicopter flights a day, subject to the following hours of operation: 6:30 a.m. to 5:45 p.m. weekdays and 9:00 a.m. to 4:00 p.m. weekends. The current Use Permit application seeks approval to modify the hours of operation to allow the helicopter operator to provide traffic reports for public news broadcasts during the early morning and late afternoon commute periods.

In addition to the heliport, the subject property is developed with an 11-houseboat marina (Commodore Marina) and a seaplane base (Commodore Seaplanes). The houseboat marina is legal non-conforming with respect to the current BFC-RCR zoning, and the seaplane use is permitted under the terms of previous Use Permits issued in 1953 and 1981. The property is also partially used by an education center which is comprised of Kid's Headquarters (The Planet). Since this use is not permitted by the governing BFC-RCR zoning district, staff has incorporated a recommended condition of approval to require the elimination of this use within 60 days from the date of approval.

ANALYSIS:

The governing BFC-RCR zoning district permits uses that are deemed desirable or necessary for public service, subject to Use Permit or Master Plan approval. The continued operation of the heliport would provide a public service relating to broadcast of traffic reports and emergency operations such as medical flights. In addition, the proposed change in the hours of operation does not significantly expand or modify the underlying nature or intensity of the heliport use and would not affect the established number of daily flights, the number of employees, or the land and building area occupied by the use. Based on these factors, staff is recommending that the proposed Use Permit be approved for a period of two years, subject to an administrative review by the Community Development Director at the end of one year to determine compliance with the conditions of approval. Approval of the Use Permit would eliminate the legal non-conforming status of the heliport and consequently establish use restrictions governing the number of flights, the hours of operation, the number of employees, and the general location of the heliport activities.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and approve the Price Use Permit based on the findings and subject to the conditions contained in the attached resolution.

Attachments:
1. Proposed resolution recommending approval of the Price Use Permit
2. CEQA Categorical Exemption
3. Board of Supervisors Resolution 95-105
4. Location Map
5. Assessor's Parcel Map
6. Department of Public Works Memorandum, (2/5/96)
7. Office of Waste Management Memorandum, (11/17/95)
8. Tamalpais Design Review Board Memorandum, (11/15/95)

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PRICE USE PERMIT
ASSESSOR'S PARCEL NUMBERS 052-247-01, 02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m.. The heliport currently operates between 6:30 a.m. and 5:45 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on weekends. The proposed project would retain the existing limit of six flights per day. A total of three full-time employees would be utilized during business hours. Zoning for the 4.4 acre property is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The subject property is located at 240 Redwood Highway, Mill Valley, and is further identified as Assessor's Parcel Numbers 052-247-01, 02.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 29, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the project is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the operation of an existing facility with negligible expansion would not create adverse environmental effects.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is generally consistent with the goals and policies contained in the Marin Countywide Plan and the Tamalpais Area Community Plan because: (1) the project would continue use of the existing heliport facility to allow the helicopter operator to provide traffic reports for public news broadcasts during the early morning and late afternoon commute periods; (2) the project would continue provision of employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor; and (3) the project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements because the project would not significantly expand or modify the operation of the heliport beyond the level of use that was acknowledged by the Board of Supervisors through adoption of Resolution Number 95-105 on May 2, 1995. The Board determined that the legal non-conforming level of use for the heliport consists of a maximum of six flights per day between the hours of 6:30 a.m. and 5:45 p.m. during weekdays and 9:00 a.m. and 4:00 p.m. during weekends.. With exception to the proposed modifications to the hours of operation, the heliport would be limited to six flights per day, would retain the existing number of employees, and would occupy the existing amount of land and building area on the subject property.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that continuation of the heliport use on the subject property is generally consistent with the intent and objectives of the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning district because it provides a public

service relating to the broadcast of traffic reports and the provision of emergency operations such as medical flights. Additionally, the proposed changes to the hours of operation does not significantly expand or modify the underlying nature or intensity of the heliport use and would not affect the established number of daily flights, the number of employees, or the land and building area occupied by the use.

VII. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code), as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

1. Continued operation of the heliport on the subject property would not adversely affect the surrounding area because the use has existed continuously since 1962, and the proposed changes in the hours of operation would not result in a significant disruption of surrounding areas beyond the level which has historically existed and which currently exists.

2. The project does not significantly expand or modify the heliport use because the present and acknowledged level of six flights per day and three full-time employees would be retained, and because the facility would not expand beyond the existing land and building area that is presently occupied by the use on the subject property.

3. The Department of Public Works has determined that existing off-street parking would not be adversely affected by the modified hours of operation because the existing number of flights and employees would remain unchanged.

4. The heliport facility would not result in adverse visual impacts to surrounding areas because conditions of approval would require the applicant to submit a landscape plan to incorporate shrubs along the perimeter foundation of a fuel storage tank to provide visual screening.

5. The grant of this Use Permit for continued use of the heliport with modifications to the hours of operation would not be detrimental to the health, safety, morals, comfort, or welfare of persons residing in the surrounding neighborhood.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from the requirements for Design Review pursuant to Marin County Code Section 22.82.030(4) because: (1) the proposed modification to the hours of operation is minor and incidental to the heliport use; and (2) the project would not result in substantial alternation of the existing buildings or heliport facilities beyond minor exterior improvements associated with routine maintenance and upkeep of the property.

IX. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Tidelands requirements pursuant to Marin County Code Section 22.77.010 because minor exterior improvements associated with routine maintenance and upkeep of the property are considered minor and incidental.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit subject to the conditions of approval as specified below.

Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 96-003 is approved for the continued use and operation of the Marin Heliport over a portion of the property located at 240 Redwood Highway, Mill Valley, and further identified as Assessor's Parcel Numbers 052-247-01, 02. This Use Permit approves the heliport as a conforming use on the subject property and replaces the previous non-conforming status of this use, which may now occur only with a valid use permit and which is subject to the restrictions contained herein.

2. Use and operation of the heliport shall be limited to a maximum of six flights per day and the following hours:

   Monday to Friday: 6:00 a.m. to 6:30 p.m.

   Saturday, Sunday: 9:00 a.m. to 6:00 p.m.

   (A flight is defined as one take-off and landing operation.)

3. A maximum of three full-time employees is permitted in conjunction with the heliport. Commercial office functions beyond that associated with administrative activities for the heliport are not permitted.

4. Helicopter take-off, landing, refueling, and storage shall be restricted within the existing facilities located on Assessor's Parcel Number 052-247-02. Administrative activities shall be limited to the southerly portion of the building which fronts Bolinas Avenue and located on Assessor's Parcel Number 052-247-01. Expansion of the existing building and land area occupied by the heliport is not permitted.

5. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

6. WITHIN 60 DAYS FROM THE DATE OF APPROVAL, the applicant shall secure an inspection from the Community Development Agency Planning Division staff to confirm that the subject property is utilized only by the heliport, seaplane, and houseboat marina. The Kid's Headquarters (The Planet) is not permitted under the terms of this Use Permit approval.

7. WITHIN 60 DAYS FROM THE DATE OF THIS APPROVAL, the applicant shall submit a landscape plan for review and approval which incorporates sufficient number of shrubs along the perimeter of the fuel storage tank for visual screening. The landscaping shall consist of drought tolerant and native species that are also tolerant of salt water intrusion, wind, salt spray, and saline soils associated with a bayfront environment.

8. WITHIN SIX MONTHS FROM THE DATE OF THIS APPROVAL, the applicant shall demonstrate that all approved landscaping has been planted along with an automatic drip irrigation system.

9. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

10. Any modification to the use or operation of the heliport shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

SECTION III: VESTING, PERMIT DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit approval by completing all of the required work within six months from the date of this approval, or all rights granted in this approval shall lapse. An extension of up to 30 additional days may be granted by the Community Development Director if the applicant submits a letter requesting the extension and demonstrates due diligence in meeting the required conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of two years from the date of approval, subject to an administrative review by the Community Development Director at the end of one year to determine compliance with the conditions of approval. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 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 **March 7, 1996**.

SECTION IV:

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 29th day of February, 1996.

_____

BRIAN CRAWFORD, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

_____

Patrice Stancato, DZA Secretary

FILING REQUESTED BY AND
WHEN FILED RETURN TO:

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903

Attn: Tom Lai, AICP, Senior Planner

NOTICE OF EXEMPTION

Marin County
Environmental Coordination and Review

February 12, 1996

1. **Project Name:** Price Use Permit 96-003/Design Review Exemption 96-292

2. **Project Location:** 240 Redwood Hwy., Mill Valley
Assessor's Parcel #052-247-01 & 02/Marin County

3. **Project Description:**
This is an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m., where the existing operation is approved for weekday flights between 6:30 a.m. and 5:45 p.m. and for weekend flights between 9:00 a.m. and 4:00 p.m.. The Heliport's current limit of six flights per day would remain unchanged. The Heliport operates with a total of three employees during business hours. Zoning for the 4.4 acre property is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation).

4. **Public Agency Approving Project:** Deputy Zoning Administrator

5. **Project Sponsor:** Steve Price

6. **CEQA Exemption Status:** Categorical Exemption (Section 15301, Class 1)

7. **Reasons for Exemption:** **The operation of an existing private facility involving negligible expansion would not create adverse environmental effects.**

Project Planner:

Tom Lai, AICP
Senior Planner

Telephone: (415) 499-6269

Reviewed by:

Tim Haddad
Environmental Coordinator

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 95-105

A RESOLUTION DENYING THE HELI USA APPEAL AND SUSTAINING THE PLANNING COMMISSION'S DETERMINATION THAT THE CURRENT LEVEL OF USE ON THE HELIPORT PROPERTY EXCEEDS THE LEGAL NON-CONFORMING USE ESTABLISHED IN 1981 AND REAFFIRMED 1983

ASSESSOR'S PARCEL NO. 052-247-01,02

* *

SECTION I: FINDINGS

I. WHEREAS, the Marin County Board of Supervisors finds that Isidoor Bornstein has filed, on behalf of Heli USA, an appeal of the Planning Commission's Determination that the current level of use on the heliport property exceeds the legal non-conforming use established in 1981 and reaffirmed in 1983. The appellant contends that the legal non-conforming use is the use established by SFO Helicopters in 1966. The basis for this statement is the appellants' position that a legal non-conforming use may change from a high level of use, to a less intensive use and then re-establish to the higher intensity of use at a later date. The appellant also claims that the levels of use established in 1981 and reaffirmed in 1983 do not accurately reflect the level of use that was occurring on the property at that time.

II. WHEREAS, the Board of Supervisors recognizes the heliport use became legal non-conforming on November 15, 1966 when the property was rezoned from M-1-H (Light Industrial District) to R-C-R (Resort, Commercial, Recreational). The legal non-conforming use was reduced for a period of more than six months in 1976 when SFO Helicopters ceased business and left the site, limiting the heliport use to the level of operation established by Commodore Helicopters.

III. WHEREAS, the Board of Supervisors finds that Commodore Helicopters level of use was established by Lu Hurley, the operator of Commodore Helicopters in letters dated January 9, 1981 and February 20, 1981 ("the Hurley Letters"). The level of use was reaffirmed by the Planning Department in a letter to the Board of Supervisors dated August 5, 1983 ("the Board Letter"). The Board of Supervisors finds that these three letters describe the level of heliport use in 1981 as, 3.5 flights per day in the winter months and 6 flights per day in the summer months. Of these flights approximately 6 charter flights occurred lasting 1 to 1.5 hours each month between 9:00 a.m. and 4:00 p.m., two traffic report flights were flown each weekday between 6:30 a.m. and 5:45 p.m. and refueling flights for helicopters engaged in tourist flights at Pier 43 in San Francisco also occurred. The Board of Supervisors finds that the maximum intensity of the legal non-conforming use established by the County records is 6 flights per day, whether for tourist, charter or refueling purposes.

IV. WHEREAS, the Board of Supervisors finds that the legal non-conforming level of use is also described in a February 5, 1985 site inspection memo from Debbi Poiani, in a technical report for the Noise Element of the Countywide Plan, written by Illingworth and Rodkin dated October 14, 1987, and verified in a telephone conversation with a Commodore representative on February 25, 1991 as documented in the Noise Element of the Countywide Plan. The Board of Supervisors finds that these documents establish the legal non-conforming use to be, 3.5 flights per day in the winter, 6 flights per day in the summer, with an average of 25 flights per week

V. WHEREAS, the Board of Supervisors finds that while the pilot logs submitted by the appellant provide an overview of the daily heliport activities, the logs do not provide conclusive evidence that the levels of use documented in 1981 and 1983 the Hurley Letters and the Board Letter were inaccurate.

VI. Whereas, the Board of Supervisors finds that refueling of helicopters engaged in tourist flights from Fisherman's Wharf no longer occurs at the Marin heliport and ceased operation in approximately 1988. However, refueling flights nevertheless, are included in the total number of flights established as legal non-conforming.

VII. WHEREAS, the Board of Supervisors interprets Marin County Code, Title 22, Section 22.78.010 to require that once a use ceases it may not be re-established unless it is conforming to the zoning district. In 1976 the number of flights was reduced by 14 flights per day as documented in SFO Helicopters Flight Guide and Schedule dated 10-27-74. This reduction in flights dramatically changed the level of the legal non-conforming use. Documentation of Commodore's heliport use in 1976 was established by the operator of Commodore Helicopters in the Hurley Letters and reaffirmed by the Board Letter. The Board of Supervisors finds that the reduction in flights for a period of more than six months in 1976 constituted a change in use. The re-establishment of the 1966 use almost 30 years later would be considered an increase in the legal non-conforming use.

VIII. WHEREAS, the Board of Supervisors finds that the type of flight, such as tourist, charter and refueling, does not necessarily describe the intensity of heliport use. Therefore the Board has determined that the historically documented 6 daily flights, which includes all types of flights, be a daily maximum rather than distinguishing between tourist, charter and refueling flights. A flight is defined as one take off and one landing.

IX. WHEREAS, the Board of Supervisors conducted a public hearing on May 2, 1995, and reviewed the administrative record, and based on the record finds, that the Hurley Letters and the Board Letter clearly document that the legal non-conforming level of use (3-6 flights per day between 6:30 a.m. and 5:45 p.m. weekdays and 9:00 a.m. and 4:00 p.m. week-ends) and that the current level of use (7-20 flights per day between 5:00 a.m. and 7:30 p.m.) exceeds the legal non-conforming use.

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Board of Supervisors hereby denies the appeal of Isidoor Bornstein, on behalf of Heli USA, and sustains the Planning Commission's determination that the allowable legal non-conforming use is a maximum of 6 flights per day between 6:30 a.m. - 5:45 p.m. weekdays and between 9:00 a.m. - 4:00 p.m. on the weekends. Any helicopter flights or other activities not specified above are prohibited unless a Master Plan/Use Permit is applied for and approved.

SECTION II: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 2nd day of May, 1995 by the following vote to wit:

AYES: SUPERVISORS Harry J. Moore, Gary Giacomini, John B. Kress, Annette Rose

NOES: None

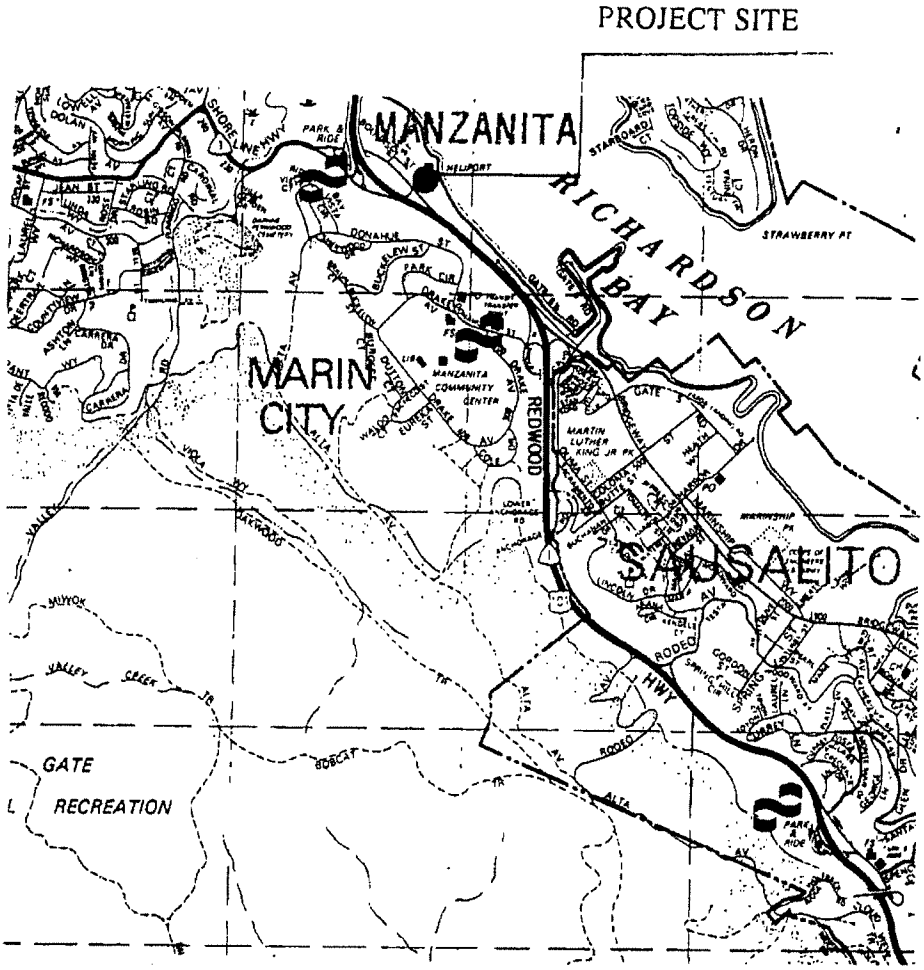
ABSENT: SUPERVISOR Harold C. Brown, Jr.

ANNETTE ROSE
President of the Board of Supervisors

ATTEST:

Martin J. Nichols
Acting Clerk of the Board of Supervisors

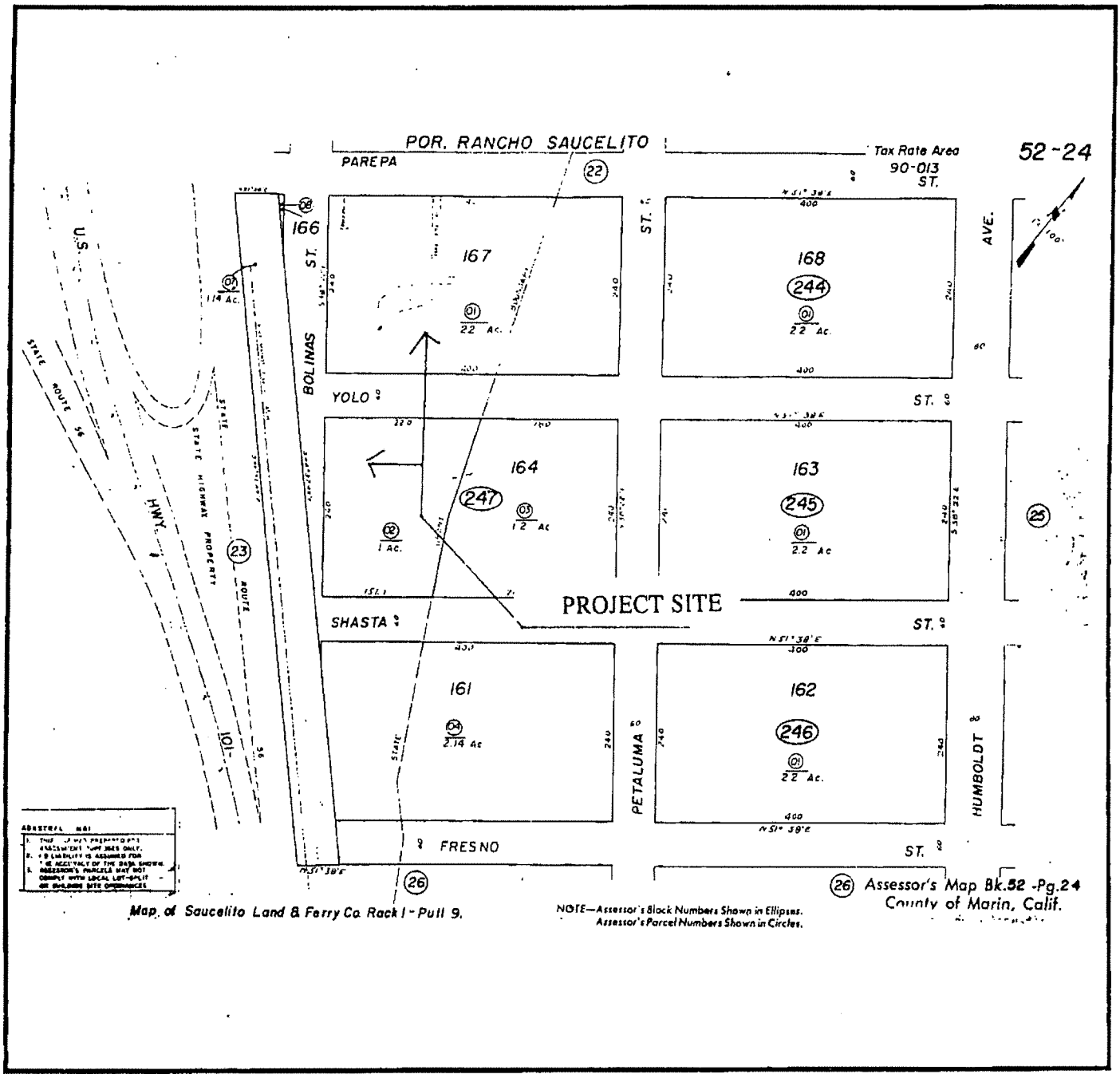
Marin County
Community Development Agency
Location Map



PRICE USE PERMIT (HELIPORT)
240 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01, 02
February 29, 1996
Not to Scale

Attachment 4

Marin County
Community Development Agency
Assessor's Parcel Map



PRICE USE PERMIT (HELIPORT)
240 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01, 02
February 29, 1996
Not to Scale

Attachment 5

INTER-OFFICE MEMORANDUM

PUBLIC SERVICES AGENCY

DATE: 2/5/96 DUE: 2/12/96

RECEIVED BY

TO: Toni Lai

FROM: Marie

APPROVED: GM

RE: Price Use Permit

A.P. #: 052-247-01, 02

ADDRESS: 240 Redwood Hwy
Mill Valley

TYPE OF DOCUMENT

- ✓ DESIGN REVIEW
- ___ LAND DIVISION
- ✓ USE PERMIT
- ___ VARIANCE
- ___ LOT LINE ADJUSTMENT
- ___ ENVIRONMENTAL DOC.
- ___ COASTAL PERMIT
- ___ OTHER ___

We have reviewed this application for content and:

- ✓ Find it complete
- ___ Find it incomplete. Please submit items listed below.
- ___ Recommend Denial for reasons listed below
- ✓ Find it Acceptable as Presented
- ___ Recommend the conditions listed below be completed prior to :
  - ___ Issuance of Building Permit
  - ___ Occupancy
  - ___ Approval of ___
  - ___ Other ___

FLOOD CONTROL

- ___ N.A.
- ✓ No Comments
- ___ Comments Included

TRAFFIC

- ___ N.A.
- ✓ No Comments
- ___ Comments Included

ATTACHMENT 6

County of Marin

Office of Waste Management

INTERDEPARTMENTAL TRANSMITTAL

415/499-6647

TYPE OF DOCUMENT:	**Use Permit 96-003**
DATE:	**11-17-95**
TO:	**Tom Lai**
FROM:	**Barbara Zett**
RE:	**Price Use Permit 96-003**
A.P.#:	**052-247-01 & 02**
ADDRESS:	**240 Redwood Highway, Mill Valley**

This Application has been reviewed for the following items:

Hazardous Materials -- Chapter 7.90 of the Marin County Code X

Underground Tank Laws -- Chapter 7.80 of the Marin County Code

This Application is found to be:

Complete

Proposed increase in the number of flights does not impact on the current Hazardous Materials Business Plan on file with this office or the contamination at the sight due to underground storage tanks.

RECEIVED BY
1995 NOV 21 P 3:11
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

ATTACHMENT 7

TAM DESIGN REVIEW BOARD

305 Bell Lane, Mill Valley, CA 94941

DESIGN REVIEW RECOMMENDATIONS

Date: NOV. 15, 1995

ADDRESS: 240 REDWOOD HWY

PLANNER: LAI

PARCEL: AP # 052-247-01 & 02

APPLICANT: PRICE

ATTENDING: STEVE PRICE

I. WE HAVE REVIEWED THIS APPLICATION FOR **COMPLETENESS** & FIND IT:

X Complete as presented. as

Motion: POLLACK

Second: ALLEN

Vote: 7 Ayes 0 Noes 0 Abstain

Abstentions/Reasons:

A. _____

B. _____

C. _____

_____ Incomplete until all of the items listed below are submitted:

A. _____

B. _____

C. _____

D. _____

E. _____

II. WE HAVE CONSIDERED THIS APPLICATION FOR **ENVIRONMENTAL REVIEW** & FIND IT:

X Catagorically exempt from Calif. Environ. Quality Act. Section 15303 (a), Class 3, pursuant to Planning Dept. transmittal.

Motion: _____

Second: _____

Vote: ____ Ayes ____ Noes ____ Abstain

_____ NOT Catagorically exempt from Calif. Environ. Quality Act. Section 15303 (a) for these reasons:

Motion: _____

Second: _____

Vote: ____ Ayes ____ Noes ____ Abstain

Abstentions/Reasons:

A. _____

B. _____

C. _____

A. _____

B. _____

C. _____

III. WE HAVE REVIEWED THIS APPLICATION FOR **MANDATORY DESIGN REVIEW FINDINGS** & FIND IT SATISFIES THE FOLLOWING FINDINGS:

YES	NO	
___	___	The proposed structure will properly & adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale & surroundings.
___	___	It will not impair or interfere with the development, use, & orderly & pleasing development of the neighborhood as a whole, including public lands & rights-of-way.
___	___	It will not directly, or in a cumulative fashion, impair, inhibit, or limit further investment of improvements in the vicinity on the same or other properties, including public lands or rights-of-way.
___	___	It will be properly & adequately landscaped with maximum retention of native trees and other natural materials.
___	___	It will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or juxtaposition. Adverse effects may include, but are not limited to: a) scale; b) drainage systems & appurtenant structures; c) cut & fill or the reforming of natural terrain & structures appurtenant thereto, such as retaining walls & bulkheads; d) areas, paths & rights-of-way for the containments, movement or general circualation of persons, animals, vehicles, conveyances & watercraft; e) other developments or improvements which may result in a diminution or elimination of sun & light exposure, views, vistas & privacy.
___	___	It may contain roof overhangs, roofing material & siding material that are compatible both with the principles of energy conservation & with the prevailing architectural style of the neighborhood.

CONTINUED ON REVERSE OF THIS PAGE

ATTACHMENT 8

PROJECT: 240 REDWOOD HWY DATE: NOV. 15, 1995

IV. WE HAVE REVIEWED THIS APPLICATION FOR **MERITS** & RECOMMEND:

X Approved as submitted.

____ Approval with the following conditions:

A. In order to enhance fire safety, Applicant shall install four (4) hose bibs prior to issuance of Occupancy Permit. One hose bib shall be located on each primary side of the structure.
B. In order to ensure that new landscaping & ground cover plantings will be irrigated sufficiently & in a water-conserving manner, Applicant shall install a drip irrgation system prior to issuance of Occupancy Permit.
C. In order to enhance the structure's visual appeal to the neighborhood upon construction completion, to mitigate any adverse visual impact of the structure, & to prevent future soil erosion of any disturbed soil, Applicant shall install drought resistant trees, shrubs & ground cover on all disturbed soil noted on plans. These plantings shall be at least 50% native, deer-resistant species, & shall be installed prior to issuance of Occupancy Permit.
D. _____
E. _____
F. _____

____ Continuance with Applicant's consent until: _____

____ Denial for the following reasons:

A. _____
B. _____
C. _____

Motion: DEGONA Vote: 7 Ayes 0 Noes 0 Abstain

Second: CULLEN Abstentions/Reasons:
A. _____
B. _____
C. _____

V. **ADDITIONAL MERITS & COMMENTS** REGARDING THIS PROJECT & ITS DESIGN:

RED SOD Exhibit C6 - Pre-App 1995

COMMUNITY DEVELOPMENT AGENCY

COUNTY OF MARIN

PLANNING DIVISION

PROJECT TYPE & YEAR: PR 1995

A.P.N. 052-247-01, 02, 03

NAME

LANDOR, WALTER

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

April 26, 1995

Steve Price
San Francisco Seaplane Tours, Inc.
242 Redwood Highway
Mill Valley, CA 94941

RE: Preapplication Review for Landor Property
240 Redwood Highway, Mill Valley
Assessor's Parcel Numbers 052-247-01, 02, 03

Dear Mr. Price:

Thank you for your letter of March 14, 1995 in which you requested a preapplication review to determine the feasibility of allowing various interim uses on the Landor property. These would include a refreshment stand, delicatessen, jet ski maintenance and sales, art studio, art classroom, and a small property management office. You have indicated that physical improvements would include minor repair (replacement of windows and installation of a new roof), removal of toxic contaminants, repainting the building exteriors, and new landscaping. Due to various work commitments, I have been unable to provide a timely response to your preapplication review and am appreciative of your patience in receiving this belated response.

This letter attempts to supplement the preliminary analysis and identification of issues contained in two previous preapplication reviews that have been prepared by Planning staff for the subject property. These are included as attachments for your use. Specifically, this preapplication will address the feasibility of each of the interim uses that you contemplate to conduct.

Project Feasibility

Development of the Landor property is subject to various plan policy and zoning restrictions. Without reiterating the analyses contained in the previous preapplication reviews, the primary issues associated with the conduct of the proposed interim uses include the following: (1) conformance with the Marin Countywide Plan policies which designate the property for recreational-commercial uses; (2) conformance with the Tamalpais Area Community Plan which encourages resort and resort-oriented recreational facilities that are balanced with the need for public access, shoreline recreation, open space, habitat preservation, water quality; and (3) conformance with the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning district which limits uses to those that are related to water-oriented resort and recreational activities. Specifically, with respect to the zoning requirements, the BFC-RCR zoning district allows uses that are related to a resort or that are desirable or necessary for public service, utility service or for the recreation industry, but specifically prohibits residential, industrial, institutional, general commercial, mobile home parks, and floating home marinas. The existing heliport, seaplane, and houseboat uses are considered non-conforming with respect to the current zoning.

Although you have indicated that the proposed uses would only be temporary in nature and would be followed by a subsequent application for entitlements to allow long-term uses that would conform with plan policy and zoning requirements, the interim uses would nevertheless be subject to the same plan

3501 Civic Center Drive, #308, San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

policy and zoning requirements. The County is prohibited under State Law from granting entitlements that authorize non-conforming uses, which would be equivalent to the grant of use variances.

The following provides staff's preliminary assessment for each of the contemplated interim uses on the Landor property.

1. Refreshment Stand

   A refreshment stand constitutes a general commercial use that is not consistent with governing policies and zoning regulations, unless it can be demonstrated that this use is incidental to a larger activity which is related to a permitted use for resort or commercial recreational purposes, including a swimming and/or picnicking park.

2. Delicatessen

   Concurrent with this preapplication, staff is reviewing a proposal to operate Sally's, an arts-oriented cafe, in approximately 2,000 square feet of ground floor area in the main building on the Landor property. It is staff's opinion that the proposed delicatessen is also considered a general commercial use. Although a component of the delicatessen would provide for the display of artwork, the primary use would still constitute a general commercial food establishment. In order for this type of use to be acceptable, the scale and configuration of the delicatessen and art components would need to be modified so that the overall use is related to a recreational activity that is open to the public, such as a museum or educational center, with a food service component that is incidental to that primary use, similar to a cafe component in a book store.

3. Jet Ski

   The maintenance, storage, and sales of jet ski equipment would also constitute a general commercial use that is not consistent with the governing policies and zoning regulations, unless it is subordinate to a water-oriented recreational use, such as jet ski recreation. Some issues that would need to be addressed if the primary use is proposed for jet ski recreation with incidental rental, sales, maintenance, and storage components would include impacts relating to noise, shoreline resources, personal safety, and possible opposition from the surrounding community.

4. Art Studio and Classroom

   Although artists' studio and classrooms are not entirely resort or recreational commercial in nature, it is staff's opinion that these uses would be consistent with applicable policies and regulations provided it is related and incidental to a primary recreational use, such as a museum or education center that is open to the public.

5. Management Office

   The use of a small office for management of the property would be a permitted use provided the scale of this use (number of employees, floor area, hours, etc.) is clearly minor and incidental to the rest of the uses in the building. General office uses are not permitted under the zoning.

Applicable Permits

Under the governing BFC-RCR zoning district, development on the subject property is subject to Master Plan and Precise Development Plan requirements contained in Chapter 22.45 and Tidelands Permit requirements contained in Chapter 22.78 of the Marin County Code.

1. Master Plan Waiver

Provided the scale and mix of uses conform to applicable policies in the Marin Countywide Plan and the Tamalpais Area Community Plan, and an amendment to these plan documents is not required, the Community Development Director may waive Master Plan requirements in favor of a Use Permit. In order for a Use Permit to be approved, a mandatory finding contained in Section 22.88.020 of the Marin County Code would need to be made to determine that the proposed uses would not result in a detriment to the public health, safety, or general welfare. Some considerations that would be used in making this determination are discussed in the following section on development issues. Enclosed is a fact sheet which discusses the Use Permit process in greater detail.

2. Precise Development Plan Waiver

Based on the scale of the proposed improvements, the Community Development Director may waive Precise Development Plan requirements in favor of a Design Review. In order for a Design Review to be approved, mandatory findings contained in Section 22.82.040 of the Marin County Code would need to be made. Some of the issues associated with the proposed development that would be addressed through Design Review would include whether proposed roofing materials and building colors are compatible with the surrounding area, and whether proposed landscaping is suitable for a bayfront environment and would not inhibit visual or physical access toward the shoreline. Enclosed is a fact sheet which discusses the Design Review process in greater detail.

3. Tidelands Permit

Development of the property is subject to approval of a Tidelands Permit. Pursuant to requirements contained in Chapter 22.77 of the Marin County Code. The intent for this permit is to promote, preserve and enhance tidelands, shorelines, waterways, beaches, and salt marshes as vital natural resources which provide scenic views, open space, wildlife habitat, and recreational and water-oriented resources. The Community Development Director may waive Tidelands Permit requirements for minor maintenance work to existing buildings or work that is found to be minor or incidental. Enclosed is a fact sheet which discusses the Tidelands Permit process in greater detail.

4. Bayfront Conservation District

The BFC overlay zoning district requires that all development be preceded by an Environmental Assessment to evaluate the physical, policy, and environmental constraints of the property, including visual impacts, public access, traffic, water quality, and sensitive shoreline habitat areas. This requirement may be waived by the Community Development Director depending on the scale of the proposed improvements. However, the Director may require additional studies that address specific bayfront resources as part of the waiver process.

Development Issues

The scale and mix of uses would be determined by the project's ability to address the following development issues.

1. Traffic and Circulation

The proposed interim uses would be reviewed to determined if they would exceed the capacity of surrounding roadways and freeway interchanges. Based on the discussion contained in the previous preapplication reviews, intensification of uses on the Landor property could adversely affect traffic circulation and exacerbate the existing substandard traffic conditions. Therefore, staff recommends that a traffic study be prepared to determine whether there is sufficient capacity in the surrounding

roadway network to accommodate the trips that would be generated by the proposed uses without triggering roadway and interchange improvements. In the event the proposed uses do not exceed the capacity, the project would be subject to payment of its fair share for future traffic improvements through a traffic mitigation fee.

2. Off-street Parking

The Tamalpais Area Community Plan contains policies that require all parking for new or intensified uses on the subject property to be provided onsite and not in the surrounding public rights-of-way. In addition, Marin County Code Title 24 requires off-street parking to be provided for all uses on the property. Based on the site survey prepared by Anrig-Doyle and submitted in conjunction with your pre-application letter, the only off-street parking currently available on the subject property consists of the row of parking on the south side of Parepa Street that is used for the houseboat marina. The Department of Public Works staff has indicated that although existing on-street parking spaces could be considered in conjunction with the review of development on the subject property, off-street parking would need to be provided in general conformance with the parking guidelines contained in Title 24, which range from one space per 50 square feet of public area for a food service establishment to one space per four persons for a public exhibition hall.

Review of the site survey indicates that the property is very limited in its ability to provide additional off-street parking spaces without entailing substantial site and building alterations. It appears that the only feasible location for additional off street parking spaces is located on the southeast corner of Parepa Street and Bolinas Avenue. Using standard perpendicular parking spaces, staff estimates that up to eight off-street parking spaces could be provided in this location. As a general measure of conformity with the parking requirements, these eight spaces could accommodate a delicatessen with 400 square feet of public area, or less than half the 1,000 square foot size that is contemplated for Sally's. Conversely, using the Uniform Building Code's standard occupancy requirements for an exhibition hall, the potential off-street parking spaces would allow for 120 square feet of exhibition space.

Conclusion

Based on the preliminary analysis above, it would be difficult to undertake interim uses on the Landor property without comprehensively addressing all of the policy and zoning constraints. Although some of the proposed uses, namely the delicatessen, jet ski, and art-related educational uses, may be modified to more closely reflect resort and recreational commercial uses, it is staff's opinion that it would be very difficult to provide a sufficient number of off-street parking spaces to meet County requirements without involving substantial modifications to the existing building and site. If that were undertaken, it is likely that the scope of the modifications (conversion of a portion of the building into a parking garage, etc.) could conflict with other governmental regulations, such as the Federal Emergency Management Administration's minimum threshold for raising the building to meet flood elevations. Staff is also concerned about the cumulative effects associated with intensification of uses on the property that may have physical ramifications to long-term development.

Environmental Review

Pursuant to the California Environmental Quality Act, the project may be exempt from environmental review if it meets applicable plan policy and zoning requirements and if it does not result in potential impacts associated with aesthetics, wildlife resources, water quality, archaeology, and traffic. However, depending on the scale and scope of the interim uses, environmental review may be required. In the event it is required, the first step in the environmental review process involves the preparation of an Initial Study to examine potential significant effects on the environment that may result from the project. Depending on the outcome of this Initial Study, which would be circulated for public comment and review, the project would either result in the adoption of a Negative Declaration of

Environmental Impact or the requirement to prepare an Environmental Impact Report. Enclosed is a fact sheet which discusses the environmental review process in greater detail.

Please note that your pre-application fees will be applied toward your application fees should you wish to proceed with an application for a Design Review and Use Permit for the proposed project and if you apply within one year from the date of this letter. I can be reached at (415) 499-6292 if you have further questions regarding this matter.

Sincerely,

Thomas Lai, AICP
Senior Planner

Attachment: (1) Community Development Agency Letter, (8/15/94)
(2) Community Development Agency Letter, (3/23/94)
(3) Fact Sheets (Design Review, Use Permit, Tidelands Permit, Environmental Review)

cc: Sally Seymour (Sally's Cafe) (Attachments Included)
Brad Sears (Attachments Included)
Mark Riesenfeld, AICP, Director
Denise Pinkston, Planning Services Coordinator
Dean Powell, AICP, Principal Planner
Supervisor Annette Rose

SAN FRANCISCO SEAPLANE TOURS INC

COMMODORE SEAPLANES

RECEIVED BY
1995 MAR 17 A 9:07
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

March 14, 1995

MARIN COUNTY COMMUNITY
DEVELOPMENT AGENCY
3501 Civic Center Drive #308
San Rafael, California 94903-4157

Attn: Denise Pinkston and Debbi Poiani

Re: 240 Redwood Highway

Dear Ms. Pinkston and Ms. Poiani:

Thank you for your help on this. As we discussed, this should be considered a pre-application prior to the Use Permit. Enclosed is a check for the amount of $300.00 for this application.

I indicated previously I would keep you both, as well as Supervisor Rose appraised of our progress on the repairs of the building and the progress with the Use Permit.

As we discussed, my intent is to apply for a permit on a temporary basis (two years) to place various tenants (whom we believe to be within the RCR Zoning) in the property on a short term basis. This will enable me to make the necessary repairs, toxic cleanup, roof, windows, paint, and landscaping of the property while we evaluate long term leases. The overall goal being to repair and restore the building, and secure a Use Permit with tenants agreeable to yourself, the other governmental agencies and the community.

On January 31, 1995 shortly after our last meeting, I followed through personally with telephone conversations you suggested I make with John Wooley, Steve Jensen and Timothy Underwood. Subsequently I met with each of these gentleman in person and discussed various issues.

As you know the building is badly in need of repair, and there are pre-existing Toxic problems, specifically two underground tanks. My first priority is to:

CLEAN UP THE PROPERTY

1.) Remove both underground tanks
2.) Check for any toxic contamination, and if any, remediate
3.) Secure a closure regarding the tanks/property

242 REDWOOD HWY • MILL VALLEY • CALIFORNIA 94941 USA • 800-732-0220 (CA) • 415-332-4843 TEL • 415-332-4851 FAX

ESTABLISHED IN 1945

380-8400 Steve Price.

$300 Receipt # 24784
Commodore Centers 3/17/95

On February 17, 1995 I met with Tim Underwood and we viewed the site. At that time I showed him the two underground tanks of which he was unaware of the second larger 10,000 gallon tank. He suggested I narrow my bids to one contractor and set up another discussion.

After receiving all my bids for the removal of the tanks, I decided on the Industrial and Environmental Contracting Firm of W.A. Craig, Inc. While they were not the least expensive, they are a local firm and extremely familiar with all the governmental agencies.

Bill Craig who will be handling this personally, spoke with Tim Underwood and they are in the process of developing a "Work Plan". In addition Mr. Underwood thought it would be best to contact the BCDC, which they have done. There appears to be a 30 day permit process with the BCDC which we are trying to expedite.

I estimate that once BCDC permits are secured, and we do not find any remediation necessary, I can have this completed within one month.

REPAIR/REPLACE EXISTING WINDOWS AND PAINTING

My next priority is to keep the water out by replacing the old roof with a new one, replace or repair the windows and paint the entire structure. I would also like to initially do some minor landscaping.

Depending on income from tenants, I would be able to complete this phase of the project simultaneously with the Toxic Cleanup.

FLOOD ZONE; FEMA REQUIREMENTS

At 1:00 p.m. on February 17, 1995, I met with John Wooley who informed me that a new floor would not be needed during the first phase of the repairs on the building. He explained that a formula in rough numbers to be $58.00 per square foot times the number of square feet would give us the estimated building value. Half this amount cumulatively, would require FEMA upgrades. He agreed the repairs would be only a small fraction of that amount, therefore until we reached that amount no new floors were required.

CONTRACTOR PERMITS

After that meeting I met with Steve Jensen to whom I explained my intentions. They were to, during the first phase, initially keep the water out by putting on a new roof, repairing and or replacing broken or missing glass, repairing the plywood floor, and painting. He furnished me with two permit applications, one for the roof and one for windows along the east side of the second story.

COMPLETION OF PHASE ONE

During the completion of the above repairs, I would like to submit my application for a Use Permit. The objective of this would be to find long term tenant/tenants acceptable to Marin County and the community.

INTERIM TENANTS

The RCR Zoning, BCDC Requirements, Tam Valley Plan, etc. make it somewhat difficult for me to find a tenant who will eventually be acceptable to all parties. As you know, long term tenants such as the Marin Arts Council are somewhat slow in their process. During this approximate period of time (two years) we will attempt to rent to a variety of tenants we believe to be within the RCR Zoning and agreeable to Marin County and the Community.

Currently we are leasing to Kids' Headquarters (The Planet), HELI USA, and Commodore Seaplanes. We are looking into temporary leases with a refreshment stand/deli, jet ski operator for maintenance, storage and sales, art studio space, an art classroom, and a small office for managing the property.

These repairs, while costly, can be expedited by some of the income generated by the tenants while we await the outcome of the use permit. Again only short term leases during this phase will be granted to small businesses which we (and they) feel are within the RCR Zoning.

LONG TERM TENANTS

Over this two year process, we will attempt to secure long term leases with the current or future tenant/tenants agreeable to the agencies above.

USE PERMIT

Marc Cavagnero and myself are continuing with the Use Permit Application and hope to submit it to you after receiving the BCDC permit.

We have already completed the preliminary Site Plan and have enclosed a copy of it for your review.

HELI USA

As you know I attended the meeting at Civic Center last Monday and was appalled at Heli USA's presentation. Unfamiliar with these type of proceedings personally, I had raised my hand during the process to voice my opposition to many of the statements which were made by Heli USA's president Capt. Nigel Turner. One of the board members motioned me to take a sign in sheet which I did, however I never did get to address the Commission.

Should you or other members of the Planning Commission have any suggestions to resolve this issue, I would welcome the opportunity to discuss the future of the Heliport.

FURTHER ACTIVITY/COMMENTS.

Commodore Seaplanes was established in 1945 and has been in continuous operation since that time. My objective is to offer my customers a kind of "Wilderness Experience" by giving people tours of the Bay Area, and soon, trips (fishing, camping, kyaking, etc.) to remote areas of California and the Northwest. It is my opinion, this image fits in well with the kind of local residents who presently take our tours and refer friends and family to us as well.

Commodore Center is a Landmark to the entrance of Marin County and while historically the building has been terribly neglected, I would like the opportunity to restore the building and continue the history of Commodore Seaplanes.

Thank you for your cooperation and efforts thus far in helping me sort through this complex process. I will continue to keep you appraised of our progress. Also, I would like you to know that if you have any questions whatsoever, please call me. I can be reached at any time and welcome and comments, suggestions, or questions you may have.

If all goes well I hope to have the entire property cleaned up and the above first phase completed well before our **50th Anniversary** on November 11, 1995!

Very truly yours,
COMMODORE SEAPLANES

Steven D. Price
SDP/lv

cc: Supervisor Rose

Sally's

breakfast - lunch - espresso desserts

Sally Seymour
320 De Haro at 16th Street
San Francisco
626-6006
message & home 824-3307 - all three

Brad Sean
351-5661 (msg)
456-1870 *.

March 9, 1995

Dear Mr. Rose,

My meeting with you today is to explore your thoughts on the possibility of a Sally's café at the Heliport. My son & daughter-in-law would be my partners. They are long time residents of Sausalito. He built my present restaurant (he is a contractor/carpenter) and she has been my manager at Sally's for over eight years.

I am in the process of selling Sally's in the City (which I own with my daughter, Katharine Brown) so would be giving the Heliport my full-time energy.

Thank you in advance for your thoughts on this.

Sally Seymour

MEMO TO: Annette Rose
Board of Supervisors
County of Marin

VIA FAX: 626-4040

FROM: SALLY'S
Sally Seymour
300 Delharo Street
San Francisco, California

DATE: March 6, 1995

RE: Letter of Intent

This is a Letter of Intent to run a small "arts" oriented cafe in the glass hangar space at the Heliport.

"Sally's" has served a "cafeteria style" breakfast and lunch for 17 years in San Francisco. Enclosed is a Sally's menu.

Also enclosed is a copy of a preliminary plan review for the same property, written last summer. Perhaps you have seen the letter? Denise Pinkson, Planning Services Coordinator for the County, responded to the applicant, Mr. Klein's, plan for 8-10K sq. ft. of restaurant related use.

Sally's plan is for 2K sq. ft., 1K sq. ft. of that being actual seating, considerably smaller, by about 80%, in the hope that this small cafe plan would mitigate parking and traffic problems. We would be willing to close the business during the evening commute to reduce traffic pressure on the Manzanita intersection if the County felt it was necessary for such a small cafe.

As you know, this area of the property has remained in a state of inertia for decades. It was built to serve the first wave of the "airport culture" in the 50's in an era that lacked codes and commissions. In fact under the current zoning practically everything on the property is existing, non-conforming.

Sally's agrees with the zoning with its current constraints and its "will" for a publicly accessible and hopefully marine-oriented use. Given the location, a low tidal mud flat, most water activities are limited.

Perhaps the most important question is whether our plan is an appropriate use under the RCR zoning. Will it serve the public? We believe that our track record as a comfortable, "arts" oriented meeting place comes about as close as anything viable within the zoning (short of a mud wrestling arena!).

Sally's plan, we feel, preserves the spirit of the RCR zoning in that Sally's has offered a rich, diverse cultural setting as well as well-priced nutritious food.

Sally's has provided a venue for the largest art colony on the West Coast, known as the "Point" for the last ten years. The Point is home to some of the Bay Area's most creative and prolific professionals, located at Hunters Point Ship Yard and operated by her curator and close friend Mr. Jacques Terzian. It is our hope to promote the art of North Bay artists as well in our new setting. We will provide a place where artistic activity is encouraged; perhaps a performing arts venue in addition to the plastic arts. There has been some talk of the Marin Arts Council taking the adjoining space. Hopefully this will happen.

Sally's has become popular with active people, i.e. body builders, bicyclists, and runners. Sally's takes great pride in providing the "high octane organic food" athletes seek. Fortunately these people use the bike path and shouldn't impact the traffic situation.

Other "nearly pedestrian" clients are the people who now wait in mini-vans during the weekend for seaplane excursions. Mr. Price, the master lease holder of the property and future owner, needs a convivial place for these people to wait. This is an ancillary use and is appropriate, we feel.

Also, we plan to use the services of Colleen Mahoney Associates in Tiburon. She could give you an idea of what we offer at Sally's.

I have an appointment with you on Thursday, March 9th at 2:30 PM to talk with you about the possibilities of making such a cafe a reality. Thanks for your time.

Sally Seymour

March 3, 1995

To whom it may concern,

I'm an artist that lives and works in Sausalito, and also have a studio in San Francisco. I often stop at Sally's Deli at 16th and DeHaro streets and have for many years. I've always been impressed with the quality of the food--it's always fresh, interesting, delicious and very reasonably priced. Sally and all the friendly people she chooses to work for her have created a relaxing, convivial atmosphere where artists, business people, designers and people from all walks of life come to have great food as well as a comfortable place to relax and exchange ideas. You're always surrounded by works of local artists and Sally has always been very involved in helping to promote the arts. I've personally been included in several exhibitions there.
I personally hope that you will invite Sally to open up a similar establishment in Sausalito. I think that it would be a terrific addition to our own area, would create one of the very few places in Sausalito outside of the galleries where local artists would have an opportunity to show their work and I'm sure that you yourself would be seen regularly relaxing there and enjoying some of Sallys great food.

Sincerely,

James Stagg

James Stagg
272 Bay Vista Circle
Sausalito, CA 94965
(415) 332-7856

Carol Jessen
932 Stanyan St. #4
San Francisco, CA 94117

March 7, 1995

Ms. Annette Rose
County Board of Supervisors
Marin County

Dear Ms. Rose:

I'm writing on behalf of Sally Seymour. I am a San Francisco artist who has had the pleasure of knowing Sally for 10 years as a result of her involvement and support of the local art community. I've had a Studio at Hunters Point Shipyard for many years, have exhibited my work at numerous galleries, participated in Open Studio and local art festivals including the Sausalito Arts Festival. In 1994 I was chosen to do the artwork for the successful Festival Poster.

Since first opening her restaurant, Sally has warmly welcomed local artists (even those who may have never shown their work in a gallery) to exhibit in her establishment. It's such a pleasure to see the new and diverse shows every month or two. She not only shows the public new and diverse artwork, but takes no commission from sales and to top it off generously feeds the participating artist/artists. She has sponsored many artists projects by providing space and food for meetings, etc. She also gave a group show entitled "10 years at the Point" to promote the artists from the shipyard. I'm sure Sausalito artists would benefit from such events if she were to open a restaurant there.

Setting aside her support for artists, the restaurant has a wonderful casual atmosphere and a wide variety of healthy tasty food. The prices are very reasonable. I tell my friends it's a gourmet cafeteria where you can drink a cappucino and read your book without feeling rushed.

I think a place like "Sally's would definitely spice up that no-mans land between Sausalito and Mill Valley. The locals would benefit even more than tourists because it's the type of cafe they would want to frequent again and again, as I do.

Sincerely,

Carol Jessen

Carol Jessen

Potrero Hill Neighborhood House
MULTI ETHNIC THEATRE

953 DeHaro Street • San Francisco, CA 94107 • (415) 550-8161

March 6, 1995

TO WHOM IT MAY CONCERN:

This is to express my appreciation, admiration, and gratitude to Sally Seymour of Sally's Deli and Restaurant for her support of Multi Ethnic Theatre and of the arts in general.

Sally's Deli and Restaurant has long been recognized for the gallery style art displays on its walls. Each year this venue introduces our community to the work of many visual artists.

But Sally's support of the arts goes well beyond displays in her place-of-business. Each year she actively sponsors interest in the annual artists' Open Workshops in our area.

Sally's support of Multi Ethnic Theatre has been manifold and of great impact. She has encouraged large group attendance to MET productions by her patrons. She has spearheaded a movement to rally community businesses in support of our theatre. As a result fifteen area shops and services are now official MET sponsors. Our growth in audience over the past two years has been largely due to her help.

Sally Seymour sets an example of how small business leaders can support art in America.

Sincerely,

Lewis Campbell
Artistic Director
Potrero Hill Neighborhood House
MULTI ETHNIC THEATRE

~Sally's Box Lunches~

Phone 626-6006, or fax us at 626-4040
Served in Bioboxes, a biodegradable ink-free container.
Labeled with contents and sealed
Prices includes eating utensils, napkins, and condiments.

Kansas St.- Roast Beef on sourdough, red potato salad, chocolate chip cookie..... $6.95

Tennesee St.-Turkey Breast on multigrain wheat, fresh fruit cup, and orange oatmeal raisin cookie..... $7.50

Produce Market- Veggie Sandwich (avocado, carrots, cucumber, tomato, sprouts)on multigrain wheat, fresh fruit cup, and triple chocolate cookie..... $7.75

Rhode Island- Monroe Chicken Salad on sourdough, with fresh fruit cup, and chocolate chip walnut cookie.... $7.75

Henry Adams Place- Omar (turkey breast, chopped nuts, bacon, pineapple with a curry-lemon dressing) on wheat, potato chips, chocolate chip oatmeal cookie..... $7.95

Townsend- Crosby (avocado, turkey, and sprouts) on multigrain wheat with fresh fruit cup and orange oatmeal raisin cookie..... $7.95

Sixteenth St- Albacore Tuna Salad on rye, with pasta vegetable salad and a fudge walnut brownie $7.50

Potrero Hill- Roasted Half Chicken, dipped in dijon and breaded with home-made breadcrumbs, parmesan, and herbs. Served with green salad, roasted red potatoes, and foccacia bread, and a lemon bar(24 hours notice please)...$8.95

As you can see we offer a number of choices to fit your budget. Beverages are not included in the price of the box lunches. We can provide a selection of sodas and mineral waters ranging from $.80 to $1.25 If you would like a different combination, in your box lunch, we would be happy to customize a menu for you.

MAR 07 '95 08:42 234 P02

Sally's

LUNCH
Served from
11:00 am - 3:00 pm

300 DE HARO STREET @ 16th STREET
SAN FRANCISCO, CA 94103
PHONE 626-6006
FAX 626-4040
100% NON-SMOKING

COLD SANDWICHES

Choice of 9-grain, sourdough, corn rye, foccacia or onion roll. Cheese, add 35¢

*1/2 SANDWICH with soup, mini-salad, potato salad or coleslaw ..... same price as whole sandwich

*CHEESE–swiss, provalone, jack or cheddar 3.75
*HAM–black forest 4.50
BLT ..... 4.50 with guacamole 5.25
*ALBACORE TUNA 4.95
ROAST BEEF (Niman Schell) 4.95
CORNED BEEF–very lean Vienna 4.95
VEGGIE–carrots, cucumber, guacamole, sprouts 4.95
*TURKEY BREAST–we roast our own 5.25
*MONROE–chicken salad w/sunflower seeds 5.25
BOGART–roast beef, dill pickle, sprouts & sour cream-horseradish dressing 5.50
BARRYMORE–avocado, jack, sprouts 5.50
CROSBY–avocado, turkey, sprouts 5.50
OMAR–turkey, bacon, chopped nuts, pineapple slices & curry lemon dressing 5.75
CALHOUN–shrimp & avocado, sprouts 6.50
CLUB–turkey breast, bacon, provalone 6.50

SALADS

CHEF'S–with turkey, swiss & ham 6.95
CAESAR (no egg or anchovies) 4.50
–with grilled chicken breast 6.95
CHINESE CHICKEN 6.50
SHRIMP & AVOCADO 7.50
LARGE VEGETABLE 5.95
PASTA PRIMAVERA–w/chardonnay vinaigrette on garden salad 4.75
*ALBACORE TUNA SALAD 5.95
*CHICKEN MONROE SALAD 6.25
scoops only–$2.00 less
GARDEN SALAD 2.95
MINI-SALAD 1.50
RED POTATO SALAD 1.50
COLESLAW 0.95
FRESH FRUIT SALAD
SMALL ..... 1.95 with nonfat yogurt & granola 2.95
LARGE–plain or with nonfat yogurt & granola 5.75

FRESH PASTA

FETTUCCINE–fresh, w/choice of light herb cream, basil pesto or low-cal marinara sauce, foccacia bread 5.75
– SEE OUR DAILY PASTA SPECIAL –

HOT SANDWICHES

CHICKEN BREAST–DIJON, TERIYAKI or PESTO on a dry sesame bun with fresh fruit cup 6.50
R.B.S.–hot roast beef on a grilled french roll au jus 4.95
NEW R.B.S.– above with mushrooms & herb jack 5.95
NEW TERZIAN–grilled eggplant, red onion, lettuce & tomato in a pita with cucumber-yogurt & herb sauce 4.95
REUBEN–corned beef, swiss & sauerkraut on rye 5.75
GRILLED CHEESE–swiss, jack, cheddar or provalone .. 4.25
GRILLED SMOKED TURKEY–w/provalone & roasted red peppers on foccacia or sourdough roll 6.25
TUNA MELT–albacore tuna & cheese 5.75

BURGERS

1/2 pound Niman-Schell natural, lean beef on a sesame seed bun, mayo, mustard, tomato, lettuce, onion & pickle. Served with potato salad, coleslaw or chips.

UNADORNED 5.95
CHEESE 6.25
AVOCADO 6.75
BACON & CHEESE 6.95
DE HARO DELUXE–1/2 pound Niman-Schell beef with herb jack cheese 6.95
TURKEY BURGERS – 25¢ less than beef

HOMEMADE SOUP & BREAD

CUP 2.25
CUP, when with sandwich or entrée 1.95
CUP, with SMALL GARDEN SALAD 4.95
BOWL 3.95

BEVERAGES

MILK ..... low-fat or regular ..0.85
ICED TEA ..... 0.90 / pot of tea ..0.90
COFFEE & ESPRESSO DRINKS ..... 0.90 & up
FRUIT JUICES ..... 1.25 & up
WATERS & SODAS 0.85-1.25
BEERS & WINES ..... 2.25 & 2.50

Upstairs Café

weekdays • featuring veggieburgers, burritos & salads • enter through lobby

FOR TAKEOUT CALL 626-6006 or FAX 626-4040 ***OUR OWN BAKERY 626-0838***

Sally's is OPEN Monday–Friday 7:30 am to 3:00 pm, Saturday & Sunday – all-day breakfast 8:30 am to 2:30 pm

Not responsible for lost or stolen items.

7/94

Sally's

300 DE HARO STREET @ 16th STREET
SAN FRANCISCO, CA 94103
PHONE 626-6006
FAX 626-4040

100% NON-SMOKING

BREAKFAST

Served from
7:30 am - 11:00 am

TWO EGGS (any style)–served with potatoes & toast 3.50
above with HAM, BACON or SAUSAGE 5.25

TWO EGGS (any style)–served with CHICKEN-APPLE SAUSAGE, potatoes & toast 5.75

OMELETTES–three eggs, served with potatoes & toast
- Denver–ham, sautéed green & red peppers & onions 5.95
- Mexican–avocado, jack cheese, sour cream & homemade salsa 6.25
- Spinach, mushrooms & swiss cheese 6.25
- Avocado, bacon & cheddar 6.50
- Ham, jack & mushrooms 5.95
- Greek–spinach, feta, tomato 6.25

CORNED BEEF HASH (homemade)–served with two eggs, potatoes & toast 6.25

POTRERO POCKET–2 eggs scrambled with cheddar, tomato & bacon in pita bread 3.50

BIG DEAL–2 eggs, 2 pancakes & coffee 4.25

MICKEY MOUSE PANCAKE–for kids twelve and under 2.50

BREAKFAST SIDES

ONE EGG 0.75
TWO EGGS 1.25
HAM 2.25
BACON 2.25
SAUSAGE–pork 2.25
–chicken-apple 2.50

HOME POTATOES 1.75
TOAST 0.95
MUFFINS ..... 1.35 & up
BAGEL–toasted 1.25
BAGEL & CREAM CHEESE 1.95
CORNED BEEF HASH 3.50
TURKEY HASH 3.50

LOW FAT

PANCAKES–whole grain cakes with syrup *(blueberries, add $1.50)* ..... 3 cakes...3.25 / 4 cakes...3.95
OATMEAL–walnuts, raisins, brown sugar ..... bowl...2.50 / cup...1.75
with blueberries add ..... bowl...0.50 / cup...0.25
FRESH FRUIT SALAD SMALL ..... 1.95 ..... with nonfat yogurt & granola 2.95
LARGE–p'sip or with nonfat yogurt & granola 5.75

GOOD 'N LEAN

SIDE OF 4 EGG WHITES–scrambled 1.95

SILVER POCKET–4 egg whites, turkey, tomato, green onion & mushrooms in pita bread 4.50

BASIC BODY BUILDERS–4 egg whites scrambled & 3 pancakes 4.95

CHUCK'S STIRFRY–egg whites scrambled with steamed carrots, celery & mushrooms, with toast 4.95

TURKEY HASH–ground turkey with potatoes, peppers & onion. Served with 4 scrambled egg whites & toast 6.50

SAM'S OMELETTE–steamed spinach & mushrooms in a silver omelette with toast 6.25

ESPRESSO

Espresso 0.90
Cappuccino 1.60
Latté 1.75
Mocha 1.85
Doubles/decaf, add 25¢ each

BEVERAGES

Odwalla Juices ..... small...1.25 / large...2.25
Odwalla Specialties 2.50
Milk ..... low-fat or regular...0.85
Coffee ..... 0.90 **to go**... small...0.70 / large...0.90
Hot Chocolate 1.25

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Saturday & Sunday – all-day breakfast 8:30 am to 2:30 pm

7/94

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SAN FRANCISCO, CA 94103
PHONE 626-6006
FAX 626-4040
100% NON-SMOKING

Sally's

SATURDAY & SUNDAY BREAKFAST

Served from
8:30 am - 2:30 pm

WEEKEND SPECIALS

CHILAQUILES–roasted tomato & peppers sauce in eggs and tortillas w/jack. Served w/black beans 6.25
PESTO EGGS–scrambled with pesto sauce, served with potatoes & toast 4.95
HUEVOS RANCHEROS–2 eggs, salsa, black beans & guacamole 5.95

– ALSO, SEE MENU BOARD –

TWO EGGS (any style)–served with potatoes & toast 3.50
above with HAM, BACON or SAUSAGE 5.25
TWO EGGS (any style)–served with CHICKEN-APPLE SAUSAGE, potatoes & toast 5.75
OMELETTES–three eggs, served with potatoes & toast
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MICKEY MOUSE PANCAKE–for kids twelve and under 2.50

BREAKFAST SIDES

ONE EGG 0.75
TWO EGGS 1.25
HAM 2.25
BACON 2.25
SAUSAGE–pork 2.25
–chicken-apple 2.50
HOME POTATOES 1.75
TOAST 0.95
OUR BAKERY MUFFIN 1.35
BAGEL–toasted 1.25
BAGEL & CREAM CHEESE 1.95
CORNED BEEF HASH 3.50
TURKEY HASH 3.50

LOW FAT

PANCAKES–whole grain cakes with syrup *(blueberries, add $1.50)* ..... 3 cakes...3.25 / 4 cakes...3.95
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LARGE–plain or with nonfat yogurt & granola 5.75

GOOD 'N LEAN

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Mocha 1.85
Doubles/decaf, add 25¢ each

BEVERAGES

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Coffee ..... 0.90 to go... small...0.70 / large...0.90
Hot Chocolate 1.25

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7/94

Not responsible for lost or stolen items.

Sally's
300 Deharo
San Francisco, CA 94103
(415) 824-3307

March 16, 1994

Annette Rose
Board of Supervisors
County of Marin
Civic Center
San Rafael, CA 94901

I am writing on behalf of my mother, Sally Seymour, whom you met with on Thursday, March 9th regarding the Heliport.

Sally's respectfully requests a waiver of a master plan regarding the glass hanger space at the Heliport.

Thank you.

Brad Sears

Brad Sears
427 Sherwood Drive #206
Marin City, CA 94965
Sausalito
331-5661

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

August 15, 1994

Martin Swig
2300 Sixteenth Street
San Francisco, CA 94103

Dear Mr. Swig,

Thank you for your recent inquiry regarding the allowable uses of the Landor property in Southern Marin (Assessor's Parcel No. 052-247-01). This letter is to provide you with information regarding the allowable uses of the site under the Marin Countywide Plan, the Tamalpais Community Plan, and the Marin County Code. Following a review of the codes and policies governing land use at this property, this letter outlines the process and permits that would be required for the your prospective use of the site.

You should be aware that to occupy the structures on the property, you may need to make significant improvements to the buildings. You may contact Steve Jensen, County Building Inspection Division, regarding building requirements (415) 499-6550. You may also need approvals from the Bay Conservation and Development Commission and should contact their office in San Francisco regarding your plans should you decide to proceed regarding their requirements, if any.

1. Marin Countywide Plan

The Marin Countywide Plan designates this property for recreational commercial uses and indicates that the property lies within the Bayfront Conservation Zone. The recreational commercial designation allows resorts and recreational facilities such as golf courses or recreational boat marinas. The Countywide Plan allows recreational commercial uses, a building floor area not to exceed a range of 5% to 30% of the parcel area, and requires special consideration of shoreline preservation, access, and Richardson Bay water quality issues in any proposed new development of the site.

2. Tamalpais Community Plan

The Tamalpais Community Plan indicates that the highest priority uses of the area where this parcel is located are a shoreline park and a nature observation and study center. The Plan requires a master plan for any new development in this area, indicates that resort and resort-oriented recreation facilities are allowable uses provided that building heights and lot coverage are minimized and public access to the shoreline recreation resources in the area is enhanced (LU 32.1a and 1b).

The Tamalpais Community Plan also includes specific information regarding the Landor parcel. The priority recommendation for the site is public acquisition, which was under negotiation at the time of the Plan adoption between the land owner and the County (Program LU32.1e). The Plan also states that partial dedication to open space should be required if development of the site is approved. The Plan specifies policies for the development of the Landor property as follows:

a) Floor area ratio of 0.30 (maximum) of the dry land area, or 21,000 square feet of development, which ever is less;
b) Building Height - maximum of 33 feet from Mean Sea Level;
c) Landscaping - 30 percent of the dry site;

3501 Civic Center Drive, #308 - San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

d) Traffic impact costs shall be mitigated by developers;
e) The BCDC line of highest tidal action should be respected;
f) Parking within public streets is to be exclusively used for the public access, therefore all parking for new or intensified uses of the property must be provided on-site not in the public rights of way;
g) If underground parking is provided and the area which would have been dedicated to surface parking is retained in an open space type use, deviations from the height limit may be considered in order to accommodate parking.

In addition to these site specific policies, the Tamalpais Plan includes broad policies that would be applied to development including requirements for the provision of habitat buffer zones to protect wetlands and bay waters, preservation of lands within the 100 foot shoreline band, and guidelines for the enhancement and improvement of public access along the shoreline (LU33.1a).

The Tamalpais Community Plan also includes considerable information regarding traffic capacity which might be available to serve any intensification of use or new development of the Landor property. The interchange serving the Landor property, the Stinson Beach/Highway 101 or Manzanita Interchange exit operates poorly for certain turning movements and at certain times of the day causing excessive congestion. As a result, the Plan requires that improvements to the Manzanita Interchange and surrounding roadways be completed before any new development can occur that exceeds the currently available roadway capacity (which is very limited).

The Plan also requires that all new developments or intensification of activity at existing developed sites which trigger a discretionary review (such as a use permit or design review) shall pay a traffic mitigation fee for their fair share of these improvements. The Plan policies indicate that if proposals cannot be accommodated within the proposed transportation improvements, the project must be modified to reduce peak hour traffic trips or it will not be approved.

As part of any use permit, design review or other permit process a traffic study would be required to determine the number of peak hour traffic trips which could be generated before the interchange would have to be upgraded. The planning process would also determine the amount of the traffic mitigation fee.

3. Marin County Code

The Landor property is zoned under the Marin County Code BFC-RCR or Bayfront Conservation Resort and Commercial Recreation. A copy of the BFC and RCR sections of the zoning ordinance are attached.

The RCR zone (Marin County Code Section 22.47.050) allows activities which are related to resort and recreational activities subject to securing a use permit and either a master plan, development plan, or design review approval under the planned district regulations of the Marin County Code (Section 22.45). New or expanded residential, industrial, institutional, general commercial, mobile homes, and floating home marinas are not permitted (the existing marina, houseboats, seaplane, and heliport operations are existing legal non-conforming uses which may continue to operate provided they do so continuously and do not increase in intensity).

Examples of uses which could be found consistent with this zoning district might be hotels or conference facilities open to the public, recreational activities open to the public such as such as museums, classrooms, educational or interpretive centers, picnic areas, and small service facilities such as shops or restaurants which are incidental to such principally permitted uses. To the extent that the primary activity of the property is office space or retail area to sell goods and/or services and related activities, it would be classified as a general commercial use which would be prohibited in this zoning district. In each case, a proposed use would be subject to a obtaining either a master plan, a

development plan or a design review and a use permit. The distinction between master plan, development plan, and design review is one of time and level of detail considered. The attached fact sheets illustrate the distinction among these different levels of review.

The BFC zoning overlay requires the protection of bay front resources with particular attention to providing public access to the shoreline, mitigating any impacts on bay front habitat or water resources, and encouraging recreational activities that promote the use and enjoyment of the bay. Such activities include fishing, boating, hunting, picnicking, hiking and nature study. Combined, the BFC and RCR zoning for this property indicate that water-oriented recreational activities are the preferred use for this property under current zoning.

The Marin County Code Title 24 includes parking standards for new and expanding uses subject to any discretionary permits from the County. This section of the County Code requires on-site parking for residential and non-residential land uses. Each space must be 8 1/2 by 18 feet in size.

DISCUSSION OF PROPOSED AUTOMOTIVE GALLERY

The permit process required to locate a gallery on the Landor property would include the approval of a use permit to allow the gallery activity and a development plan approval for the proposed improvements to the buildings and site including facade treatments, signage, landscaping and parking. The development plan/use permit process could take at a minimum six months to complete. The use permit, development plan, and environmental review processes are discussed more fully below.

Use Permit

A use permit would only be granted under current plans and codes if the County can find that the proposed use is consistent with relevant policy documents and would not pose a detriment to public health, safety, or welfare.

If findings of consistency with applicable plans and codes cannot be made, then amendments to the relevant policy documents would be necessary. Such amendments are not governed by State Permit Streamlining Act, so there is no mandated time frame to limit the processing time for plan amendments. On other sites in the vicinity of the Landor property, it has taken several years to process plan amendments.

The decision as to whether or not your proposed gallery would be a permitted use under the Countywide Plan, Tamalpais Community Plan and County Code would depend on whether or not the use of the space was primarily retail in nature or primarily recreational in nature, and whether the gallery has some particular link to the water. A gallery where the primary activity is to sell art to the public or to certain patrons would be considered a retail activity. A gallery where the primary activity is to display works of art for public viewing could be viewed as primarily recreational. Sales, storage, office and support areas if smaller in square footage than the principal use could be considered incidental and not themselves the subject of separate use restrictions.

From your material, it would appear that the primary purpose of the gallery is to display and sell automotive art and artifacts, similar to the gallery that closed in San Francisco and not primarily to function as a museum established for recreational purposes. In addition, the use you propose has no particular link to the waterfront location.

Since the descriptions of your use do not appear consistent with Marin County Code zoning designations or plan designations, your proposal would require rezoning, a Tamalpais Community Plan amendment, a Countywide Plan amendment, and possibly an EIR before a use permit to operate as a gallery could be granted (in practice, these permits are processed concurrently). The use permit process with plan amendments could require as long as a year or more to complete. These processes

are described in the attached materials.

If your use is primarily a recreational gallery space for viewing of art and was related to the waterfront location, perhaps a use permit could be granted in six months if there were little controversy and if the use were further refined so that staff could find it consistent with existing policies and codes.

Development Plan

A development plan is required for your proposed activity under BFC RCR zoning and under the Community Plan. The development plan could be granted if the site improvements were sufficient to accommodate the proposed activity in an environmentally responsible fashion consistent with adopted plans and codes. As with the use permit, if consistency findings cannot be made, plan and zoning amendments may be necessary. If the helicopter and sea plane operations intend to expand their use of the property to include additional office space, this would also be subject to the use permit and development plan process. The expansion of these activities would be subject to the same standards as the proposed gallery.

Before applying to the County, you would have to prepare site plans, and a traffic and parking study to demonstrate the following: there is sufficient capacity at the Manzanita Interchange and nearby roads to accommodate the trips and parked cars for your proposed use, environmental shoreline access and wetland concerns can be addressed, and toxics on the site will be cleaned up. If all major site issues can be resolved easily in your proposed application (such as parking, traffic, access to the shoreline, hydrocarbons) than the County could consider waiving the development plan and requiring only a design review approval to address site issues.

If the traffic study you prepare shows that you would have to rebuild the interchange before you could occupy the space, then it could be several years before you could begin your proposed use unless an assessment district or other mechanism were established to fund the interchange improvements. It appears that there may be sufficient traffic capacity during the evening weekday peak period. Capacity on weekends may be more of a problem and would have to be explored by your traffic consultant.

The traffic study would be the basis for calculating a traffic impact fee. Currently, the amount of the traffic impact fee is approximately $3,000 per peak hour automobile trip. If your gallery is considered a "specialty retail" use, then it could generate approximately 4.9 evening peak hour trips per 1000 square feet.

The following is a rough estimate of the evening peak hour trips your use would generate. THESE NUMBERS ARE APPROXIMATIONS AND MUST BE REFINED THROUGH A SITE-SPECIFIC TRAFFIC STUDY.

Use	Trip Rate	Square Footage	Peak Trips	Fee
Gallery/ Storage	4.9	4,400	21.56	$64,680
Office	2.0	1,000	2	$6,000

Any intensification of use at the Landor property would have to provide sufficient off-street parking to accommodate the proposed use. If 5,000 square feet of area is devoted to gallery related use, 27 on-site parking spaces could be required which would be available for gallery use only. The precise number of parking spaces would be determined through the County environmental review process and the traffic and parking study that you submit. This could entail paving a larger area of the site for parking that is currently allocated for this parking. Any extensive site paving to accommodate parking could run up against policies that require shoreline access and the enhancement of the natural wetlands on the property. A permit application to the County would have to include parking studies that demonstrate that on-site parking could accommodate patrons while protecting site open space, vegetation, and wetlands.

Environmental Review

Both the use permit and development plan approvals will be subject to environmental review which would probably be limited to an initial study and negative declaration if no significant impacts on the environment are uncovered or if impacts can be mitigated to a level of insignificance. Hydrocarbon contamination, wetlands protection, public access, parking, traffic and required plan amendments could trigger the requirement for an EIR if they cannot be fully mitigated.

I hope that you find this information of assistance. I have enclosed applications for the County's Use Permit, Design Review, Development Plan/Master Plan and Environmental Review processes as well as fact sheets describing each of these for your information as well as our fee schedule. If you have any additional questions, please feel free to call me at (415) 499-6269.

Sincerely,

Denise Pinkston

Denise Pinkston
Planning Services Coordinator

Attachments

cc Mark Riesenfeld, Director
Annette Rose, Supervisor

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

August 15, 1994

Michael S. Klein
100 Shoreline Highway
Mill Valley, CA 94941-3644

Dear Mr. Klein,

Thank you for your recent inquiry regarding the allowable uses of the Landor property in Southern Marin (Assessor's Parcel No. 052-247-01). This letter is to provide you with information regarding the allowable uses of the site under the Marin Countywide Plan, the Tamalpais Community Plan, and the Marin County Code. Following a review of the codes and policies governing land use at this property, this letter outlines the process and permits that would be required for the your prospective use of the site.

You should be aware that to occupy the structures on the property, you may need to make significant improvements to the buildings. You may contact Steve Jensen, County Building Inspection Division, regarding building requirements (415) 499-6550. You may also need approvals from the Bay Conservation and Development Commission and should contact their office in San Francisco regarding your plans should you decide to proceed regarding their requirements, if any.

1. Marin Countywide Plan

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2. Tamalpais Community Plan

The Tamalpais Community Plan indicates that the highest priority uses of the area where this parcel is located are a shoreline park and a nature observation and study center. The Plan requires a master plan for any new development in this area, indicates that resort and resort-oriented recreation facilities are allowable uses provided that building heights and lot coverage are minimized and public access to the shoreline recreation resources in the area is enhanced (LU 32.1a and 1b).

The Tamalpais Community Plan also includes specific information regarding the Landor parcel. The priority recommendation for the site is public acquisition, which was under negotiation at the time of the Plan adoption between the land owner and the County (Program LU32.1e). The Plan also states that partial dedication to open space should be required if development of the site is approved. The Plan specifies policies for the development of the Landor property as follows:

a) Floor area ratio of 0.30 (maximum) of the dry land area, or 21,000 square feet of development, which ever is less;

b) Building Height - maximum of 33 feet from Mean Sea Level;
c) Landscaping - 30 percent of the dry site;
d) Traffic impact costs shall be mitigated by developers;
e) The BCDC line of highest tidal action should be respected;
f) Parking within public streets is to be exclusively used for the public access, therefore, all parking for new or intensified uses of the property must be provided on-site not in the public rights of way;
g) If underground parking is provided and the area which would have been dedicated to surface parking is retained in an open space type use, deviations from the height limit may be considered in order to accommodate parking.

In addition to these site specific policies, the Tamalpais Plan includes broad policies that would be applied to development including requirements for the provision of habitat buffer zones to protect wetlands and bay waters, preservation of lands within the 100 foot shoreline band, and guidelines for the enhancement and improvement of public access along the shoreline (LU33.1a).

The Tamalpais Community Plan also includes considerable information regarding traffic capacity which might be available to serve any intensification of use or new development of the Landor property. In particular, the interchange serving the Landor property, the Stinson Beach/Highway 101 or Manzanita Interchange exit operates poorly for certain turning movements and at certain times of the day causing excessive congestion.

The Plan requires that improvements to the Manzanita Interchange and surrounding roadways be completed before any new development can occur that exceeds the currently available roadway capacity (which is very limited). In addition, the Plan requires that all new developments or intensification of activity at existing developed sites which trigger a discretionary review (such as a use permit or design review) pay a traffic mitigation fee to pay for their fair share of these improvements. The Plan states that if proposals cannot be accommodated within the proposed transportation improvements, the project must be modified to reduce peak hour traffic trips or it will not be approved.

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Examples of uses which could be found consistent with this zoning district might be hotels or conference facilities open to the public, recreational activities open to the public such as such as museums, classrooms, educational or interpretive centers, picnic areas, and small service facilities such as shops or restaurants which are incidental to such principally permitted uses. To the extent that the primary activity of the property is restaurant, office space or retail area to sell goods and/or services

and related activities, it would be classified as a general commercial use which would be prohibited in this zoning district. In each case, a proposed use would be subject to a obtaining either a master plan, a development plan or a design review and a use permit. The distinction between master plan, development plan, and design review is one of time and level of detail considered. The attached fact sheets illustrate the distinction among these different levels of review.

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The Marin County Code Title 24 includes parking standards for new and expanding uses subject to any discretionary permits from the County. This section of the County Code requires on-site parking for residential and non-residential land uses. Each space must be 8 1/2 by 18 feet in size.

DISCUSSION OF PROPOSED RESTAURANT USE

The permit process required to locate a restaurant on the Landor property would include the approval of a use permit to allow the restaurant activity. A development plan would be required for the proposed improvements to the buildings and site including facade treatments, signage, landscaping and parking. The development plan/use permit process could take six months or more to complete. The use permit, development plan, and environmental review processes are discussed more fully below.

Use Permit

A use permit would only be granted under current plans and codes if the County can find that the proposed use is consistent with these policy documents and would not pose a detriment to the public health, safety or welfare. If findings of consistency with applicable plans and codes cannot be made, then amendments to the relevant policy documents would be necessary. Such amendments are not governed by State Permit Streamlining Act, so there is no mandated time frame to limit the processing time for plan amendments. On other sites in the vicinity of the Landor property, it has taken several years to process plan amendments.

Based you your letter, your proposed restaurant would not be a permitted use under the Countywide Plan, Tamalpais Community Plan and County Code. Restaurants are considered general commercial enterprises which are not allowed by the County Zoning Code or the Community Plan at this location. Such uses are not primarily recreational in nature and rarely have any particular link to the water. (If the restaurant is ancillary to a recreational use of the site, as you suggest for arts or environmental purposes, the plan amendments would perhaps not be required). Since a restaurant has no particular link to the water, your proposal should consider how to link the use to the site through improvements such as the environmental activities you described in your letter. In order to receive a use permit of a restaurant, you would have to also apply for a rezoning, a Tamalpais Community Plan amendment, and a Countywide Plan amendment which would be processed concurrently with the use permit. An EIR would probably be required due to the required plan amendments. These processes are described in the attached materials.

Development Plan

A development plan is required under the BFC RCR zoning and under the Community Plan. The development plan would be granted if the site improvements were sufficient to accommodate the proposed activity in an environmentally responsible fashion consistent with adopted plans and codes.

As with the use permit, inconsistency findings cannot be made, plan and zoning amendments may be necessary.

Before applying to the County, you would have to prepare site plans, and a traffic and parking study to demonstrate the following: that there is sufficient capacity at the Manzanita Interchange to accommodate the trips from your proposed use, environmental shoreline access and wetland concerns can be addressed, and toxics on the site will be cleaned up. without triggering the improvement of the interchange. If major site issues (such as parking, traffic, shoreline access, hydrocarbon contamination) are addressed by your application, then the County could consider waiving the development plan and requiring a design review instead.

If the traffic study shows that you would have to rebuild the interchange before you could occupy the space, then it could be several years before you could begin your proposed use unless the County were able to establish an assessment district or other mechanism for funding the interchange improvements. It appears that there may be sufficient traffic capacity during the evening weekday period. Capacity on weekends may be more of a problem and would have to be explored by your traffic consultant.

The traffic study would be the basis for calculating a traffic impact fee. Currently, the amount of the traffic impact fee is approximately $3,000 per peak hour automobile trip. Using standard trip generation rates for restaurants, your use would generate approximately 7.7 evening peak hour trips per 1000 square feet. These peak trips could perhaps be reduced if your hours of operation were established to avoid opening for meals until after the peak evening commute has ended.

The following is a rough estimate of the evening peak hour trips your use would generate. THESE NUMBERS ARE APPROXIMATIONS AND MUST BE REFINED THROUGH A SITE-SPECIFIC TRAFFIC STUDY.

Use	Trip Rate	Square Footage	Peak Trips	Estimated Fee
Restaurant	7.7	10,000	77	$231,000

Any intensification of use at the Landor property would have to provide sufficient off-street parking to accommodate the proposed use. If 8,000 to 10,000 square feet of area is devoted to restaurant-related use, 50 or more on-site parking spaces could be required which would be available for restaurant patrons and employees only. This could entail paving a larger area of the site for parking that is currently allocated for parking. Any extensive site paving to accommodate parking could run up against policies that require shoreline access and the enhancement of the natural wetlands on the property. A permit application to the County would have to include parking studies that demonstrate that on-site parking could accommodate patrons while protecting site open space, vegetation, and wetlands.

The Tamalpais Community Plan indicated that underground parking could be necessary to accommodate expanded use of the property and includes policies that allow for underground parking provided that surface area that would have otherwise been used for parking be devoted to open space. The precise number of required parking spaces would be determined by the County through the environmental review process and based on the parking and traffic study you submit.

If the helicopter and sea plane operations intend to expand their use of the property to include additional office space, this would be subject to a new use permit or use permit amendment for these activities. The expansion of these activities would be subject to the same standards as the proposed restaurant.

Environmental Review

Both the use permit and design review approvals will be subject to environmental review which would could be limited to an initial study and negative declaration if no significant impacts on the environment are uncovered or if impacts can be mitigated to a level of insignificance. If policy documents have to be amended to accommodate the proposed activities, then an environmental impact report (EIR) might be required. Given the usual intensity of restaurants and their high parking requirement, an EIR would most likely be required to address parking and traffic impacts for a restaurant on this site. In addition, the Landor site apparently has some hydrocarbon contamination which would be examined at during the environmental process and might require an EIR level of review.

I hope that you find this information of assistance. I have enclosed applications for the County's Use Permit, Design Review, Development Plan/Master Plan and Environmental Review processes as well as fact sheets describing each of these for your information as well as our fee schedule. If you have any additional questions, please feel free to call me at (415) 499-6269.

Sincerely,

Denise Pinkston
Planning Services Coordinator

Attachments

cc. Mark Riesenfeld, Director
Annette Rose, Supervisor

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

March 23, 1994

Price & Price
Attn: Steven Price
655 Redwood Highway, Suite 185
Mill Valley, CA 94941

RE: Seaplane and Office Use
240 Redwood Highway, Mill Valley
A.P.# 052-242-01

Dear Mr. Price:

As we discussed, I have researched the zoning and land use designations for this property, as well as the permit history in an effort let you know what issues you may be faced with in continuing the existing seaplane operation and expanding use of this property should you purchase this site. Due to the location of this parcel within San Francisco Bay, and the existence of hazardous materials on this site, any development or use of this site is subject to regulation by a variety of agencies including the Marin County Community Development Agency, the Bay Conservation and Development Commission, and potentially, the State Lands Commission, the California Department of Fish and Game, the Regional Water Quality Control Board, and the Army Corps of Engineers.

Countywide and Tamalpais Community Plans:

The Marin Countywide Plan designates this property Recreational Commercial (RC), and establishes a maximum floor area ratio of between 5 and 30%. The priority recommendation for this property suggested by Tamalpais Community Plan is that the site be acquired by a public agency, and recommends partial dedication of the site for open space should the property be redeveloped. The Community Plan also establishes guidelines which are to govern all development within the shoreline area. These guidelines restrict potential uses, seek public access, require circulation improvements, and restrict the types of signs and lighting which may be located on these properties (refer to attachments 3 & 4). Specifically, Community Plan Land Use Policy 32.1e establishes the maximum floor area for this property to be 30% of the dry land area of the lot or 12,000 square feet, whichever is less, and the maximum building height to be 33 feet above Mean Sea Level (approximately 25 feet above finished grade).

Zoning Information:

Bay Front Conservation Zone, Resort and Commercial Recreation District

The subject property is zoned BFC-RCR (Bay Front Conservation Zone, Resort and Commercial Recreation District). The purpose of this district is to create and protect resort facilities. This zoning district requires that all development be subject to Master Plan, and allows, subject to securing a use permit, all uses and normal accessory uses appropriate for a resort area or which are desirable or necessary for public service, utility service or for setting the recreation industry, and prohibits residential, industrial, general commercial

3501 Civic Center Drive, #308 - San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

uses, mobile home parks, and floating home marinas. Consequently, the existing floating home marina is a legal non-conforming use. Office and retail uses would not be permitted on the subject property unless they were incidental and accessory to the primary use of this property for resort and commercial recreation uses.

Environmental Assessment

The BFC zoning district requires that any physical improvements to this property be preceded by an Environmental Assessment to evaluate the physical and environmental constraints of this site, including visual impacts, public access, water quality, traffic, and sensitive habitats. Depending on the scope of work, the Community Development Agency Director may waive this requirement. This determination, and any necessary environmental assessment would have to be prepared prior to submitting a development proposal, and should be used to direct the design of improvements.

Development Issues:

Federal Emergency Management Administration - FEMA

The subject property is situated within a flood zone and has experienced flooding in the recent past. County records indicate that the finished floor of the existing structure was at 4.6 feet NGVD 1990, while it was 5.6 feet NGVD in 1974, indicating that the site has settled approximately one foot in 15 years. The highest estimated tide is 7.0 feet which is 2 1/2 feet higher than existing floor. Consequently, this structure does not comply with the FEMA requirements for flood protection.

The Federal Government requires that structures which do not meet FEMA requirements be brought into compliance at the time that total value of all work performed on the structure, for the life of the structure, exceeds 50% of the structures appraised value. Consequently, the County will keep track of repair and maintenance activities and structural improvements at this property. At the time that the total value of these improvements exceeds 50% of the structures value, you would be required to elevate the structure to the minimum finished floor elevation to protect against flooding. This physical change would be subject to review and approval by the County, BCDC, and other public agencies.

Toxic Clean-up

As we have discussed, this site may have hazardous materials within the soils. Whoever owns the property is responsible for clean-up of this hazardous material. Such remmediation would have to be coordinated with the Regional Water Quality Control Board.

Traffic

The intersection of the Southbound off-ramp from Highway 101 and Highway 1 presently fails. Any proposal to expand use at this property which would increase traffic through this intersection is going to require that you accommodate your fair share of the necessary improvements to accommodate this additional traffic.

Proposed Changes:

You indicated that you understood that the seaplane operation was allowed to have 5 airplanes with up to three operating simultaneously. You also indicated that you were interested in relocating your investigations office to this property. The attached Use Permit Approval from 1981 established a maximum of four commercial aircraft at the base, but allowed that only two may be simultaneously used for revenue producing purposes. As discussed above, office uses are only permitted when they are incidental to resort and commercial recreation uses. Consequently, your investigation office could not be located at this site. I have attached a summary of the property history which indicates that the heliport, seaplane operation, and houseboats are the only uses

permitted at this property. Please be aware that these uses may not exceed the restrictions which were established for these historic uses without first getting approval.

I hope that this information answers your questions regarding this property. Please contact me at (415)499-6269 if you have additional questions or would like this information clarified.

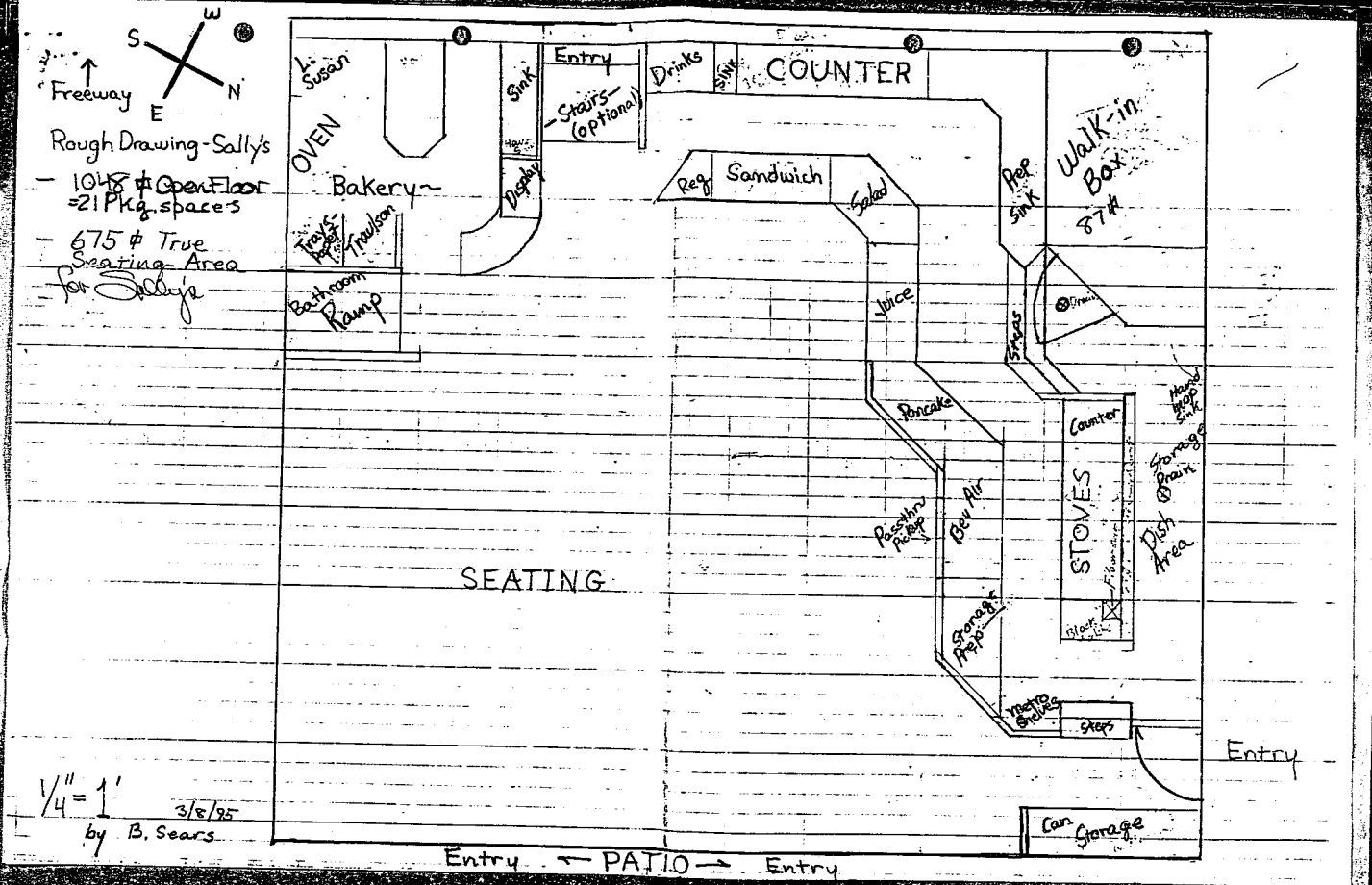
Sincerely,

Scott Davidson
Principal Planner

cur/sd/letters/price.doc

cc: Hugh Lawrence, Attorney at Law
Walter and Josephine Landor
Mark J. Riesenfeld, CDA Director

Attachments:
1. Property History
2. 1982 Use Permit Approval
3. Tamalpais Community Plan Appendix D
4. Tamalpais Community Plan Excerpts (P. III-70 through III-77)


W
S
Freeway
E
N
Rough Drawing - Sally's
– 1048 ft Open Floor = 21 Pkg. spaces
– 675 ft True Seating Area for Sally's
L. Susan
OVEN
Bakery
Sink
Display
Entry
Stairs (optional)
Drinks
Sink
COUNTER
Trays
Bathroom
Ramp
Req
Sandwich
Salad
Juice
Pancake
Pass thru Prep
Bev Air
Storage Prep
Prep Sink
Walk-in Box
87#
Stairs
Counter
Hand Wash Sink
Storage Drawers
STOVES
Dish Area
Mop Sink
Steps
Entry
SEATING
Can Storage
Entry ← PATIO → Entry
1/4" = 1'
3/8/95
by B. Sears

COMMUNITY DEVELOPMENT AGENCY

COUNTY OF MARIN

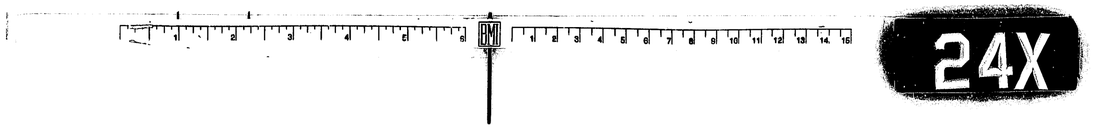
PLANNING DIVISION

PROJECT TYPE & YEAR: PR 1995

A.P.N. 052-247-0102, 03

NAME

LANDOR, WALTER



052-247-01,02,03

PETALUMA AVENUE

S 39° 24' 00" E 240.00'

167
A.P. 52-240-01

164
A.P.52-247-03

A.P. 52-247-02

STREET

YOLO STREET

PARKING

AC PARKING

AC PATHWAY

EXISTING HOUSEBOATS (11)

WOOD PIER

5' HIGH WOOD RETAINING WALL

CONCRETE PAD WITH HOUSEBOAT METERS

GARBAGE AREA

PROPANE TANK

CONCRETE CURB

LAWN AREA

240X173=41,520

EXISTING BUILDING FIN FLOOR 49

EXISTING BUILDING FIN FLOOR 50

CONCRETE PATIO

CONCRETE RETAINING WALL

ELEC BOX

PHONE BOOTH

CONCRETE WALK

AC PAVING

STORAGE SHED

FUEL STORAGE

TANK AREA

LANDING PAD

SUMP

CHAIN LINK FENCE

BOLINAS AVENUE

AC BICYCLE PATH

N.W.P.R.R. (ABANDONED)

GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft.

NOTES
1- ONLY SIGNIFICANT TREES SHOWN
2- DATUM PER N.G.V.D BENCH MARK R 481 @ RICHARDSON BAY BRIDGE ELEV 8.53
3 BASIS OF BEARING PER 16 OS 48
4- PROPERTY MAY BE SUBJECT TO EASEMENTS NOT SHOWN

LEGEND
- TREE (AS INDICATED)
- CONCRETE
- TW TOP OF WALL ELEVATION
- CHAIN LINK FENCE
- WOOD FENCE

If this image appears cut-off or is not as legible as this overlay, it's due to the poor quality of the original document

PARTIAL TOPOGRAPHIC SURVEY
240 REDWOOD HIGHWAY
MARIN COUNTY CALIFORNIA

SCALE: 1"=20' | DRAWN BY: C. P.
DATE: 11/1/91 | SHEET 1 OF 1

Anrig-Doyle
LICENSED LAND SURVEYORS CIVIL ENGINEERS
165 Helens Lane Mill Valley CA 94941 (415) 388-0087

DRAWING NO. 91-2500

30 X

FIRST FLOOR
PROPOSED NEW USE 1495 S.F.

GROUND FLOOR
EXISTING HANGAR
PROPOSED NEW USE 3820 S.F.
EXISTING OFFICES
Pond
Jetty
Dock

GROUND FLOOR

Mean High Water - 3.3'
Dry Dock Depth - 69.5 S.F. = 1.6 acres
7.5' H.W.(E) = 11.3' NGVD

RECEIVED
MAR 17 1995
COUNTY OF MARIN
PLANNING DEPARTMENT
Pre-Ap

Owner of Record: Wilmer Landon
2318 Union Street
San Francisco, CA 94123
415.956.1210

Applicant: Steve Price
Price and McArthur
958 Redwood Highway, Suite 185
Mill Valley, CA 94941
415.388.6400

Engineer: None

Architect: Mark Engelberg Associates
1360 Redwood, Suite 100
San Francisco, CA 94111
415.398.6944

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
PRICE USE PERMIT (HELIPORT)

Item No:	2.	Application #:	UP 96-003/DX 96-292
Applicant:	Steve Price	Owner:	Clayton Mitchell and Susan Keegin
Property Address:	240 Redwood Highway, Mill Valley	APN:	052-247-01, 02
Hearing Date:	February 29, 1996	Planner:	Thomas Lai

RECOMMENDATION: **Approval with Conditions**
APPEAL PERIOD: **5 Working Days to Planning Commission**
LAST DATE FOR ACTION: **April 13, 1996**

PROJECT DESCRIPTION:

This is an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m.. The heliport currently operates between 6:30 a.m. and 5:45 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on weekends. The proposed project would retain the existing limit of six flights per day. (A flight is defined as one take-off and one landing operation.) A total of three full-time employees would be utilized during business hours.

GENERAL INFORMATION:

Countywide Plan Designation:	Dryland Portion : RT (Recreational Commercial, 5 to 30% floor area ratio) Submerged Portion : BFC-RT (Bayfront Conservation, Recreational Commercial, 5 to 30% floor area ratio)
Zoning:	BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation)
Lot size:	4.4 acres
Adjacent Land Uses:	Houseboat marina, seaplane base, office, and industrial
Vegetation:	Pine trees with understory of predominantly introduced shrubs and ornamentals adjoining wetlands
Topography and Slope:	Flat
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the operation of an existing facility involving negligible expansion would not create adverse environmental effects.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property.

PLAN CONSISTENCY:

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan, the Tamalpais Area Community Plan, and Title 22 (Zoning) of the Marin County Code. Please refer to the plan consistency findings contained in the attached resolution.

BACKGROUND:

The Marin Heliport was established in 1962 under the governing M-1-H (Light Industrial) zoning district at the time. The use became legal non-conforming when the County rezoned the property to a RCR (Resort, Commercial, Recreational) zoning district in 1966. On May 2, 1995, the Board of Supervisors acknowledged the legal non-conforming status of the heliport by identifying its use as six helicopter flights a day, subject to the following hours of operation: 6:30 a.m. to 5:45 p.m. weekdays and 9:00 a.m. to 4:00 p.m. weekends. The current Use Permit application seeks approval to modify the hours of operation to allow the helicopter operator to provide traffic reports for public news broadcasts during the early morning and late afternoon commute periods.

In addition to the heliport, the subject property is developed with an 11-houseboat marina (Commodore Marina) and a seaplane base (Commodore Seaplanes). The houseboat marina is legal non-conforming with respect to the current BFC-RCR zoning, and the seaplane use is permitted under the terms of previous Use Permits issued in 1953 and 1981. The property is also partially used by an education center which is comprised of Kid's Headquarters (The Planet). Since this use is not permitted by the governing BFC-RCR zoning district, staff has incorporated a recommended condition of approval to require the elimination of this use within 60 days from the date of approval.

ANALYSIS:

The governing BFC-RCR zoning district permits uses that are deemed desirable or necessary for public service, subject to Use Permit or Master Plan approval. The continued operation of the heliport would provide a public service relating to broadcast of traffic reports and emergency operations such as medical flights. In addition, the proposed change in the hours of operation does not significantly expand or modify the underlying nature or intensity of the heliport use and would not affect the established number of daily flights, the number of employees, or the land and building area occupied by the use. Based on these factors, staff is recommending that the proposed Use Permit be approved for a period of two years, subject to an administrative review by the Community Development Director at the end of one year to determine compliance with the conditions of approval. Approval of the Use Permit would eliminate the legal non-conforming status of the heliport and consequently establish use restrictions governing the number of flights, the hours of operation, the number of employees, and the general location of the heliport activities.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and approve the Price Use Permit based on the findings and subject to the conditions contained in the attached resolution.

Attachments:
1. Proposed resolution recommending approval of the Price Use Permit
2. CEQA Categorical Exemption
3. Board of Supervisors Resolution 95-105
4. Location Map
5. Assessor's Parcel Map
6. Department of Public Works Memorandum, (2/5/96)
7. Office of Waste Management Memorandum, (11/17/95)
8. Tamalpais Design Review Board Memorandum, (11/15/95)

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PRICE USE PERMIT
ASSESSOR'S PARCEL NUMBERS 052-247-01, 02

* *

SECTION I: FINDINGS

I. WHEREAS Steve Price submitted an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m.. The heliport currently operates between 6:30 a.m. and 5:45 p.m. on weekdays and between 9:00 a.m. and 4:00 p.m. on weekends. The proposed project would retain the existing limit of six flights per day. A total of three full-time employees would be utilized during business hours. Zoning for the 4.4 acre property is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation). The subject property is located at 240 Redwood Highway, Mill Valley, and is further identified as Assessor's Parcel Numbers 052-247-01, 02.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 29, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the project is exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1 because the operation of an existing facility with negligible expansion would not create adverse environmental effects.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is generally consistent with the goals and policies contained in the Marin Countywide Plan and the Tamalpais Area Community Plan because: (1) the project would continue use of the existing heliport facility to allow the helicopter operator to provide traffic reports for public news broadcasts during the early morning and late afternoon commute periods; (2) the project would continue provision of employment opportunities on an infill site that is served by existing roadways and necessary public and community facilities within the City Centered Corridor; and (3) the project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Master Plan requirements because the project would not significantly expand or modify the operation of the heliport beyond the level of use that was acknowledged by the Board of Supervisors through adoption of Resolution Number 95-105 on May 2, 1995. The Board determined that the legal non-conforming level of use for the heliport consists of a maximum of six flights per day between the hours of 6:30 a.m. and 5:45 p.m. during weekdays and 9:00 a.m. and 4:00 p.m. during weekends.. With exception to the proposed modifications to the hours of operation, the heliport would be limited to six flights per day, would retain the existing number of employees, and would occupy the existing amount of land and building area on the subject property.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that continuation of the heliport use on the subject property is generally consistent with the intent and objectives of the governing BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation) zoning district because it provides a public

service relating to the broadcast of traffic reports and the provision of emergency operations such as medical flights. Additionally, the proposed changes to the hours of operation does not significantly expand or modify the underlying nature or intensity of the heliport use and would not affect the established number of daily flights, the number of employees, or the land and building area occupied by the use.

VII. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020 of the Marin County Code), as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of the case be detrimental to the public welfare or injurious to property or improvements in said neighborhood.

1. Continued operation of the heliport on the subject property would not adversely affect the surrounding area because the use has existed continuously since 1962, and the proposed changes in the hours of operation would not result in a significant disruption of surrounding areas beyond the level which has historically existed and which currently exists.

2. The project does not significantly expand or modify the heliport use because the present and acknowledged level of six flights per day and three full-time employees would be retained, and because the facility would not expand beyond the existing land and building area that is presently occupied by the use on the subject property.

3. The Department of Public Works has determined that existing off-street parking would not be adversely affected by the modified hours of operation because the existing number of flights and employees would remain unchanged.

4. The heliport facility would not result in adverse visual impacts to surrounding areas because conditions of approval would require the applicant to submit a landscape plan to incorporate shrubs along the perimeter foundation of a fuel storage tank to provide visual screening.

5. The grant of this Use Permit for continued use of the heliport with modifications to the hours of operation would not be detrimental to the health, safety, morals, comfort, or welfare of persons residing in the surrounding neighborhood.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from the requirements for Design Review pursuant to Marin County Code Section 22.82.030(4) because: (1) the proposed modification to the hours of operation is minor and incidental to the heliport use; and (2) the project would not result in substantial alternation of the existing buildings or heliport facilities beyond minor exterior improvements associated with routine maintenance and upkeep of the property.

IX. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from Tidelands requirements pursuant to Marin County Code Section 22.77.010 because minor exterior improvements associated with routine maintenance and upkeep of the property are considered minor and incidental.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price Use Permit subject to the conditions of approval as specified below.

Community Development Agency - Planning Division

1. Pursuant to Chapter 22.88 of the Marin County Code, the Price Use Permit 96-003 is approved for the continued use and operation of the Marin Heliport over a portion of the property located at 240 Redwood Highway, Mill Valley, and further identified as Assessor's Parcel Numbers 052-247-01, 02. This Use Permit approves the heliport as a conforming use on the subject property and replaces the previous non-conforming status of this use, which may now occur only with a valid use permit and which is subject to the restrictions contained herein.

2. Use and operation of the heliport shall be limited to a maximum of six flights per day and the following hours:

   Monday to Friday: 6:00 a.m. to 6:30 p.m.

   Saturday, Sunday: 9:00 a.m. to 6:00 p.m.

   (A flight is defined as one take-off and landing operation.)

3. A maximum of three full-time employees is permitted in conjunction with the heliport. Commercial office functions beyond that associated with administrative activities for the heliport are not permitted.

4. Helicopter take-off, landing, refueling, and storage shall be restricted within the existing facilities located on Assessor's Parcel Number 052-247-02. Administrative activities shall be limited to the southerly portion of the building which fronts Bolinas Avenue and located on Assessor's Parcel Number 052-247-01. Expansion of the existing building and land area occupied by the heliport is not permitted.

5. Use and operation of the seaplane base (Commodore Seaplanes) is permitted subject to the terms of the Use Permit approvals of 1953 and 1981. Use and operation of the houseboat marina (Commodore Marina) shall be governed by the provisions contained in Chapter 22.78 (Nonconforming Uses) of the Marin County Code.

6. WITHIN 60 DAYS FROM THE DATE OF APPROVAL, the applicant shall secure an inspection from the Community Development Agency Planning Division staff to confirm that the subject property is utilized only by the heliport, seaplane, and houseboat marina. The Kid's Headquarters (The Planet) is not permitted under the terms of this Use Permit approval.

7. WITHIN 60 DAYS FROM THE DATE OF THIS APPROVAL, the applicant shall submit a landscape plan for review and approval which incorporates sufficient number of shrubs along the perimeter of the fuel storage tank for visual screening. The landscaping shall consist of drought tolerant and native species that are also tolerant of salt water intrusion, wind, salt spray, and saline soils associated with a bayfront environment.

8. WITHIN SIX MONTHS FROM THE DATE OF THIS APPROVAL, the applicant shall demonstrate that all approved landscaping has been planted along with an automatic drip irrigation system.

9. This Use Permit is subject to revocation procedures contained in Sections 22.88.040 and 22.88.045 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried in a manner so as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or detrimental to the public welfare or injurious to property or improvements in the neighborhood.

10. Any modification to the use or operation of the heliport shall be submitted to the Community Development Director to determine whether a Use Permit Amendment or Master Plan would be required.

SECTION III: VESTING, PERMIT DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Use Permit approval by completing all of the required work within six months from the date of this approval, or all rights granted in this approval shall lapse. An extension of up to 30 additional days may be granted by the Community Development Director if the applicant submits a letter requesting the extension and demonstrates due diligence in meeting the required conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for a period of two years from the date of approval, subject to an administrative review by the Community Development Director at the end of one year to determine compliance with the conditions of approval. An application for a Use Permit Renewal shall be submitted to the Community Development Agency at least 60 days prior to expiration of this Use Permit.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 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 **March 7, 1996**.

SECTION IV:

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 29th day of February, 1996.

BRIAN CRAWFORD, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Patrice Stancato, DZA Secretary

FILING REQUESTED BY AND
WHEN FILED RETURN TO:

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903

Attn: Tom Lai, AICP, Senior Planner

NOTICE OF EXEMPTION

Marin County
Environmental Coordination and Review

February 12, 1996

1. **Project Name:** Price Use Permit 96-003/Design Review Exemption 96-292

2. **Project Location:** 240 Redwood Hwy., Mill Valley
Assessor's Parcel #052-247-01 & 02/Marin County

3. **Project Description:**
This is an application to modify the hours of operation for the Marin Heliport to allow weekday flights between 6:00 a.m. and 6:30 p.m. and to allow weekend flights between 9:00 a.m. and 6:00 p.m., where the existing operation is approved for weekday flights between 6:30 a.m. and 5:45 p.m. and for weekend flights between 9:00 a.m. and 4:00 p.m.. The Heliport's current limit of six flights per day would remain unchanged. The Heliport operates with a total of three employees during business hours. Zoning for the 4.4 acre property is BFC-RCR (Bayfront Conservation, Resort and Commercial Recreation).

4. **Public Agency Approving Project:** Deputy Zoning Administrator

5. **Project Sponsor:** Steve Price

6. **CEQA Exemption Status:** Categorical Exemption (Section 15301, Class 1)

7. **Reasons for Exemption:** **The operation of an existing private facility involving negligible expansion would not create adverse environmental effects.**

Project Planner:

Tom Lai, AICP
Senior Planner

Telephone: (415) 499-6269

Reviewed by:

Tim Haddad
Environmental Coordinator

/FORMS/temp/tlpricne.doc
(Rev. 02/12/96)

ATTACHMENT 2

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 95-105

A RESOLUTION DENYING THE HELI USA APPEAL AND SUSTAINING THE PLANNING COMMISSION'S DETERMINATION THAT THE CURRENT LEVEL OF USE ON THE HELIPORT PROPERTY EXCEEDS THE LEGAL NON-CONFORMING USE ESTABLISHED IN 1981 AND REAFFIRMED 1983

ASSESSOR'S PARCEL NO. 052-247-01,02

* *

SECTION I: FINDINGS

I. WHEREAS, the Marin County Board of Supervisors finds that Isidoor Bornstein has filed, on behalf of Heli USA, an appeal of the Planning Commission's Determination that the current level of use on the heliport property exceeds the legal non-conforming use established in 1981 and reaffirmed in 1983. The appellant contends that the legal non-conforming use is the use established by SFO Helicopters in 1966. The basis for this statement is the appellants' position that a legal non-conforming use may change from a high level of use, to a less intensive use and then re-establish to the higher intensity of use at a later date. The appellant also claims that the levels of use established in 1981 and reaffirmed in 1983 do not accurately reflect the level of use that was occurring on the property at that time.

II. WHEREAS, the Board of Supervisors recognizes the heliport use became legal non-conforming on November 15, 1966 when the property was rezoned from M-1-H (Light Industrial District) to R-C-R (Resort, Commercial, Recreational). The legal non-conforming use was reduced for a period of more than six months in 1976 when SFO Helicopters ceased business and left the site, limiting the heliport use to the level of operation established by Commodore Helicopters.

III. WHEREAS, the Board of Supervisors finds that Commodore Helicopters level of use was established by Lu Hurley, the operator of Commodore Helicopters in letters dated January 9, 1981 and February 20, 1981 ("the Hurley Letters"). The level of use was reaffirmed by the Planning Department in a letter to the Board of Supervisors dated August 5, 1983 ("the Board Letter"). The Board of Supervisors finds that these three letters describe the level of heliport use in 1981 as, 3.5 flights per day in the winter months and 6 flights per day in the summer months. Of these flights approximately 6 charter flights occurred lasting 1 to 1.5 hours each month between 9:00 a.m. and 4:00 p.m., two traffic report flights were flown each weekday between 6:30 a.m. and 5:45 p.m. and refueling flights for helicopters engaged in tourist flights at Pier 43 in San Francisco also occurred. The Board of Supervisors finds that the maximum intensity of the legal non-conforming use established by the County records is 6 flights per day, whether for tourist, charter or refueling purposes.

IV. WHEREAS, the Board of Supervisors finds that the legal non-conforming level of use is also described in a February 5, 1985 site inspection memo from Debbi Poiani, in a technical report for the Noise Element of the Countywide Plan, written by Illingworth and Rodkin dated October 14, 1987, and verified in a telephone conversation with a Commodore representative on February 25, 1991 as documented in the Noise Element of the Countywide Plan. The Board of Supervisors finds that these documents establish the legal non-conforming use to be, 3.5 flights per day in the winter, 6 flights per day in the summer, with an average of 25 flights per week

V. WHEREAS, the Board of Supervisors finds that while the pilot logs submitted by the appellant provide an overview of the daily heliport activities, the logs do not provide conclusive evidence that the levels of use documented in 1981 and 1983 the Hurley Letters and the Board Letter were inaccurate.

VI. Whereas, the Board of Supervisors finds that refueling of helicopters engaged in tourist flights from Fisherman's Wharf no longer occurs at the Marin heliport and ceased operation in approximately 1988. However, refueling flights nevertheless, are included in the total number of flights established as legal non-conforming.

VII. WHEREAS, the Board of Supervisors interprets Marin County Code, Title 22, Section 22.78.010 to require that once a use ceases it may not be re-established unless it is conforming to the zoning district. In 1976 the number of flights was reduced by 14 flights per day as documented in SFO Helicopters Flight Guide and Schedule dated 10-27-74. This reduction in flights dramatically changed the level of the legal non-conforming use. Documentation of Commodore's heliport use in 1976 was established by the operator of Commodore Helicopters in the Hurley Letters and reaffirmed by the Board Letter. The Board of Supervisors finds that the reduction in flights for a period of more than six months in 1976 constituted a change in use. The re-establishment of the 1966 use almost 30 years later would be considered an increase in the legal non-conforming use.

VIII. WHEREAS, the Board of Supervisors finds that the type of flight, such as tourist, charter and refueling, does not necessarily describe the intensity of heliport use. Therefore the Board has determined that the historically documented 6 daily flights, which includes all types of flights, be a daily maximum rather than distinguishing between tourist, charter and refueling flights. A flight is defined as one take off and one landing.

IX. WHEREAS, the Board of Supervisors conducted a public hearing on May 2, 1995, and reviewed the administrative record, and based on the record finds, that the Hurley Letters and the Board Letter clearly document that the legal non-conforming level of use (3-6 flights per day between 6:30 a.m. and 5:45 p.m. weekdays and 9:00 a.m. and 4:00 p.m. week-ends) and that the current level of use (7-20 flights per day between 5:00 a.m. and 7:30 p.m.) exceeds the legal non-conforming use.

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Board of Supervisors hereby denies the appeal of Isidoor Bornstein, on behalf of Heli USA, and sustains the Planning Commission's determination that the allowable legal non-conforming use is a maximum of 6 flights per day between 6:30 a.m. - 5:45 p.m. weekdays and between 9:00 a.m. - 4:00 p.m. on the weekends. Any helicopter flights or other activities not specified above are prohibited unless a Master Plan/Use Permit is applied for and approved.

SECTION II: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 2nd day of May, 1995 by the following vote to wit:

AYES: SUPERVISORS Harry J. Moore, Gary Giacomini, John B. Kress, Annette Rose

NOES: None

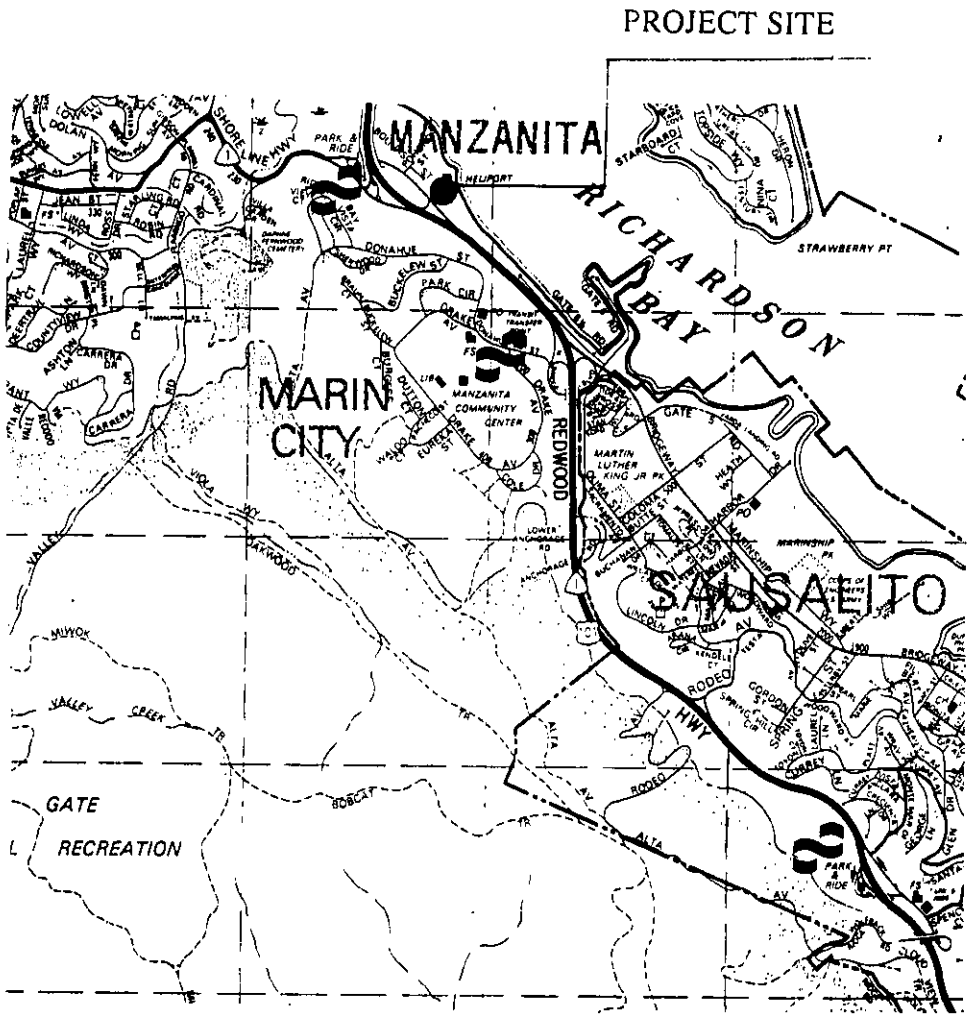
ABSENT: SUPERVISOR Harold C. Brown, Jr.

ANNETTE ROSE
President of the Board of Supervisors

ATTEST:

Martin J. Nichols
Acting Clerk of the Board of Supervisors

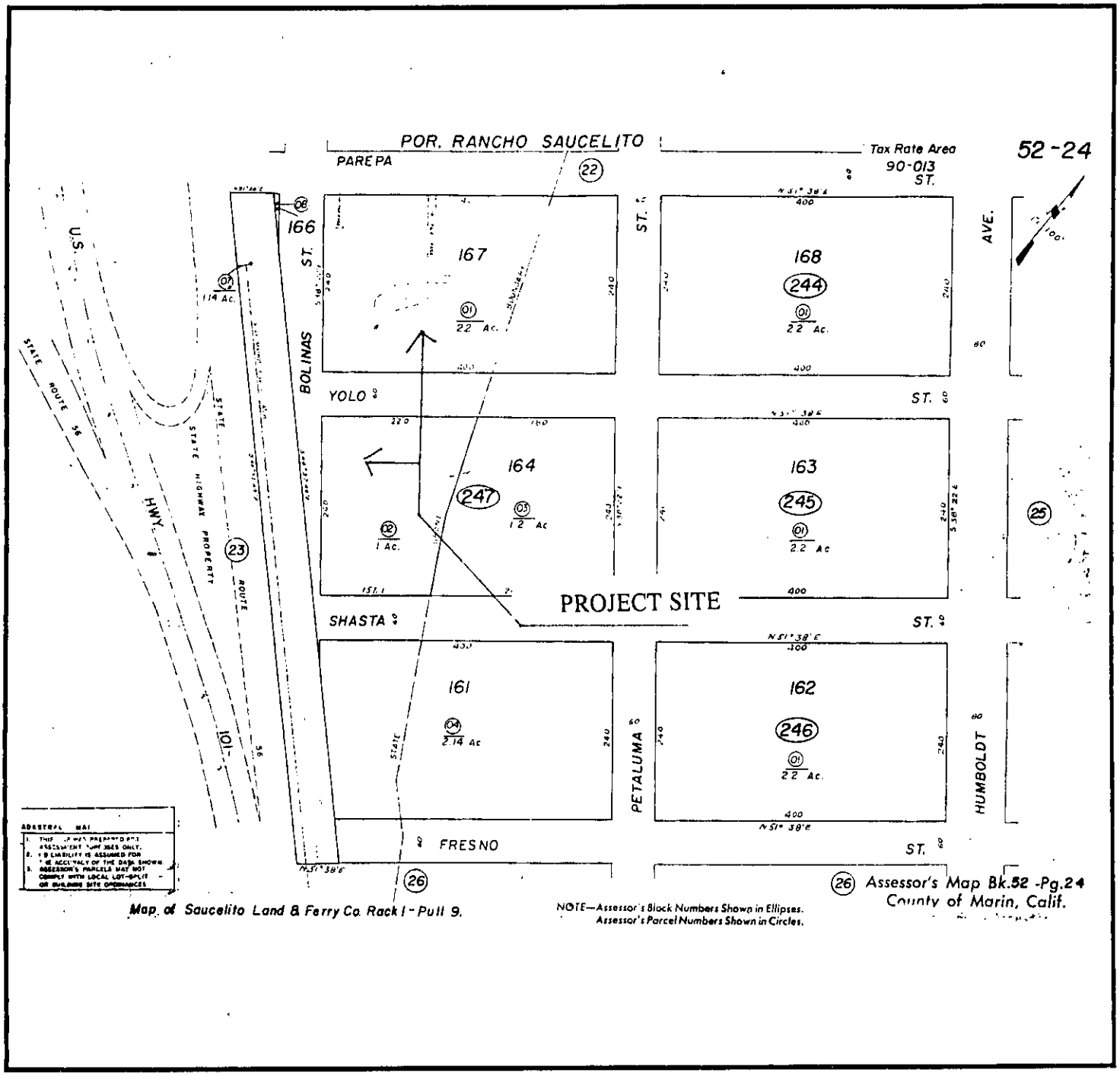
Marin County
Community Development Agency
Location Map



PRICE USE PERMIT (HELIPORT)
240 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01, 02
February 29, 1996
Not to Scale

Attachment 4

Marin County
Community Development Agency
Assessor's Parcel Map



PRICE USE PERMIT (HELIPORT)
240 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01, 02
February 29, 1996
Not to Scale

Attachment 5

INTER-OFFICE MEMORANDUM

PUBLIC SERVICES AGENCY

DATE: 2/5/96 DUE: 2/12/96

RECEIVED BY

TO: Tom Lai

FROM: Marie

APPROVED: GM

RE: Price use Permit

A.P. #: 052-247-01, 02

ADDRESS: 240 Redwood Hwy Mill Valley

TYPE OF DOCUMENT

- ✓ DESIGN REVIEW
- ___ LAND DIVISION
- ✓ USE PERMIT
- ___ VARIANCE
- ___ LOT LINE ADJUSTMENT
- ___ ENVIRONMENTAL DOC.
- ___ COASTAL PERMIT
- ___ OTHER_____

We have reviewed this application for content and:

- ✓ Find it complete
- ___ Find it incomplete. Please submit items listed below.
- ___ Recommend Denial for reasons listed below
- ✓ Find it Acceptable as Presented
- ___ Recommend the conditions listed below be completed prior to :
  - ___ Issuance of Building Permit
  - ___ Occupancy
  - ___ Approval of _____
  - ___ Other _____

FLOOD CONTROL

- ___ N.A.
- ✓ No Comments
- ___ Comments Included

TRAFFIC

- ___ N.A.
- ✓ No Comments
- ___ Comments Included

ATTACHMENT 6

County of Marin

Office of Waste Management

INTERDEPARTMENTAL TRANSMITTAL

415/499-6647

TYPE OF DOCUMENT:	**Use Permit 96-003**
DATE:	**11-17-95**
TO:	**Tom Lai**
FROM:	**Barbara Zett**
RE:	**Price Use Permit 96-003**
A.P.#:	**052-247-01 & 02**
ADDRESS:	**240 Redwood Highway, Mill Valley**

This Application has been reviewed for the following items:

Hazardous Materials -- Chapter 7.90 of the Marin County Code	X
Underground Tank Laws -- Chapter 7.80 of the Marin County Code	

This Application is found to be:

Complete

Proposed increase in the number of flights does not impact on the current Hazardous Materials Business Plan on file with this office or the contamination at the sight due to underground storage tanks.

RECEIVED BY
1995 NOV 21 P 3:11
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

ATTACHMENT 7

TAM DESIGN REVIEW BOARD

305 Bell Lane, Mill Valley, CA 94941

DESIGN REVIEW RECOMMENDATIONS

Date: NOV. 15, 1995

ADDRESS: 240 REDWOOD HWY

PLANNER: LAI

PARCEL: AP # 052-247-01 & 02

APPLICANT: PRICE

ATTENDING: STEVE PRICE

I. WE HAVE REVIEWED THIS APPLICATION FOR **COMPLETENESS** & FIND IT:

X Complete as presented. as

Motion: POLLACK

Second: CULLEN

Vote: 7 Ayes 0 Noes 0 Abstain

Abstentions/Reasons:

A. _____

B. _____

C. _____

_____ Incomplete until all of the items listed below are submitted:

A. _____

B. _____

C. _____

D. _____

E. _____

II. WE HAVE CONSIDERED THIS APPLICATION FOR **ENVIRONMENTAL REVIEW** & FIND IT:

X Catagorically exempt from Calif. Environ. Quality Act. Section 15303 (a), Class 3, pursuant to Planning Dept. transmittal.

Motion: _____

Second: _____

Vote: ____ Ayes ____ Noes ____ Abstain

_____ NOT Catagorically exempt from Calif. Environ. Quality Act. Section 15303 (a) for these reasons:

Motion: _____

Second: _____

Vote: ____ Ayes ____ Noes ____ Abstain

A. _____

B. _____

C. _____

Abstentions/Reasons:

A. _____

B. _____

C. _____

III. WE HAVE REVIEWED THIS APPLICATION FOR **MANDATORY DESIGN REVIEW FINDINGS** & FIND IT SATISFIES THE FOLLOWING FINDINGS:

YES	NO	
____	____	The proposed structure will properly & adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale & surroundings.
____	____	It will not impair or interfere with the development, use, & orderly & pleasing development of the neighborhood as a whole, including public lands & rights-of-way.
____	____	It will not directly, or in a cumulative fashion, impair, inhibit, or limit further investment of improvements in the vicinity on the same or other properties, including public lands or rights-of-way.
____	____	It will be properly & adequately landscaped with maximum retention of native trees and other natural materials.
____	____	It will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or juxtaposition. Adverse effects may include, but are not limited to: a) scale; b) drainage systems & appurtenant structures; c) cut & fill or the reforming of natural terrain & structures appurtenant thereto, such as retaining walls & bulkheads; d) areas, paths & rights-of-way for the containments, movement or general circualation of persons, animals, vehicles, conveyances & watercraft; e) other developments or improvements which may result in a diminution or elimination of sun & light exposure, views, vistas & privacy.
____	____	It may contain roof overhangs, roofing material & siding material that are compatible both with the principles of energy conservation & with the prevailing architectural style of the neighborhood.

CONTINUED ON REVERSE OF THIS PAGE

ATTACHMENT 8

PROJECT: 240 REDWOOD HWY DATE: NOV. 15, 1995

IV. WE HAVE REVIEWED THIS APPLICATION FOR **MERITS** & RECOMMEND:

X Approved as submitted.

___ Approval with the following conditions:

A. In order to enhance fire safety, Applicant shall install four (4) hose bibs prior to issuance of Occupancy Permit. One hose bib shall be located on each primary side of the structure.
B. In order to ensure that new landscaping & ground cover plantings will be irrigated sufficiently & in a water-conserving manner, Applicant shall install a drip irrgation system prior to issuance of Occupancy Permit.
C. In order to enhance the structure's visual appeal to the neighborhood upon construction completion, to mitigate any adverse visual impact of the structure, & to prevent future soil erosion of any disturbed soil, Applicant shall install drought resistant trees, shrubs & ground cover on all disturbed soil noted on plans. These plantings shall be at least 50% native, deer-resistant species, & shall be installed prior to issuance of Occupancy Permit.
D. _____
E. _____
F. _____

___ Continuance with Applicant's consent until: _____

___ Denial for the following reasons:

A. _____
B. _____
C. _____

Motion: DEDONA Vote: 7 Ayes Ø Noes Ø Abstain

Second: CULLEN Abstentions/Reasons:
A. _____
B. _____
C. _____

V. **ADDITIONAL MERITS & COMMENTS** REGARDING THIS PROJECT & ITS DESIGN:

_____

_____

_____

_____

_____

_____

RED SOD Exhibit C8 - UP Renwal (wireless)

COMMUNITY DEVELOPMENT AGENCY

COUNTY OF MARIN

PLANNING DIVISION

PROJECT TYPE & YEAR: DX/UP 1996

A.P.N.: 052-247-01

NAME

PRICE, STEVE / PAC BELL

C-11. Public Works:

a. Approve findings of Real Estate Section pursuant to Government Code Section 50569.
b. Authorization to dispose of surplus County furniture and vehicles.
c. Award of bids to Gregory Truck Body Co. for two Type 3 Fire Engines in the amount of $265,403.00. Isi International, Inc. for two Navistar 4800 Cab & Chassis in the amount of $153,742.88, and GCS Western Power & Equipment for a used Case 580 SL Diesel Tractor in the amount of $59,952.75.
d. Authorization of Chairman to execute amended agreements with CSW/Stuber-Stroeh Engineering, Inc. in the amount of $30,000.00 for design of a multi-purpose path on Atherton Avenue, Novato area; CSI Telecommunications in the amount of $28,800.00 for communications measurement; Chec Engineering Consultants in the amount of $5,000.00 for design and inspection of various pavement sections of County roads; and, John Roberto Associates in the amount of $12,00.00 for preparation of a negative declaration for Marin County's emergency telecommunications system.
e. Authorization of Chairman to execute Right of Way Contract with Marien Doolittle for an easement, and Certificate of Acceptance of Grant of Interest in Real Property

C-12. Local Agency Formation Commission: Resolution No. 96-164 approving reorganization with waiver of notice, hearing and election to the Town of Tiburon and to Sanitary District No. 2.

AYES: ALL

#25 OPEN TIME FOR PUBLIC EXPRESSION

Immigration

A resident of San Rafael read a letter into the record outlining his opposition to the Board's allocation of $25,000 to facilitate increased citizenship opportunities for immigrants residing in Marin County. Six other County residents, and representatives of Marin United Taxpayers Association and Alliance of California Taxpayers also expressed opposition to the Board's allocation and urged improvement in identifying the immigrant's sponsors as a source of financial assistance.

Three residents of San Rafael, two residents of Mill Valley, a resident of Corte Madera, representatives of the Asian Advocacy Project, the Latino Services Project and the Welfare and Immigration Network expressed support for County efforts to promote citizenship training, commented on the portrayal of immigrants and the divisive nature of the debate, and addressed the impact of federal welfare reform on the County.

A resident of Mill Valley read a letter from a man stating his opposition to the $25,000 allocation because of medical and financial needs of his family and others.

Thereafter, members of the Board responded to comments presented during open time discussion.

County General Plan

The Co-Chair of the North San Rafael Steering Committee apprised the Board of the Committee's efforts to gain community input on possible amendments to the General Plan.

The Board recessed at 11:44 a.m. to meet in closed session to discuss: (1) Combs v. C.O.M. pursuant to Government Code Section 54956(a), (2) Coalition for Economic Equity et al v. Pete Wilson et al. (Case No. C-96-4024 VRW) pursuant to Government Code Section 54956(a), (3) instructions to labor negotiator pursuant to Government Code Section 54957(a), (4) appointed Department Head evaluations pursuant to Government Code Section 54956.9 and reconvened in open session at 2:37 p.m. at which time were

PRESENT: SUPERVISORS Harry J. Moore, Gary Giacomini (at 2:44 p.m.), Annette Rose, John B. Kress, Harold C. Brown, Jr., Chairman

#28 (CONTINUED) PRICE/PACIFIC BELL DESIGN REVIEW EXEMPTION AND USE PERMIT APPEAL, MILL VALLEY AREA

Pursuant to the recommendation of the Planner in letter dated December 3, 1996, M/s Kress-Moore, to remove the above-captioned item from today's agenda.

AYES: ALL
ABSENT: SUPERVISOR Giacomini

C-5. Assessor-Recorder:
a. Authorization of Chairman to execute land conservation contract for James R. Yurcheno and Amy Lauterbach.
b. Authorization of Chairman to execute land conservation contract for James H. and Grace D. Kleiser.
c. Authorization of Chairman to execute land conservation contract for James H. Kleiser.

C-6. County Counsel: Resolution No. 96-163 amending Resolution No. 93-218.

C-7. Health & Human Services:
a. Authorization of Chairman to execute agreement with Canal Community Alliance in the amount of $1,217.60 for health screening, diagnosis and treatment to sexually active youth.
b Authorization of Chairman to execute memorandum of understanding with the California Department of Health Services in the amount of $12,000.00 to provide community-based services to reduce the incidence of chlamydia and other sexually transmitted diseases in youth.
c. Authorization of Chairman to execute agreement with Mary McGovern Gebhardt in the amount of $21,600.00 to provide consultation and facilitation services.
d. Authorization of Chairman to execute agreement with Mary Ellen Guroy, M.D. in the amount of $60,000.00 to provide on-call support for the Specialty Clinic.
e. Authorization of Chairman to execute agreement with John C. Rodgers in the amount of $36,500.00 to act as Project Manager for the EMS Disaster Medical Preparedness Grant.
f. Authorization of Chairman to execute agreement with St. Luke's Hospital to provide medically necessary hospital inpatient psychiatric care for Marin Medi-Cal beneficiaries on a fee-for-service basis.
g. Authorization of Chairman to execute agreements with Marin AIDS Interfaith Network in the amount of $65,000.00 for alternative therapies, Community Action Marin in the amount of $201,650.00 for emergency services, Marin General Hospital in the amount of $38,998.00 for case management, Marin AIDS Project in the amount of $264,826.00 for psychosocial support, Marin Treatment Center in the amount of $105,982.00 for substance abuse treatment, and Marin Treatment Center in the amount of $121,010.00 for case management.
h. Authorization of Chairman to execute agreements with Marin AIDS Project in the amount of $39,600.00 to provide administrative support, and Hospice of Marin in the amount of $12,646.00 to provide attendant care.
i. Authorization of Chairman to execute agreements with Marin AIDS Project in the amount of $120,996.00, Marin Treatment Center in the amount of $52,900.00, and Youth Advocates in the amount of $22,500.00 for the provision of HIV prevention and education services.
j. Authorization of Chairman to execute agreement with College of Marin in the amount of $6,500.00 for foster parent training.

C-8. Library:
a. Authorization of Chairman to execute agreement with Stephen Moss in the amount of $17,250.00 to plan and administer the Webstar program
b. Authorization of Chairman to execute lease agreement with Larry Marks for the Point Reyes Library.
c. Authorization of Chairman to execute second amendment to lease with the Inverness Foundation for the Inverness Library.

C-9. Parks, Open Space & Cultural Services:
a. Authorization of Chairman to send thank you letter to Aaron Green and a note to County staff on behalf of the Board complimenting the entryway stairwell landscaping improvement.
b. Authorization of Chairman to execute first amendment to agreement to permit the Marin Motorcycle Association to utilize $20,400.00 of Off Highway Vehicle Funds

C-10. Probation: Acceptance of computer equipment from the Mediation Services Advisory Board to the Civil Mediation Unit.

Continued

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

December 3, 1996

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

RE: Price/Pac Bell Design Review Exemption and Use Permit Appeal
242 Redwood Highway, Mill Valley
Assessor's Parcel Number 052-247-01

Dear Board Members:

Pursuant to the attached letter dated November 8, 1996, James R. Calkins has requested, on behalf of the appellant Pacific Bell Mobile Services, that the appeal to the Board of Supervisors of the Planning Commission's decision be withdrawn. Notice of withdrawal of the appeal has been sent to interested parties and surrounding neighbors. Staff is therefore requesting that consideration of the above referenced appeal be deleted from the hearing of December 3, 1996.

Recommended Action:

Staff recommends that your Board remove this item from the meeting of December 3, 1996.

Respectfully submitted,

Christine Gimmler
Planner

/cur/cg/cos/price2.doc

3501 Civic Center Drive, #308 - San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

PACIFIC BELL
Mobile Services

[illegible]
South San Francisco, California 94080
Main (415) 737-[illegible]
Fax (415) 737-[illegible]

Post-it® Fax Note 7671	Date 11-12-96	# of pages ▶ 1
To Christine Gimmler	From James Calkins	
Co./Dept.	Co. PlanCom	
Phone #	Phone #	
Fax # 499-7880	Fax #	

November 08, 1996

Mark J. Riesenfeld
Agency Director
Community Development Agency
Marin County
3501 Civic Center Drive, #308
San Rafael, CA 94903

RE: Appeal to Board of Supervisors for Proposed Pacific Bell Mobile Services Site located at 242 Redwood Highway, Mill Valley, APN #052-247-01

Dear Mr. Riesenfeld:

I am writing regarding the Pacific Bell Mobile Services Personal Communications Services site proposed for 242 Redwood Highway, Mill Valley, APN #052-247-01, Use Permit number 96-406.

I would like to request that the appeal to the Board of Supervisors of the Planning Commission decision be withdrawn.

If you have any questions or need more information, please call me directly at (415) 737-5407. Thank you for your assistance.

Sincerely,

James R. Calkins
Land Use Planner, PlanCom, Inc.

cc: Christine Gimmler
Brian Crawford

RECEIVED BY
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY
1996 NOV 12 P 2:33

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF CANCELLED PUBLIC HEARING

PRICE/PAC BELL DESIGN REVIEW EXEMPTION AND USE PERMIT APPEAL

(This appeal item previously noticed and rescheduled to the hearing of November 19, 1996, and further continued by the Board of Supervisors to December 3, 1996, has been withdrawn.)

NOTICE IS HEREBY GIVEN that the Marin County Board of Supervisors public hearing to consider the Price/Pac Bell Appeal of the Planning Commission's actions to deny a Categorical Exemption, pursuant to the California Environmental Quality Act, deny a Design Review Exemption application, and withhold a decision to approve or disapprove a Use Permit application for the installation and operation of a personal communications system designed to transmit cellular telephone transmissions **has been cancelled. The Appellant Pac Bell has withdrawn the appeal.** The subject property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01.**

If you challenge the decision of this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Agency - Planning Division at, or prior to, the public hearing. (Government Code Section 65009(b)(2).)

If you have any questions or concerns regarding the proposed project or withdrawn appeal, please contact me at (415) 499-6269.

MARK J. RIESENFELD
Agency Director

Christine Gimmler, AICP
Planner

cp/bt:bos/notices/price3.doc
11/12/96

American sign language interpreters and assistive listening devices may be requested by calling (415) 499-6172 (TDD) or (415) 499-6269 (voice) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

After additional discussion, the Board members agreed to direct staff:

(a) To continue with all deliberate speed with respect to updating the Marin County Telecommunications Plan and coordinate with the cities and the Countywide Planning Agency.

(b) To address the following issues with respect to existing and new applications as processed:

(i) Include appropriate conditions of approval to enable the implementation of future policies adopted as part of the Plan.

(ii) To be cognizant of approving facilities in close proximity to residential uses.

(iii) To the extent feasible, to require different service providers to locate at the same site.

(iv) To address the concept of future abandonment of a site once technology becomes obsolete.

Supervisor Giacomini noted that the public had not been given an opportunity to comment on this action and requested that the matter be placed on the October 22 agenda for formal approval by the Board.

(Supervisor Giacomini absent at 12:47 p.m.)

#18 HEARING: REPRESENTATIVES OF THE FULL EMPLOYMENT COALITION ON "JOBS FOR ALL WEEK"

This item was continued to October 22, 1996.

→ #19 HEARING: PRICE/PAC BELL DESIGN REVIEW EXEMPTION AND USE PERMIT APPEAL, 242 REDWOOD HIGHWAY, MILL VALLEY, A.P. #052-247-01

By letter dated October 15, 1996, Planner Christine Gimmler, with the appellant's consent, requested continuance of the above-captioned item. M/s Rose-Moore, to continue this item to December 3, 1996, at 2:30 p.m.
AYES: ALL
ABSENT: SUPERVISOR Giacomini

The Chairman announced that the clerk would be present at 2:30 p.m. should any members of the public appear for the hearing.

The Board met in closed session at 12:50 p.m. to consider appointed department head evaluations pursuant to Government Code Section 54956.9 and adjourned at 3:00 p.m.

SINE DIE

_____
CHAIRMAN

ATTEST:

_____
CLERK

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

October 15, 1996

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

RE: Price/Pac Bell Design Review Exemption and Use Permit Appeal
242 Redwood Highway, Mill Valley
Assessor's Parcel Number 052-247-0i

Dear Board Members:

On October 10, 1996, staff sent a letter to your Board requesting that this item be continued from October 15 to November 19, 1996. Subsequent to the submittal of the continuance request, staff has been informed that the meeting of November 19th has been cancelled. With the appellant's consent, staff is therefore requesting that consideration of the above referenced matter be further continued to the December 3rd hearing.

Recommended Action:

Staff recommends that your Board further continue this item until the meeting of December 3, 1996.

Respectfully submitted,

Christine Gimmler
Planner

/cur/cg/bos/priccont.doc

3501 Civic Center Drive, #308 - San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

October 10, 1996

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

RE: Price/Pac Bell Design Review Exemption and Use Permit Appeal
242 Redwood Highway, Mill Valley
Assessor's Parcel Number 052-247-01

Dear Board Members:

Pursuant to the attached letter dated October 8 1996, James R. Calkins, on behalf of the applicant, Pacific Bell Mobile Services, has requested a 30 day continuance of the hearing to consider the above-referenced matter.

Recommended Action:

Staff recommends that your Board continue this item until the meeting of November 19, 1996.

Respectfully submitted,

Christine Gimmler
Planner

Attachments: James R. Calkins Letter, October 8, 1996

/cur/cg/bc+/pricont.doc

3501 Civic Center Drive, #308 - San Rafael, CA 9 .3-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

[redacted]
South San Francisco, California 94080
Phone (415) 737-5700
Fax (415) 737-5320

PACIFIC BELL
Mobile Services

Post-it® Fax Note 7671	Date 10/8	# of pages ▸ 1
To Christine Gimmler	From James R. Calkins	
Co./Dept. Marin Co.	Co. PlanCom	
Phone # 499-6269	Phone # 737-5407	
Fax # 499-7880	Fax # 737-5501	

October 8, 1996

Mark J. Riesenfeld
Agency Director
Community Development Agency
Marin County
3501 Civic Center Drive, #308
San Rafael, CA 94903

RE: Proposed Pacific Bell Mobile Services Site Located at 242 Redwood Highway, Mill Valley, APN #052-247-01

Dear Mr. Riesenfeld:

I am writing regarding the Pacific Bell Mobile Services Personal Communications Services site proposed for 242 Redwood Highway, Mill Valley, APN #052-247-01, Use Permit number 96-406. The Planning Commission acted to deny a categorical exemption and design review for this project. Pacific Bell Mobile Services has appealed this decision and a public hearing has been scheduled for October 15, 1996 to consider the appeal.

I would like to request that this hearing be continued for a minimum of 30 days. This delay will allow Pacific Bell Mobile Services time to explore both alternative designs for this facility and alternative locations for the project.

If you have any questions or need more information, please call me directly at (415) 737-5407. Thank you for your assistance.

Sincerely,

James R. Calkins
Land Use Planner, PlanCom, Inc.

cc: Christine Gimmler
Brian Crawford

BRIAN

944 Dubuque Avenue
South San Francisco, California 94080
Main (415) 737-5310
Fax (415) 737-5320

PACIFIC BELL
Mobile Services

RECEIVED

1996 OCT -9 A 11:00

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

October 8, 1996

Mark J. Riesenfeld
Agency Director
Community Development Agency
Marin County
3501 Civic Center Drive, #308
San Rafael, CA 94903

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Land Use Planner, PlanCom, Inc.

cc: Christine Gimmler
Brian Crawford

PACIFIC BELL
Mobile Services

944 Dubuque Avenue
South San Francisco, California 94080
Main (415) 737-5700
Fax (415) 737-5329

Post-it® Fax Note 7671	Date 10/8	# of pages ▶ 1
To Christine Gimmler	From James R. Calkins	
Co./Dept. Marin Co.	Co. PlanCom	
Phone # 499-6269	Phone # 737-5407	
Fax # 499-7880	Fax # 737-5501	

October 8, 1996

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Agency Director
Community Development Agency
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San Rafael, CA 94903

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Sincerely,

James R. Calkins
Land Use Planner, PlanCom, Inc.

cc: Christine Gimmler
Brian Crawford

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF RESCHEDULED PUBLIC HEARING

PRICE/PAC BELL DESIGN REVIEW EXEMPTION AND USE PERMIT APPEAL

(This item had been previously scheduled for the Board of Supervisor's hearing of OCTOBER 15, 1996, and is now being rescheduled to the hearing of NOVEMBER 19, 1996)

NOTICE IS HEREBY GIVEN that the Marin County Board of Supervisors will hold a public hearing to consider the Price/Pac Bell Appeal of the Planning Commission's actions to deny a Categorical Exemption, pursuant to the California Environmental Quality Act, deny a Design Review Exemption application, and withhold a decision to approve or disapprove a Use Permit application for the installation and operation of a personal communications system designed to transmit cellular telephone transmissions. The subject property is currently developed with a heliport landing pad and several commercial buildings, and is located adjacent to a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels is proposed at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at **242 Redwood Highway, Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

NOTICE IS HEREBY FURTHER GIVEN that said public hearing will be held at the regular meeting of the Marin County Board of Supervisors on **Tuesday, November 19, 1996**, in the Board of Supervisors Chambers (Room #322 - Administration Building), Civic Center, San Rafael, California, at the hour of 2:30 p.m. Any interested party may appear and be heard at this time.

If you challenge the decision of this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Agency - Planning Division at, or prior to, the public hearing. (Government Code Section 65009(b)(2).)

If you have any questions or concerns regarding the proposed project, or want to be notified of the decision, please contact me at (415) 499-6269.

MARK J. RIESENFELD
Agency Director

Christine Gimmler, AICP
Planner

cg/am:bos/notices/price2.doc
10/06/96

American sign language interpreters and assistive listening devices may be requested by calling (415) 499-6172 (TDD) or (415) 499-6269 (voice) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

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Agency Director

Christine Gimmler, AICP
Planner

cg/am:bos/notices/price.doc
10/03/96

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3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

PETITION FOR APPEAL

Fee: Planning Commission- $500.00
Board of Supervisors - $650.00

TO: THE MARIN COUNTY Board of Supervisors
1501 Civic Center Drive *(Planning Commission or Board of Supervisors)*
San Rafael, CA 94903-4157

1. The undersigned, Petitioner, being the aggrieved party, hereby files an appeal *(Appellant/Petitioner)*
from the decision of the Planning Commission *(Planning Director or Zoning Administrator or Planning Commission)*
which denied and took no action for a *(granted, denied, established conditions)*

(x) Use Permit	( ) Design Review	( ) Coastal Permit
( ) Variance	( ) Master Plan	( ) Rezoning
( ) Tentative Map	( ) Development Plan	(x) Other

relating to property described and located as follows:

a) Assessor's Parcel Number 052-247-01
b) Street Address 242 Redwood Hwy, Mill Valley
c) File Name of Applicant Price/Pac Bell

2. The basis of this appeal is: The findings made by the Planning Commission to deny the Catagorical Exemption and Design Review Exemption and take no action on the Conditional Use Permit are contradictory to existing Marin County Code, Staff recommedations, and Federal Law.

(If more space is needed, continue on reverse side)

FROM: Pacific Bell Mobile Services *(Print Name)* *(Signature)*
844 Dubuque Avenue *(Address)* (415)737-[illegible]407 *(Business Telephone)*
South San Francisco, CA 94080 *(City/State/Zip Code)* *(Residence Telephone)*

(For Office Use Only)

Received by: [illegible]
Receipt No: 26197
Tentative Hearing Date: 10/15/96

RECEIVED BY
1996 SEP 16 A 9:33
MARIN COUNTY
COMMUNITY DEVELOPMENT

PACIFIC BELL
Mobile Service
San Francisco
944 Dubuque Ave.
South San Francisco, Ca 9408

2042
16-21/1220

September 12 96

Pay to the Order of Marin County $ 650.00

six hundred fifty and XX/100 Dollars

First Interstate Bank

For SF-306

F. Kevin Eldridge

⑈002042⑈ ⑆122000216⑆ 368508648⑈

IJ 9/12/96

Mobile phone antennas opposed

Health effects concern critics

By Martin Mclendy
Independent Journal reporter

When Marin planning commissioners delayed proposed mobile communications antennas at the Sausalito heliport on Richardson Bay earlier this week, they tossed a curve to about 50 similar projects in the county.

Opponents of the proposed Pacific Bell antennas contend not enough information is available on the health effects of antennas and they are a visual blight.

"What we're hoping the county will do is look at a moratorium and look at things more fully," said Enid Goldstein, who lives near the proposed antennas. "Why not err on the side of caution?"

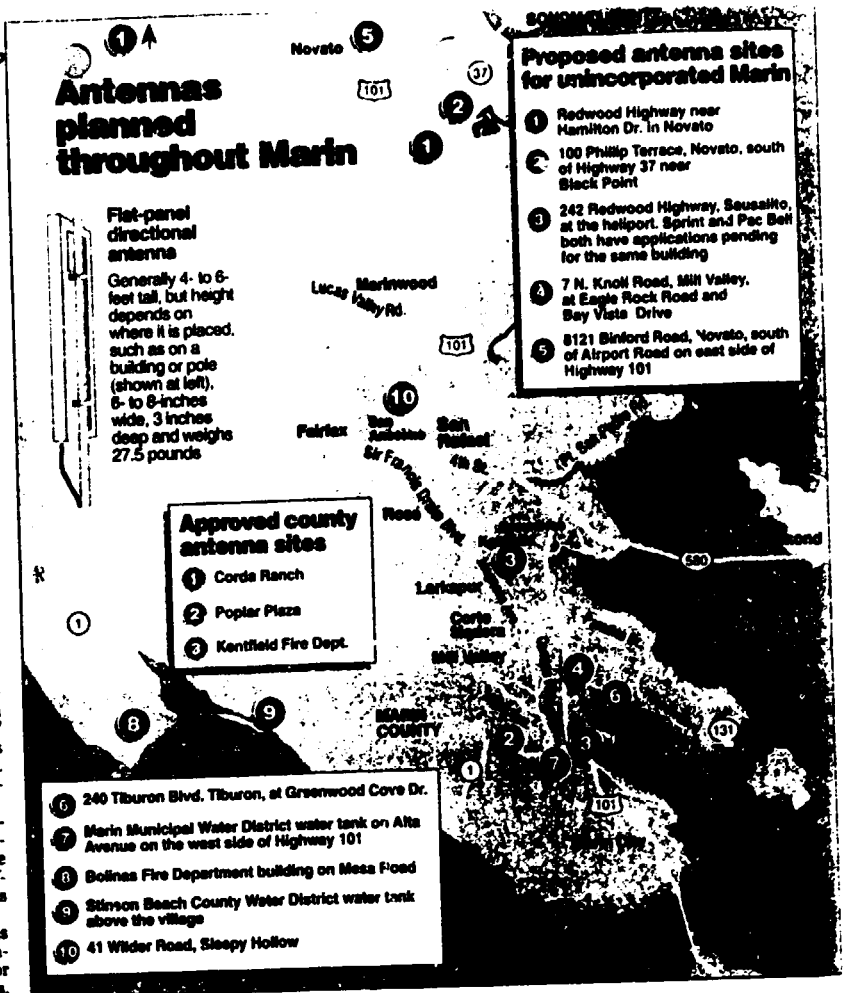
Goldstein, a San Francisco radio talk show host, believes further research is needed into the potential for adverse health effects from electromagnetic waves produced by the antennas.

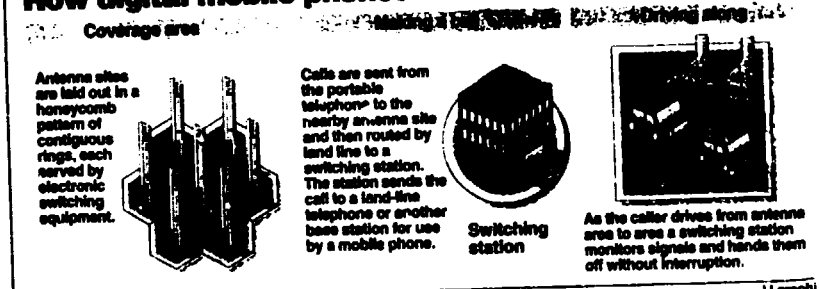
The fight over the antennas will likely intensify as telecommunications companies look for more locations. The antennas, however, don't look like "Martian-like disks," as some opponents of the Sausalito project claimed in a letter. The antennas are rectangular panels about 6 feet tall, 4 inches wide and perhaps 3 inches deep.

Sprint plans 35 antenna sites across Marin in cities and on county land, while Pacific Bell plans call for 12 now and eight more later.

Sprint has 10 antenna applications pending with the county, while at least three Pacific Bell antennas have already been approved by a county zoning ad-

See Antenna, page A8





Sources: Sprint, Electronic Industries Association, Gannett News Service

IJ graphi

Novato parents angry about busing student

Overcrowding blamed for change

loa Middle School.

"My teacher, Miss (Mary) Pritchard, is really nice. I am really

parents their children were going to be bused across town to San Jose Middle School as of Monday. Par-

ton Field.

Scott's parents and those o of the other students being s

IJ photo/Robert Tong

alyn and Mark, don't want her bused across town.

ng to accept respon-
wing up."
the district knew in
ixth grade probably
crowded this year,
ficials "were more
f warning us when
Klein and his wife,
ght the legal action
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er also refuses to go
has been staying at

perintendent Joel
ded the transfers.
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re going to be in one
that changes. We
that, but we can't
it is not there.
wish that all of our
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is not the way they
ersed."
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rict is not charging
students for their
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t will provide free
ion as of today to Scott Dumont and Rachel Klein until Tuesday's meeting, Conklin said.

The district transfers 25 to 50 students a year within the first week or two of school to balance classes, Conklin said. Enrollment is difficult to predict, she noted. The district has 14 schools and 7,398 students.

Amanda Metcalf, the Kleins' attorney, said Tuesday's meeting between parents and district officials would not be confrontational. "We want them to consider other reasonable alternatives" so the children can go to their neighborhood schools, she said.

The district cautioned parents last February about possible overcrowding this year, but the Kleins did not get the notice because Rachel was not enrolled in the district. If Sinaloa officials had advised the Kleins in August that there may be an overcrowding problem, the Kleins "would not have released her place at Marin Primery School," where she previously attended, Metcalf said.

Antenna

From page A1

ministrator without reaching the Planning Commission.

The antennas are not the same as the cellular phone antennas placed on Mount Barnabe in San Geronimo Valley last year after years of debate, including a legal settlement that included a study of health effects that found no measurable effects.

"There's a lot of hysteria and a ton of misinformation out there," said Sprint area director of engineering and operations Scott Akrie. "What's very, very frustrating is the people who get out there who don't have the facts and create hysteria."

The applications are part of a coming wave of digitally driven portable communications devices approved by Congress several years ago and now being installed nationwide.

The digital systems use a higher frequency and have more capacity than analog. Unlike cellular phones, calls on the new system cannot be easily overheard or intercepted. The wireless form of communication uses telephones that can function as pagers and eventually as a facsimile machine and computer modem.

Christine Craft, a Sacramento lawyer and San Francisco radio talk show host, represents some of the houseboat residents living near the heliport. She contends that there are enough scientists who are uncertain of the health effects of the antennas that there should be no placement near houses.

"Since we don't know, why don't we amend the plan and don't site them next to where people live?" Craft said. She also challenged the antennas on aesthetic grounds and that they would lower the value of the nearby houseboats.

"We would really love to see the county of Marin set aside an amendment that deals with cellular towers," she said. "All we're asking the county to do is proceed with caution and set a standard for how far they should be that won't allow them to be set near residences."

Pacific Bell's spokesman Lou Saviano disputed Craft's contention. "All the evidence out there is that this technology is not a health hazard or threat," Saviano said, adding that federal law prohibits local communities from banning the antennas for health reasons.

Craft said a federal court judge's ruling in Washington state earlier this year challenges the law's reach, but acknowledged the ruling is nonbinding.

"When you get to the political level, there seems to be a greater sensitivity to any questions raised by the public," Saviano said.

Planning commissioners agreed with opponents that the antennas should be more closely reviewed, but the county planning staff didn't and neither does Pacific Bell, which plans to appeal the decision to the Board of Supervisors.

County planners said the antennas and accompanying equipment did not require an environmental impact report and were "insignificant" enough to be exempt from design review scrutiny.

Commissioners balked at those recommendations and ordered a preliminary environmental report and design review report. Also, with almost a dozen applications pending, the commissioners asked the Board of Supervisors if it wants to review the county's telecommunications policy to see if it adequately handles new antennas for mobile telephones.

"If we're going to see a proliferation of this type of structure, we're going to need some guidelines," commissioner Jan Alff Wiegel said.

"We want them to update it to look at new telecommunications equipment," Alff Wiegel said, noting that much of the technology didn't exist when the county policy was formulated about a decade ago.

"The decision discriminates against this technology unfairly," Saviano said.

Both Pacific Bell and Sprint want to place antennas on buildings, water tanks or near existing telecommunications equipment throughout the county.

"We were initially concerned about the health effects and visual impacts," Alff Wiegel said, noting there is a day care center near the heliport.

"It is definitely cause for alarm when it comes to children," Goldstein said.

Saviano said the electromagnetic waves from the antennas are about 1,000 times less than national standards approved by Congress and adhered to by the Federal Communications Commission.

The commissioners on Monday declined to follow the county planning department's recommendation that the antennas at the Sausalito heliport are exempt from the state's environmental quality laws. The antennas would extend 8.5 feet above the Commodore Center building roof and equipment and would cover 50 square feet of roof.

Sprint recently filed an application with the county planning department for a similar array of antennas on the building.

MARIN COUNTY PLANNING COMMISSION MINUTES
SEPTEMBER 9, 1996
Marin County Civic Center, Room #319 - San Rafael, California

Commissioners Present:	Jan Alff Wiegel Arlene Evans Patty Garbarino Deborah Rowland Ross Herbertson Morrow Cater
Commissioners Absent:	Ray Buddie
Staff Present:	Mark J. Riesenfeld, Planning Director Tom Lai, Senior Planner Brian C. Crawford, Principal Planner Christine Gimmler, Planner Dean R. Powell, Principal Planner Tim Haddad, Environmental Coordinator Alexandra Morales, Planning Commission Secretary David Saltzman, County Counsel Bob Beaumont, DPW
Minutes Approved on:	*September 25, 1996*

Convened at 1:00 p.m.
Adjourned at 7:25 p.m.

7. USE PERMIT/DESIGN REVIEW EXEMPTION: PRICE/PAC BELL

Application proposing to construct a Personal Communication Services (PCS) facility on a property which is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels is proposed at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is located at **242 Redwood Hwy., Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

[Tape 2A. 17.3]

Christine Gimmler, project planner, presented the merits of the proposed project as set forth in the staff report, highlighting the following issues: 1) public health and safety with respect to radio frequency electromagnetic fields; 2) the effect of the federal Telecommunication Act of 1996 on local permitting authority and the future liability of the County; 3) visual impacts; and 4) staff's determination that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act. Additionally, staff summarized the supplemental memorandum dated September 5, 1996, responding to comments received subsequent to the preparation of the staff report regarding: 1) property takings; 2) adverse health effects from exposure to EMF; 3) California Environmental Quality Act Exemption; and 4) postponement of decision on the project.

Commissioner Aliff Wiegel informed the public that although she is a minor stock holder at Pacific Bell (less than 25 shares), she had no conflict of interest because neither approval or denial of the proposal would have an impact on the value of her property.

Commissioner Evans noted that the staff report does not contain an adequate analysis of the proposal's consistency with the Tamalpais Valley Community Plan.

Commissioner Aliff Wiegel asked that the correct address for the project be provided. Additionally, noting the Pacific Sun newspaper article dated December of 1994 (Attachment #4 to the staff report), Commissioner Aliff Wiegel requested an update on the status of the development of a countywide EMF policy which exceeds federal and industry standards and the survey of all county transmitter sites as mandated by the Board of Supervisors. Staff responded that the Administrator's Office has been working with County Counsel on this matter.

In response to Commissioner Aliff Wiegel, staff responded that the proposed antennas will be approximately 25 feet from the child care facility. However, neither the County's Telecommunications Plan or the ANSI standard make a distinction on the type of person (i.e., children v. adults) exposed to EMF emissions.

Hearing was opened to public testimony.

James Calkins, representing Pacific Bell, stated that the fact that there are 14 other PCS facilities currently operating throughout the County demonstrates that property values have not, and will not be impacted. Additionally, he noted that the proposal had been presented to the Tam Design Review Board (TDRB), however no one from the public was present. The project presented to the Commission is as approved by the

Board. Mr. Calkins concluded by asking the Commission to approve the proposal since it complies with the County Telecommunications Policy Plan, the Zoning Ordinance, and the Countywide Plan.
In response to Commissioner Alff Wiegel, Mr. Calkins stated that some of Pacific Bell's other PCS sites are located at 25 Throckmorton and 817 Redwood Highway in Mill Valley, and 324 Sir Francis Drake and 1509 Sir Francis Drake in San Anselmo.

Dr. Bushberg, consultant for Pacific Bell, stated that the proposed antennas would generate RF levels that are less than 1% of the most restrictive limit for human exposure set by current ANSI standards (more than 1,600 times below current standards) Additionally, Dr. Bushberg responded to Commissioners' questions in the following manner:

- Duration - Standards allow higher levels of exposure for shorter periods of duration, provided that the time average is less than specified in the standards. Additionally, areas immediately around the antennas (4-5 feet), which are typically on roof tops, are excluded by making them inaccessible to people.

- Full Power Peaks - The analysis conducted for this project assumed that the site will be fully loaded at all times indefinitely. Therefore, the calculations reflect full power peaks at all times.

- Effects on Wildlife - The vast majority of the studies conducted for ANSI standards come from animal experimentation. Therefore, standards are designed to protect the environment, including birds.

Christine Craft, attorney for adjacent property owners and residents, submitted a Microwave News article from the California PUC advising against cellular antennas near schools and hospitals, dated November 1995. Additionally, reading an excerpt from the Marin County Telecommunications Plan, she stated that a moratorium on any further sitings of cellular towers would be appropriate. Although staff has indicated that a moratorium would be contrary to the 1996 Federal Telecommunications Act, there has been one federal case in Washington which states that local jurisdictions do have the authority to impose a moratorium while considering health effects, property values, and aesthetics. As noted in Dr. Becker's report, Ms. Craft stated that the most prudent approach would be to set a standard restricting location of facilities within 2,500 feet of any residences. Since ANSI standards only address thermal effects and not biological effects on cells, the National Cancer Institute (NCI) is studying incidents of childhood cancer, particularly brain tumors and leukemia.

In response to Commissioner Rowland, Ms. Craft stated that she did not know what the outcome or duration of the moratorium in Washington was, but that some of the issues considered were consolidation of sites and adequate distance from residences. However, in Ms. Craft's opinion, a six month moratorium would provide adequate time to obtain answers to the issues raised.

Steve Price, property owner, stated that operation of the proposed antennas would require approximately 200 watts of energy each, 24 hours a day, seven days a week; this equals $250.00 per month in electricity bills. Additionally, Mr. Price stated that at an August 20th meeting with the houseboat owners, the vast majority of owners favored the project based on the fact the antennas will be immediately removed if long-term use is found to be harmful.

Enid Goldstein, concerned resident, expressed concern that potential health hazards from these facilities are unknown. She clarified that contrary to Mr. Price's statement, houseboat owners do not support the proposed project. Ms. Goldstein proceeded to state that Marin County has the highest rate of breast cancer in the world, and that the rates of prostate cancer are enormous. In her opinion, antennas should not be located within 2,500 feet of residences, schools, or hospitals. She concluded by supporting a moratorium until the cumulative impacts of these facilities are adequately reviewed.

Sylvia Siegel, Consumers Cable Corp, expressed concern regarding potential health risks and aesthetics resulting from the proposed project. However, having had breast cancer, her main concern was the health of immediate residents. She concluded that action be delayed until more information is provided.

Noel Keys, concerned homeowner, stated that after contacting surrounding residents, 11 out of the 13 residents support the proposal. Additionally, after conducting research on these facilities, he was convinced that the proposal did not pose a health threat.

Margaret Zegart, concerned resident, expressed concern regarding the potential effects on children, adults, and wildlife. She concluded by supporting a moratorium until further information is obtained.

Robert Weller, Registered Engineer for Pac Bell, clarified that the California PUC's recommendation against cellular antennas near schools and hospitals was intended to avoid public oppcsition. However, there is no scientific justification for such advise. Regarding fears related to cancer, Mr. Weller noted the September 19, 1996, issue of the Scientific American Magazine which includes an article regarding radio frequency electromagnetic fields not being identified as a hazard. Additionally, he noted the American Cancer Society Facts and Figures publication. Mr. Weller concluded by stating that recent studies have been conducted by the City of San Francisco, County of Napa, and County of Sonoma, and in each of those cases, moratoria lasted from six months to one year. The outcome of these studies confirmed that the prevailing standards are entirely valid.

Hearing was closed to public testimony.

In response to Commissioner Evans, staff stated that the Telecommunication Plan addresses telecommunication facilities in general, but does not specifically address PCSs because they had not evolved yet.

After taking into consideration the information presented, the Commission made the following comments:

1. Since there may be a proliferation of these facilities, they should not be exempted from Design Review. *(Evans)*
2. The proposed antennas have not been evaluated for consistency with the Tamalpais Community Plan in terms of height limits, particularly for this specific site. *(Evans)*
3. The proposed antennas could be considered a commercial use, and therefore would be inconsistent with the existing zoning. *(Evans)*
4. There are many unanswered questions regarding health risks, particularly potential effects on children vs. adults. *(Alff Wiegel)*
5. The cumulative impacts of these type of facilities along the highway and throughout the county have not been evaluated. Therefore, a categorical exemption from environmental review would be inappropriate, and an Initial Study should be conducted *(Evans/Herbertson/Alff Wiegel)*
6. It would be appropriate to coordinate with the cities when establishing new guidelines. *(Rowland)*
7. An amendment to the Telecommunications Plan is necessary to better reflect current technology. *(Rowland/Evans)*

M/s Evans/Alff Wiegel, to deny the Design Review Exemption without prejudice based on reasons stated above and to require an Initial Study which addresses visual impacts and health hazards, as well as any potential cumulative impacts. No action was taken on the Use Permit pending the outcome of the Initial Study.

AYES: Alff Wiegel, Cater, Evans, Herbertson, Rowland
NOES:
ABSENT: Buddie

ABSTAIN: Garbarino

Commissioner Alff Wiegel asked staff to obtain background information on the California PUC's advise against siting cellular antennas near schools and hospitals.

M/s Evans/Alff Wiegel, to write a letter to the Board of Supervisors recommending an amendment to the Telecommunications Plan in order to better reflect current technology.

AYES: Alff Wiegel, Cater, Evans, Herbertson, Rowland
NOES:
ABSENT: Buddie
ABSTAIN: Garbarino

Commissioner Garbarino abstained since she was out for staff's presentation and part of the public testimony.

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

STAFF REPORT TO THE PLANNING COMMISSION
Price/Pacific Bell Use Permit and Design Review Exemption

Item No:	7.	**Application No:**	UP 96-406/DX 96-405
Applicant:	Pacific Bell Mobile Services	**Owner:**	Steve Price
Property Address:	242 Redwood Hwy., Mill Valley	**Assessor's Parcel:**	052-247-01
Hearing Date:	September 9, 1996	**Planner:**	Christine Gimmler, AICP

RECOMMENDATION: Approval with Conditions
APPEAL PERIOD: Five working days to the Board of Supervisors
LAST DATE FOR ACTION: September 9, 1996.

PROJECT DESCRIPTION:

The applicant is requesting Use Permit approval and a Design Review Exemption to construct a Personal Communication Services (PCS) facility at 242 Redwood Highway, Mill Valley. The project site is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that occupied by the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend 8 feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels is proposed at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof at the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area.

GENERAL INFORMATION:

Countywide Plan Land Use Designation:	RC (Recreational Commercial, maximum floor area ratio range of 30%)
Zoning:	BFC-RCR (Bayfront Conservation District, Resort and Commercial Recreation District)
Lot size:	±4.4 acres
Adjacent Land Uses:	Residential, office, heliport
Vegetation:	Various mature trees (including pine and eucalyptus) and ornamental shrubs
Topography and Slope:	Level
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 1992 CEQA Guidelines because it proposes the installation and operation of a minor telecommunications facility on the roof of an existing structure on a commercial property with no physical alterations to land, air, water, vegetation, wildlife, archaeological, or historic resources. The project would not generate significant amounts of traffic because the proposed unstaffed facility is electronically operated. The operation of the proposed facility would not generate significant noise that would exceed ambient noise levels which are substantially affected by the vehicle traffic on nearby U.S. Highway 101 and the operation of a heliport on the project site. The visual change resulting from the project would be insignificant because the proposed facility would not be sited in a ridge and upland greenbelt area or other visually prominent location that has important or intrinsic visual qualities. In addition, the size of the proposed equipment is small in relation to the commercial building on which it would be mounted and would add incrementally to the overall height, bulk, and massing of the building. Additionally, a report prepared by Hammett & Edison, Inc. dated March 22, 1996, and supplemented by a letter report dated July 24, 1996, concludes that the proposed project would not result in any significant public health risks with respect to human exposure to radio frequency electromagnetic fields. The project has also been found to be consistent with the County's environmental goals and policies which pertain to the project.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, 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 300 feet of the subject property and published in a newspaper of general circulation.

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of *The Marin Countywide Plan*, the *Tamalpais Area Community Plan 1992*, and the *County of Marin Telecommunications Facilities Policy Plan* because the project consists of the installation and operation of a telecommunications facility that is compatible with surrounding commercial uses and has been designed to reduce visual impacts and minimize health risks. Please refer to the recommended resolution for detailed findings.

BACKGROUND:

On July 11, 1996, the Deputy Zoning Administrator (DZA) conducted a duly noticed public hearing to consider a recommendation from staff to approve the project applications based in part upon a categorical exemption from the requirements of CEQA. A copy of staff's report to the DZA has been incorporated as Attachment 5 to provide background information and analysis. Prior to the DZA hearing, the Tamalpais Design Review Board reviewed the project and recommended its approval with a modification to align the position of the two proposed antenna arrays at the southerly and northerly end of the roof to minimize their visibility from ground level.

At the July 11th DZA hearing, a number of persons who reside in the houseboat marina located adjacent to the project site expressed concerns about the project, including but not limited to: (1) potential adverse health effects from human exposure to radio frequency (RF) radiation emitted by the proposed telecommunications facility; (2) adverse visual changes resulting from the proposed antennas; (3) the County's liability for future unforeseen adverse health effects resulting from human exposure to RF radiation emitted by the proposed PCS facility; (4) the ANSI standard being dated and not reflecting ongoing research on public health effects from RF radiation; and (5) potential cumulative effects from RF radiation exposure at and around the project site. The adjoining residents further requested that the project be considered before the Planning Commission. After consideration of the issues raised at the hearing, the DZA decided to refer the project to the Planning Commission for consideration and directed staff to respond to the substantive issues analyzed below.

PROJECT ANALYSIS:

Public Health and Safety with Respect to Radio Frequency Electromagnetic Fields

One of the principal objectives of the Marin County Telecommunications Facilities Policy Plan (TFPP) is to ensure that new or modified telecommunications facilities are sited, designed and built in a manner which minimizes potential health risks from electromagnetic fields (EMF), including radio frequency (RF) fields which are emitted by the proposed PCS facility (Objective NEIR 1). This objective is carried out by policies and programs which establish an administrative process for evaluating and determining potential adverse health effects from human exposure to EMF. In summary, the TFPP states that the County will apply the American National Standards Institute (ANSI) standards for human exposure to establish permissible levels of human exposure to EMF radiation. The TFPP also recommends that development applications for new or modified telecommunications sites include technical information on proposed EMF power densities and frequencies to permit an adequate assessment and regulation of EMF emissions (Policy NEIR 1.2).

At the direction of staff, the applicant has submitted a report (RF report) which evaluates the RF exposure conditions resulting from the operation of the proposed PCS facility. The evaluation results indicate that, except for the roof top of the building upon which the antennas will be attached, the RF levels (i.e., power density) will be less than 1% of the most restrictive limit for human exposure set by the current ANSI standard. The current standard (ANSI/IEEE C95.1-1992) has been promulgated jointly by the American National Standards Institute and Institute of Electronics and Electrical Engineers (IEEE) and has been established based on research information relating to both thermal and non-thermal effects of EMF exposure. The RF report further points out that the highest calculated power level of RF emissions near ground level is only 0.062% of the most restrictive ANSI standard (i.e., more than 1,600 times below the ANSI standard). The predicted RF levels are based on the worst case assumption of having the proposed PCS facility operating at full power. However, during actual operation, the transmitted power levels are often reduced below their maximum capability to allow other PCS base stations to re-use the same frequencies. It should be noted that, according to the submitted report, the current ANSI standard for PCS facilities used to evaluate the proposed project was adopted by the FCC in 1992. Regarding cumulative effects, the RF report states that no other significant ambient sources of radio frequency energy were identified in the vicinity of the project site.

At the DZA hearing, neighboring residents expressed concerns about whether operation of the proposed antennas would expose occupants of the underlying building to unsafe levels of RF emissions, especially children attending the preschool on the lower floor of an adjacent building. In response to these

concerns, the RF report has been supplemented to specifically address the RF exposure conditions for interior portions of the underlying building (Attachment 8). The supplement clarifies the findings of the RF report by pointing out that the calculations predicting maximum RF exposure include the area between the antenna locations and the adjacent edge of the roof. The report further explains that due to extenuating effects of the roof and walls, as well as the distance between the antennas and underlying floor levels, the RF levels on the second floor will be reduced to a factor of at least 10 times. The supplement concludes that the maximum RF power density on the second floor will be well below the most restrictive ANSI standard for human exposure of unlimited duration.

The report notes that the ANSI standard may be exceeded by most transmit antennas if a person(s) is close enough to the antennas for an extended period of time. The RF report recommends that approaches no closer than 4 feet be made to the proposed antennas to ensure that exposure conditions do not exceed the ANSI standard. Because there are no activity areas (such as roof decks or observatories) on the roof of the subject building, or means of public access, the building is not normally used or occupied in a manner that would expose persons to unsafe RF levels from being in close proximity to the proposed antennas for an extended period of time. As a precautionary measure, however, staff has recommended a condition of approval that requires restricted access to the roof area of the subject building by posting warning signs and providing locked anti-climbing devices on any ladders which may be installed in the future. In addition, the applicant would be further required to turn off the antenna transmitters in the event that roof maintenance activities (painting, re-roofing, etc.) are required for extended periods of time. These conditions are consistent with the recommendations of the RF report.

<u>1996 Telecommunications Act - Preemption of Local Permitting Authority and Future Liability of the County</u>

Since the July 11th DZA hearing, staff has consulted County Counsel regarding: (1) the County's authority to approve or disapprove the proposed project on the basis of the environmental effects related to human exposure to RF emissions; and (2) the effect of the Federal Telecommunications Act on the County's future liability for any yet unknown adverse health effects resulting from RF emissions generated by the proposed PCS facility.

County Counsel has advised staff that Section 704(a) of the Telecommunications Act of 1996 specifically prohibits local governments from regulating the placement, construction or modification of personal wireless communications facilities, such as the proposed project, solely on the basis of environmental effects of RF emissions if the proposed facility is shown to comply with existing Federal Communications Commission regulations regarding maximum allowable levels of such emissions (see Summary of Section 704 of the Telecommunications Act, Attachment 11). As described above, the applicant has demonstrated that the proposed facility would operate well within the most restrictive applicable ANSI standard for human exposure to RF emissions. County Counsel has also indicated that, under California state law, the County could not be held liable for any future injury or damages resulting from a facility that required discretionary County approval.

In order to verify that the actual radio frequency emissions resulting from the proposed project after construction correspond to the projected levels identified in the above-referenced report, staff is recommending a condition of approval which requires the applicant to submit a post-construction RF report which evaluates actual RF levels from the facility operating at full power for compliance with the current ANSI standards. In addition, staff has recommended conditions of approval which require the project to comply with subsequent EMF standards adopted by the County so that the approved PCS

facility must comply or be removed if future research shows that the levels of EMF existing at the project site at some future date exceed the levels permitted by subsequently adopted County standards.

Visual Impact

The proposed facil would be located on the roof of an existing commercial building which is partially screened from the north, south, and east by existing mature pine and eucalyptus trees. The Base Transceiver Stations would be mounted on the lowest portion of the roof on the southeastern end of the building and would be screened from off-site locations to the north and west by the adjacent two-story portion of the building. The two pairs of proposed panel antennas would be located on the taller northwestern portion of the structure and their support posts would extend eight feet above the existing roof parapet. The antennas would be visible from U.S. Highway 101 to the west and south, but would be partially screened by existing trees to north and east where the existing houseboat marina is located. In addition, the antennas and support posts would be painted a gray color to blend with the sky background as viewed from ground-level vantage points and the base transceiver stations would be painted to match adjacent walls. In response to comments from the Tam Design Review Board, the applicant has agreed to resite the northwestern pair of antennas 20 feet back from the front (west) elevation of the building to align with the southern pair and reduce the visibility of the antennas as viewed from below.

At the July 11th hearing, the DZA directed staff to investigate the possibility of re-siting the southernmost antenna array in a northerly direction towards the interior of the building so that the antennas would be better screened from the southern end of the houseboat marina by existing mature trees located east of the structure. In response to the hearing officer's directive, the applicant has submitted an evaluation prepared by the project engineer which indicates that the southern antenna array could be relocated as suggested. However, in order to prevent shadowing effects by the roof, the height of the antenna would have to be increased approximately one inch for every foot that the array is moved away from the roof edge.

Additional analysis of views of the project site from the adjacent houseboat marina indicates that relocation of the antenna array to the central portion of the roof, which is more completely screened from the southern end of the marina by existing tree cover, would result in a corresponding antenna height increase of four feet (or 12 feet total height) or more. Such a height modification would increase the visibility of the antennas from other portions of the houseboat marina as well as from public view points along the Highway 101 corridor. In other words, any additional visual screening enjoyed by the southern end of the houseboat marina as a result of resiting the antenna would be outweighed by its increased visibility from other vantage points in the project area. Therefore, staff recommends that the southern antenna array remain where originally proposed.

In general, because both pairs of proposed antennas would be located on the top of an existing building which is located landward of the existing houseboat marina, they would not obstruct or impair views of Richardson Bay or the bay shoreline which are available from the houseboat marina, the adjacent public access path, and other public vantage points. In addition, the size of the antennas is small in relation to that of the commercial building and, therefore, would not contribute appreciably to the building's height, bulk and massing.

The project complies with the visual impact policies of the TFPP because the proposed PCS facility would be sited below ridgelines or other prominent natural features and has been integrated with an existing commercial building to eliminate the need to erect free-standing towers or other support

structures. In addition, the antennas would be treated with non-reflective colors and/or materials to minimize their visibility and contrast with the visual setting and the siting of the facility uses existing landscaping to minimize the visibility of the proposed antennas from off-site vantage points.

For the reasons discussed above, staff finds that the project would not have a significant effect on visual resources or the character of the community. Therefore, staff finds the proposed PCS facility to be a minor and incidental modification to the existing commercial building which is consistent with the standards and criteria for Design Review.

CEQA Exemption

The State CEQA Guidelines contain a list of certain classes of projects which have been determined to not to have a significant effect on the environment and which are, therefore, categorically exempt from the provisions of CEQA requiring preparation of environmental documents. The proposed project falls into an exempt class for the construction and location of new small facilities and structures (Class 15303) because the proposed PCS facility includes two relatively small antenna arrays and transceivers stations that would be mounted on the roof of an existing building. As explained in the Environmental Review section of this report, the project can be constructed and operated without making physical alterations to land, air, water, vegetation, wildlife, or historic resources. For the reasons noted in the Visual Impact discussion above, the project would have an incremental change on the existing visual resources and environment of the project area, but the extent of visual change would not be significant.

In addition, the RF report submitted in connection with the project adequately demonstrates that the level of RF emissions generated by the operation of the PCS facility would amount to less than 1% of the County's standard for allowable maximum levels of RF emissions at locations accessible to the general public. With respect to the project's compliance with CEQA, this standard is effectively a threshold for determining the significance of environmental effects associated with human exposure to RF emissions. Because the predicted RF levels from the project are calculated at less than 1% of the County's adopted standard, the project would not approach the threshold for significance insofar as potential health hazards from human exposure to RF emissions is concerned.

The categorical exemption should not be negated because of the following additional factors as established in the administrative record: (1) the project would be constructed and operated on the roof of an existing commercial building, which is not an environmentally sensitive environment; (2) the project would not result in cumulative impacts, and successive projects of the same type in the same place will not result in cumulative impacts because the County implements mandatory procedures for reviewing such projects to ensure that cumulative levels of RF emission do not exceed the ANSI standard; and (3) there are no unusual circumstances creating a reasonable possibility of significant effects from the project.

Lastly, there is no factual information in the administrative record which supports a fair argument that the construction and operation of the proposed PCS facility would result in one or more potentially significant effects. CEQA mandates that projects be exempt if there is no substantial evidence that the project would result in any significant effects. Therefore, based on the foregoing, a categorical exemption clearly applies to the proposed project.

CONCLUSION:

The proposed PCS facility complies with all pertinent policies and programs of the TFPP. The predicted level of RF emissions from the facility have been evaluated by a qualified professional and found to be less than 1% of the County's adopted standard setting maximum allowable levels of RF radiation. The visual effects resulting from the project would not be significant given the amount and size of the proposed equipment in relation to the existing commercial building on which such equipment would be installed. Therefore, staff is recommending that the Planning Commission approve a Categorical Exemption, pursuant to CEQA, and approve the project applications with conditions of approval which ensure that the project will comply with future public health standards that may be adopted by the County.

RECOMMENDATION:

Staff recommends that the Planning Commission take the following actions:

1. Review the administrative record;
2. Conduct a public hearing; and
3. Adopt the attached Resolution approving the Price/Pacific Bell Use Permit and Design Review Exemption based on the findings contained in the proposed resolution.

ATTACHMENTS:

1. Proposed Resolution recommending approval of the Price/Pacific Bell Use Permit/Design Review Exemption
2. Location Map
3. Site Plan
4. Elevations
5. DZA Staff Report, dated 6/20/96, and minutes of the 7/11/96 DZA hearing
6. Letter of opposition to proposed project (11 signatures), dated 7/8/96, submitted 7/11/96
7. Pacific Sun articles, submitted 7/11/96
8. Letter from William Hammett, Hammett & Edison, dated 7/24/96
9. Letter from James Caulkins, Pacific Bell Mobile Services, dated 8/8/96
10. Letter from Dave Kersting, President, Kids Headquarters, received 8/14/96
11. Letter of support for proposed project (19 signatures), submitted 8/14/96 through 8/23/96
12. Summary of Section 704 of the Telecommunications Act of 1996
13. Hammett & Edison Evaluation of Radio Frequency Exposure Conditions, dated 3/22/96

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PRICE/PACIFIC BELL USE PERMIT/DESIGN REVIEW EXEMPTION APPLICATION

ASSESSOR'S PARCEL NUMBER 052-247-01
242 REDWOOD HIGHWAY, MILL VALLEY

* *

SECTION I: FINDINGS

I. WHEREAS the applicant has submitted a Use Permit and Design Review Exemption application proposing installation of a minor, rooftop telecommunications facility that would enhance wireless communication services to residents and businesses in Mill Valley and Sausalito. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is located at 242 Redwood Highway, Mill Valley and is further identified as Assessor's Parcel #052-247-01.

II. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on September 9, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Planning Commission finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3 of the 1992 CEQA Guidelines because it entails installation and operation of new, small equipment and facilities mounted on the roof of an existing structure on a commercial property with no potentially significant impacts on the environment. Additionally, a report prepared by Hammett & Edison, Inc. dated March 22, 1996, as supplemented by letter a report dated July 24, 1996, concludes that the proposed project would not result in any significant, public health risks with respect to human exposure to RF electromagnetic fields.

IV. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the goals and policies of *The Marin Countywide Plan* because:

A. The proposed project is consistent with the Recreational Commercial land use designation for the project site. The site is located within the City-centered Corridor which is designated for urban development where infrastructure and facilities are available for such development. The Recreational Commercial land use designation is generally intended for resort uses and privately-owned recreational facilities. However, Policy CD-8.13 of the Countywide Plan recognizes that certain facilities and uses, such as the proposed telecommunications project, may be found to be consistent with recreational uses, subject to Use Permit approval.

PC ATTACHMENT 1

B. The mandatory Use Permit finding can be made pursuant to Section 22.88.020(3) of Marin County Code to allow public utility and service uses necessary for public safety, convenience and welfare.

C. Pursuant to Community Facilities Objective CF-8, the proposed project, as explained more fully in Finding VI below, is consistent with goals and policies of the *County of Marin Telecommunications Facilities Policy Plan* which ensure that the siting and design of the proposed facility is compatible with other land uses, provides protection from vandalism and fire hazards, minimizes visual impacts, and minimizes potential health risks to people.

D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

V. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the goals and policies of the *Tamalpais Area Community Plan 1992* because:

A. The proposed project would not adversely impact the commercial character and scale of the project site or the quality of the natural environment.

B. Pursuant to Policy LU1.3, the proposed project would be compatible with the scale (bulk, mass and height) and appearance (colors, materials and design) of the existing commercial structures on the subject property.

C. The proposed project would be consistent with the Shoreline Commercial land use designation for the project site. The Shoreline Commercial land use designation allows a mixture of open space and commercial development including office, restaurant, recreation and limited retail uses. The proposed facility would be mounted on the roof of an existing commercial structure and would provide a service to local residents without disrupting the existing commercial use of the property or resulting in adverse traffic, noise, odor, light, glare, or aesthetic impacts on properties in the vicinity.

VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the goals and policies of *the County of Marin Telecommunications Facilities Policy Plan* because:

A. The project proposes a small-scale telecommunications facility which is not located in a ridge and upland greenbelt area or parcel which is restricted by an agricultural, open space, scenic or other easement or restriction. Because the facility is proposed to be located on the roof of an existing commercial building, its development and operation would not affect bayfront resources protected under the governing Bayfront Conservation Zone land use designation and zoning district, it would not cause the loss of important natural resources including plant or animal species, nor would it adversely affect the use and enjoyment of the public pathway to the west of the project site.

B. The proposed project would not result in any significant visual impacts because: (1) the proposed facility is not located in a ridge and upland greenbelt area or other visually prominent area with intrinsic visual or scenic qualities; (2) the project would not result in a significant visual change in the surrounding area because the location of the facility utilizes

PC ATTACHMENT 1

an existing commercial building to avoid the need for free-standing towers or other similar support structures; (3) the proposed facility is limited to four small-scale antennas that would extend eight feet above the roof of the existing building and two base transceiver stations that would be substantially screened by the existing roof parapet; (4) the proposed antennas, support posts, and base transceiver stations would be painted appropriate, nonreflective colors that blend with the predominant viewshed background; and (5) existing trees on the project site would partially screen the proposed facility from off-site views.

C. The proposed project would be sited, designed and built in a manner which minimizes potential health risks from RF electromagnetic fields. A report prepared and submitted by a qualified professional with expertise in the field of RF radiation health risk assessment concludes that the project would not result in any significant public health risks with respect to human exposure to RF radiation because the facility would operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers. In addition, conditions of project approval require that access to the roof area on which the antennas are located be restricted to prevent anyone from approaching within four feet of transmit antennas, consistent with the recommendations of the submitted report.

D. The proposed project would not adversely impact public safety with respect to siting because the antenna array would be located on a roof which would not be accessible to the public. Conditions of project approval would require that access to the roof area be restricted by the posting of a warning sign at each point of access or by installation of suitable access controls, such as locked, anti-climb shields on ladders. In addition, the structural integrity of the facility would be ensured through the County building permit and review process.

E. Operation and maintenance of the proposed unstaffed facility would not result in significant noise or traffic impacts on the project site and surrounding area.

F. Conditions of approval require the operator to dismantle and remove the PCS facility if it has been inoperative or abandoned for a two-year period.

G. The proposed project has been regulated using uniform processing procedures and standards through the review of Use Permit and Design Review applications.

H. In order to periodically evaluate compliance with conditions of project approval and policies of the Telecommunications Plan, conditions of approval require renewal of this Use Permit every 10 years.

VII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.88.020(3) of Marin County Code as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not under this particular case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood because:

A. Public utility and service uses may be approved in the governing BFC-RCR zoning district by Use Permit pursuant to Section 22.88.010(2) of Marin County Code when it is found to be necessary for public health, safety, convenience or welfare. The proposed project is part of Pacific Bell Mobile Services system which provides wireless communications service to residents and businesses in Southern Marin and would contributes to public safety, convenience and welfare.

B. The proposed project would not result in any significant, public health risks with respect to human exposure to RF radiation because the facility would operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers. As described above, conditions of project approval require that access to the roof area on which the antennas are located be restricted to prevent anyone from approaching within four feet of transmit antennas, consistent with the recommendations of the submitted report.

C The proposed facility would be located on an existing commercial structure and would provide a service to local residents without disrupting the existing character of the subject property. In addition, the project would not result in adverse traffic, noise, odor, light, glare, or aesthetic impacts that conflict with the quality of the community.

D. The proposed project would be incidental to the existing commercial and residential use of the subject property. Pursuant to Marin County Code Section 22.88.010, public utility and service uses, such as the proposed project, are permitted in BFC-RCR zoning district subject to Use Permit approval.

VIII. WHEREAS the Marin County Planning Commission finds that the proposed project is exempt from the requirements of Design Review pursuant to Section 22.82.030(4) of Marin County Code because:

The project proposes a minor telecommunications facility which is incidental to the primary commercial uses on the project site. The facility would be partially screened from off-site locations and would not result in grading, tree removal, grading, or other adverse physical effects on the environment. The facility would be situated entirely on the project site, would maintain large setbacks to all surrounding properties, and would not interfere with the existing commercial and residential uses in the project area. The project conforms to the governing zoning district as a conditionally permitted public service use that will provide a public benefit by improving telecommunications in the project area. The proposed antennas and support posts would be painted an appropriate, nonreflective color that blends with the predominant viewshed background. In addition, the antenna arrays would be located centrally at the southerly and northerly ends of the roof to reduce the visibility of the structures as viewed from ground level vantage points.

SECTION II: DECISION

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Planning Commission hereby approves the Price/Pacific Bell Use Permit/Design Review Exemption subject to the following conditions:

Marin County Community Development Agency -- Planning Division

1. Pursuant to Marin County Code Section 22.88.010, this approval permits the installation and operation of an unmanned rooftop telecommunications facility on the property located at 242 Redwood Highway, Mill Valley. The approved Personal Communication Services (PCS) facility includes the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office on the subject property. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet to a total height of 33 feet above grade. One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area.

2. Except as modified by conditions of approval, plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A": Pacific Bell Mobile Services, SF-306, 260 Redwood Highway, Mill Valley, consisting of four sheets received April 9, 1996, and on file in the Marin County Community Development Agency -- Planning Division.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit revised plans for review and approval of the Community Development Director that show a minimum setback of 20 feet between the proposed antennas and the front (west) elevation of the building.

4. Access to the roof area of the subject building shall be restricted. Access area may be restricted by the posting of a warning sign at each point of access or by installation of suitable access controls, such as locked, anti-climb shields on ladders. In the event that roofing, painting, or other activities are required for extended periods on the roof, the transmit antennas should be turned off, unless measurements, more detailed calculations, or other measures ensure that the prevailing exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers are not exceeded.

5. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a two-year period. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a standard Performance Agreement with the County and post a bond or other suitable security in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site returned to its preexisting conditions.

6. If nationally accepted research establishes a significantly more stringent standard for human exposure to radio frequency radiation or other electromagnetic field radiation which is determined by the County to be applicable to the project, the project sponsor shall be required to, upon consultation with the Community Development Agency--Planning Division, file for renewal of the

Use Permit application and evaluate the existing cumulative levels of radio frequency radiation emanating from the project site in accordance with the new standard. Any exceedance of the applicable standard on the project site, as demonstrated in radio frequency evaluations required herein, shall provide grounds for the County to revoke this Use Permit as provided for by Section 22.88.040 of the Marin County Code or require submittal of a Use Permit renewal application for the purpose of requiring modifications to the approved facility designed to meet the applicable standard.

7. WITHIN 60 DAYS OF FINAL INSPECTION, the applicant shall submit an evaluation of the actual radio frequency radiation measured at the project site for conformance with the current ANSI/IEEE standard. The evaluation shall be based on measurements of the approved facility operating at full power. The measurements shall be taken at representative locations, including but not limited to the interior floors of the building on which the approved antennas are located and the easterly border of the project site adjacent to the entrance to the existing houseboat marina. The evaluation shall be prepared by a qualified professional selected by the County and paid for by the applicant. The Community Development Agency--Planning Division shall provide notice of the availability of the evaluation for public inspection to persons who request such notice.

8. No exterior lights on the panel antennas and the Base Transceiver Stations are permitted.

9. The antennas and support posts shall be painted a light gray color to blend with the sky background as viewed from ground-level vantage points. The base transceiver stations shall be painted to match the adjacent walls.

10. The applicant shall be responsible for ensuring that the number of construction vehicles is limited to the minimum number necessary to complete the project.

11. 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.

12. This Use Permit shall remain valid for a 10-year term and will expire on June 20, 2006. The Use Permit may be renewed if the applicant submits a Use Permit renewal application before this date, with the appropriate fees, to the Community Development Agency-- Planning Division. The applicant or their successors shall submit an updated radio frequency evaluation, as specified in Condition 7 above, with the Use Permit renewal application.

Tamalpais Fire Protection District

13. PRIOR TO FINAL INSPECTION, the Fire Marshal shall verify to the Community Development Agency -- Planning Division that an approved fire detection system has been installed in accordance with National Fire Protection Association standards in the Base Transceiver Stations. The system must be connected to the fire alarm headquarters of the Tamalpais Fire Protection District through an approved central monitoring system.

San Francisco Bay Conservation and Development Commission

14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit verification that the San Francisco Bay Conservation and Development Commission has reviewed and approved the proposed project.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE, LET IT BE FURTHER RESOLVED that the applicant must vest this Use Permit and Design Review Exemption approval by **September 9, 1998**, or all rights granted in this approval shall expire, unless the applicant applies for an extension at least 30 days before the expiration date above and the Agency Director approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.88.050 and 22.82.130 of Marin County Code. Vesting this Use Permit and Design Review Exemption approval entails securing a valid building permit and substantially completing the improvements in accordance with the secured building permit.

This Use Permit shall be valid upon timely vesting of the approval and will remain valid until **June 20, 2006**, unless the conditions of approval are violated, in which case the Use Permit may be revoked, or the Use Permit is required to be renewed prior to June 20, 2006 pursuant to Condition 6 above.

This decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $650.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on September 16, 1996.**

SECTION IV: ADOPTION

ADOPTED at a regular meeting of the Marin County Planning Commission of the County of Marin, State of California, on the 9th day of September, 1996.

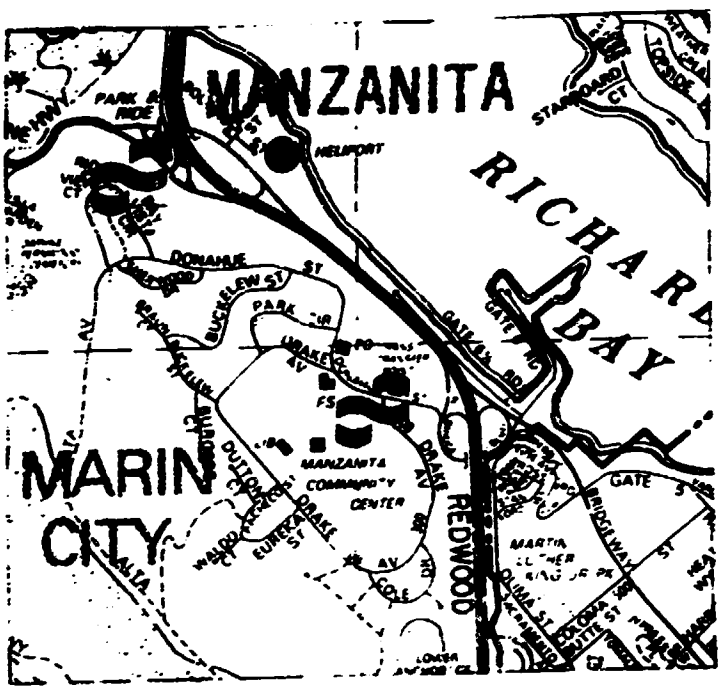
MORROW CATER, CHAIRPERSON
MARIN COUNTY PLANNING COMMISSION

Attest:

Alexandra Morales
Planning Commission Secretary

PC ATTACHMENT 1

Marin County
Community Development Agency
Location Map

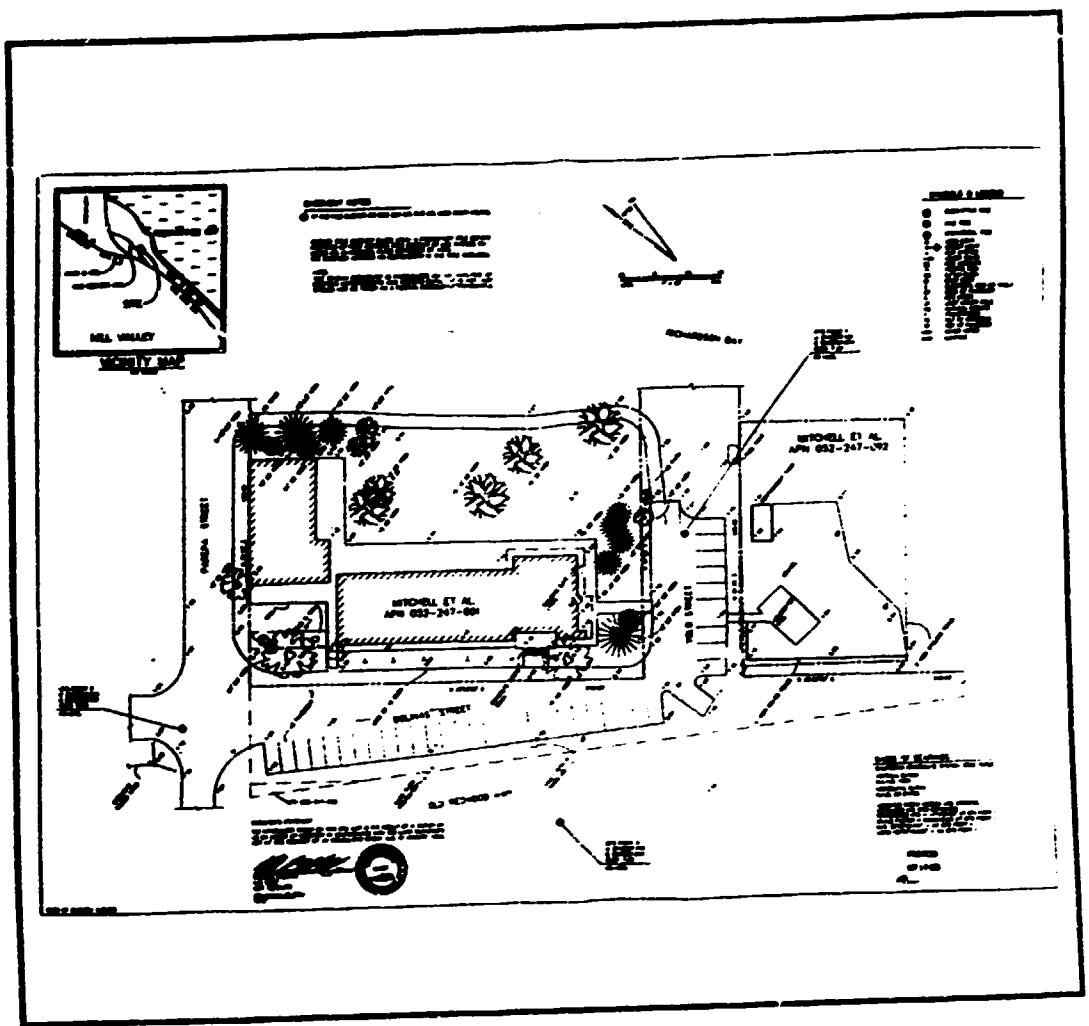


PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01

Not to Scale

***PC* ATTACHMENT #2**

Marin County
Community Development Agency
Site Plan

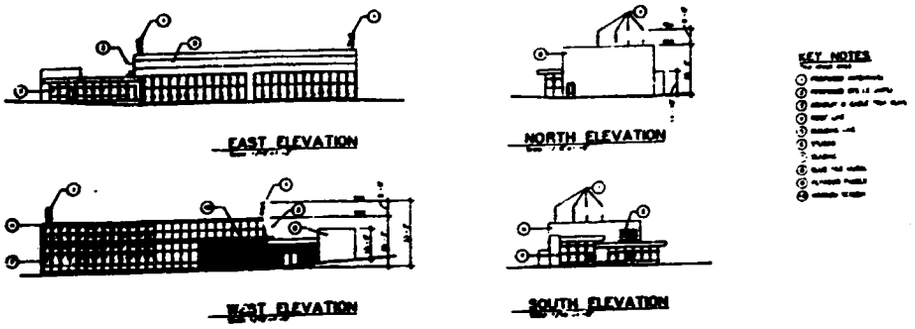


PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01

Not to Scale

***PC* ATTACHMENT #3**

Marin County
Community Development Agency
Elevations



PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01

Not to Scale

***PC* ATTACHMENT #4**

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
Price/Pacific Bell Use Permit and Design Review Exemption

Item No:	C5.	**Application No:**	UP 96-406/DX 96-405
Applicant:	Pacific Bell Mobile Services	**Owner:**	Steve Price
Property Address:	242 Redwood Hwy., Mill Valley	**Assessor's Parcel:**	052-247-01
Hearing Date:	June 20, 1996	**Planner:**	Christine Gimmler, AICP

RECOMMENDATION: Approval with Conditions
APPEAL PERIOD: Five working days to the Planning Commission
LAST DATE FOR ACTION: July 16, 1996

PROJECT DESCRIPTION:

The applicant is requesting Use Permit approval and a Design Review Exemption to construct a Personal Communication Services (PCS) facility at 242 Redwood Highway, Mill Valley. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend 8 feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof at the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 sq. ft. of roof area.

GENERAL INFORMATION:

Countywide Plan Land Use Designation:	RC (Recreational Commercial, maximum floor area ratio range of 30%)
Zoning:	BFC-RCR (Bayfront Conservation District, Resort and Commercial Recreation District)
Lot size:	±4.4 acres
Adjacent Land Uses:	Residential, office, heliport
Vegetation:	Various mature trees (including pine and eucalyptus) and ornamental shrubs
Topography and Slope:	Level
Environmental Hazards:	None identified

PC ATTACHMENT #5

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3 of the 1992 CEQA Guidelines because it entails installation and operation of new, small equipment and facilities mounted on the roof of an existing structure on a commercial property with no potentially significant impacts on the environment. Additionally, a report prepared by Hammett & Edison, Inc. dated Marc. 22, 1996, concludes that the proposed project would not result in any significant public health risks with respect to human exposure to radio frequency electromagnetic fields.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, 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 300 feet of the subject property. No adverse comments regarding this project have been received by Community Development Agency staff.

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of *The Marin Countywide Plan*, the *Tamalpais Area Community Plan 1992*, and the *County of Marin Telecommunications Facilities Policy Plan* because the project consists of the installation and operation of a telecommunications facility that is compatible with surrounding commercial uses and has been designed to reduce visual impacts and minimize health risks. Please refer to the recommended resolution for detailed findings.

PROJECT ANALYSIS:

Background

As a subsidiary of Pacific Telesis, Pacific Bell Mobile Services is a public utility licensed by the Federal Communications Commission to operate wireless communication facilities in California. The proposed project would involve installation of a Personal Communication Services ("PCS") facility on the rooftop of an existing commercial building in Mill Valley. This unstaffed facility is intended to enhance wireless communication services to local residents and businesses.

Land Use Compatibility

Currently, the project site is developed with a heliport landing pad, several commercial buildings, and a houseboat marina. The governing BFC-RCR zoning allows resort and visitor serving facilities. However, a public utility or service use may be approved in this zoning district by Use Permit pursuant to Section 22.88.010(2) of Marin County Code when it is found to be necessary for public health, safety, convenience or welfare. The proposed facility would be installed on the roof of the existing building on the property that houses the heliport office, and would not interfere with the existing commercial and residential use of the site. In addition, the project conforms with the design standards of the Bayfront Conservation District (Marin County Code Section 22.50.050) because the proposed roof-mounted facility would be sited on an existing structure and would not decrease public access to bayfront lands, result in additional habitat loss, or decrease visual access to shoreline areas.

Public Health and Safety with k..spect to Radio Frequency Electromagnetic Fields

The applicant has submitted a project-specific report prepared by Hammett & Edison, Inc., dated March 22, 1996, that evaluates the project for compliance with standards of the American National Standards Institute and the Institute of Electrical and Electronic Engineers ("ANSI/IEEE") for limiting human exposure to radio frequency electromagnetic fields. The report concludes that the project would not result in any significant public health risks with respect to human exposure to radio frequency radiation because the facility will operate well below the exposure limits of ANSI/IEEE. Exposure levels at all locations near the site are calculated to be less than 1% of the most restrictive ANSI/IEEE limit, and exposure levels in building interiors would be reduced even further by the shielding effect of building walls and roofs.

The report also concludes that it would not be possible for exposure conditions to approach ANSI/IEEE limits without being within approximately four feet of the transmit antennas. Since the antennas are proposed to be mounted on a roof of a building, it may be possible for a person to closely approach these antennas. Accordingly, the report re. . .nds that access to the roof area be restricted. Access to the roof area may be restricted by the posting of a warning sign at e .h point of access or by installation of suitable access controls, such as locked, anti-climb shields on ..dders. In the event that roofing, painting, or other activities are required for extended periods on the roof, the transmit antennas should be turned off, unless measurements, more detailed calculations, or other measures ensure that the prevailing ANSI/IEEE limits are not exceeded. These recommendations have been included as a recommended condition of approval in the attached resolution.

Visual Impact

The proposed facility would be located on the roof of an existing commercial building which is partially screened from the north, south, and east by existing mature pine and eucalyptus trees. The Base Transceiver Stations would be mounted on the lowest portion of the roof on the southeastern end of the building and would be screened from off-site locations to the north and west by the adjacent wall. The two pairs of proposed panel antennas would be located on the taller northwestern portion of the structure and their support posts would extend eight feet above the existing roof parapet. However, the antennas and support posts would be painted a gray color to blend with the sky background as viewed from ground-level vantage points and the base transceiver stations would be painted to match adjacent walls. As described above, existing mature trees on the site would provide visual screening for the antennas from off-site locations to the north, south, and from the houseboat marina to the east. Finally, in response to comments from the Tam Design Review Board, the applicant has agreed to resite the northwestern pair of antennas 20 feet back from the front elevation of the building to align with the southeastern pair and reduce the visibility of the antennas as viewed from below. The proposed project would not result in any significant visual impacts because: (1) the number of antennas would be limited to four; (2) the height of the antennas would be limited to 8 feet above the roof ridge; (3) the antenna arrays would be located centrally on the roof behind parapet walls; and (4) the proposed antennas, support posts, and base transceiver stations would be painted appropriate, nonreflective colors that blend with the predominant viewshed background (see Attachment 6: Photosimulation).

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator take the following actions:

1. Review the administrative record;
2. Conduct a public hearing; and
3. Adopt the attached Resolution approving the Price/Pacific Bell Use Permit and Design Review Exemption based on the findings contained in the proposed resolution.

ATTACHMENTS:

1. Proposed Resolution recommending approval of the Price/Pacific Bell Use Permit/Design Review Exemption
2. Location Map
3. Assessor's Parcel Map
4. Site Plan
5. Elevation
6. Photosimulation of proposed facility
7. Tamalpais Design Review Board minutes, 5/1/96
8. Tamalpais Fire Protection District letter, 5/8/96
9. Marin County Department of Public Works, Land Use and Water Resources memo, 5/9/96
10. San Francisco Bay Conservation and Development Commission letter, 6/3/96
11. CEQA Notice of Exemption

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PRICE/PACIFIC BELL USE PERMIT/DESIGN REVIEW EXEMPTION APPLICATION

ASSESSOR'S PARCEL NUMBER 052-247-01
242 REDWOOD HIGHWAY, MILL VALLEY

* *

SECTION I: FINDINGS

I. WHEREAS the applicant has submitted a Use Permit and Design Review Exemption application proposing installation of a minor, rooftop telecommunications facility that would enhance wireless communication services to residents and businesses in Mill Valley and Sausalito. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is located at 242 Redwood Highway, Mill Valley and is further identified as Assessor's Parcel #052-247-01.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on June 20, 1996, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3 of the 1992 CEQA Guidelines because it entails installation and operation of new, small equipment and facilities mounted on the roof of an existing structure on a commercial property with no potentially significant impacts on the environment. Additionally, a report prepared by Hammett & Edison, Inc. dated March 22, 1996, concludes that the proposed project would not result in any significant, public health risks with respect to human exposure to radio frequency electromagnetic fields.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the goals and policies of *The Marin Countywide Plan* because:

A. The proposed project is consistent with the Recreational Commercial land use designation for the project site. The site is located within the City-centered Corridor which is designated for urban development where infrastructure and facilities are available for such development. The Recreational Commercial land use designation is generally intended for resort uses and privately-owned recreational facilities. However, Policy CD-8.13 of the

Countywide Plan recognizes that certain facilities and uses, such as the proposed telecommunications project, may be found to be consistent with recreational uses, subject to Use Permit approval.

B. The mandatory Use Permit finding can be made pursuant to Section 22.88.020(3) of Marin County Code to allow public utility and service uses necessary for public safety, convenience and welfare.

C. Pursuant to Community Facilities Objective CF-8, the proposed project is consistent with goals and policies of the *County of Marin Telecommunications Facilities Policy Plan* which ensure that the siting and design of the proposed facility is compatible with other land uses, provides protection from vandalism and fire hazards, minimizes visual impacts, and minimizes potential health risks to people.

D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

V. **WHEREAS** the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the goals and policies of the *Tamalpais Area Community Plan 1992* because:

A. The proposed project would not adversely impact the commercial character and scale of the project site or the quality of the natural environment.

B. Pursuant to Policy LU1.3, the proposed project would be compatible with the scale (bulk, mass and height) and appearance (colors, materials and design) of the existing commercial structures on the subject property.

C. The proposed project would be consistent with the Shoreline Commercial land use designation for the project site. The Shoreline Commercial land use designation allows a mixture of open space and commercial development including office, restaurant, recreation and limited retail uses. The proposed facility would be mounted on the roof of an existing commercial structure and would provide a service to local residents without disrupting the existing commercial use of the property or resulting in adverse traffic, noise, odor, light, glare, or aesthetic impacts on properties in the vicinity.

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 Facilities Policy Plan* because:

A. The proposed project is characterized as a minor telecommunications facility. A minor facility does not create potential health hazards, is not significant in terms of size or height, and is accessory to a residential and/or commercial development.

B. The proposed project would not result in any significant visual impacts because: (1) the number of antennas would be limited to four; (2) the height of the antennas would be limited to 8 feet above the roof ridge; (3) the antenna array would be located centrally on the roof behind parapet walls; and (4) the proposed antennas, support posts, and base transceiver stations would be painted appropriate, nonreflective colors that blend with the predominant viewshed background.

C. The proposed project would be sited, designed and built in a manner which minimizes potential health risks from radio frequency electromagnetic fields. A report prepared and submitted by a qualified professional with expertise in the field of radio frequency radiation health risk assessment concludes that the project would not result in any significant public health risks with respect to human exposure to radio frequency radiation because the facility would operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers. In addition, conditions of project approval require that access to the roof area on which the antennas are located be restricted to prevent anyone from approaching within four feet of transmit antennas, consistent with the recommendations of the submitted report.

D. The proposed project would not adversely impact public safety with respect to siting because the antenna array would be located on a roof which would not be accessible to the public. Conditions of project approval would require that access to the roof area be restricted by the posting of a warning sign at each point of access or by installation of suitable access controls, such as locked, anti-climb shields on ladders.

E. Conditions of approval require the operator to dismantle and remove the PCS facility if it has been inoperative or abandoned for a two-year period.

F. In order to periodically evaluate compliance with conditions of project approval and policies of the Telecommunications Plan, conditions of approval require renewal of this Use Permit every 10 years.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.88.020(3) of Marin County Code as specified below.

The establishment, maintenance or conducting of the use for which a Use Permit is sought will not under this particular case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood because:

A. Public utility and service uses may be approved in the governing BFC-RCR zoning district by Use Permit pursuant to Section 22.88.010(2; of Marin County Code when it is found to be necessary for public health, safety, convenience or welfare. The proposed project is part of Pacific Bell Mobile Services system which provides wireless communications service to residents and businesses in Southern Marin and would contributes to public safety, convenience and welfare.

B. The proposed project would not result in any significant, public health risks with respect to human exposure to radio frequency radiation because the facility would operate well below the exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers. As described above, conditions of project approval require that access to the roof area on which the antennas are located be restricted to prevent anyone from approaching within four feet of transmit antennas, consistent with the recommendations of the submitted report.

C. The proposed facility would be located on an existing commercial structure and would provide a service to local residents without disrupting the existing character of the subject property. In addition, the project would not result in adverse traffic, noise, odor, light, glare, or aesthetic impacts that conflict with the quality of the community.

D. The proposed project would be incidental to the existing commercial and residential use of the subject property. Pursuant to Marin County Code Section 22.88.010, public utility and service uses, such as the proposed project, are permitted in BFC-RCR zoning district subject to Use Permit approval.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is exempt from the requirements of Design Review pursuant to Section 22.82.030(4) . Marin County Code because:

The proposed telecommunications facility would be partially screened from off-site locations and would not result in grading, tree removal or other adverse physical effects on the environment. The facility would maintain large setbacks to all surrounding properties and would not interfere with the existing commercial and residential use of the property. Construction of the project would conform to a conditionally permitted use in the governing zoning district as a public service use with public benefit, and would be situated solely on the subject property. The proposed antennas and support posts would be painted an appropriate, nonreflective color that blends with the predominant viewshed background. In addition, the antenna arrays would be located centrally on the roof behind parapet walls to reduce the visibility of the structures as viewed from ground level vantage points.

SECTION II: DECISION

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Price/Pacific Bell Use Permit/Design Review Exemption subject to the following conditions:

Marin County Community Development Agency -- Planning Division

1. Pursuant to Marin County Code Section 22.88.010, this approval permits the installation and operation of an unmanned rooftop telecommunications facility on the property located at 242 Redwood Highway, Mill Valley. The approved Personal Communication Services (PCS) facility includes the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office on the subject property. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet to a total height of 33 feet above grade. One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area.

2. Except as modified by conditions of approval, plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A": Pacific Bell Mobile Services, SF-306, 260 Redwood Highway, Mill Valley, consisting of four sheets received April 9, 1996, and on file in the Marin County Community Development Agency -- Planning Division.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit revised plans for review and approval of the Community Development Director that show a minimum setback of 20 feet between the proposed antennas and the front (southwest) elevation of the building.

4. Access to the roof area of the subject building shall be restricted. Access area may be restricted by the posting of a warning sign at each point of access or by installation of suitable access controls, such as locked, anti-climb shields on ladders. In the event that roofing, painting, or other activities are required for extended periods on the roof, the transmit antennas should be turned off, unless measurements, more detailed calculations, or other measures ensure that the prevailing exposure limits of the American National Standards Institute and the Institute of Electrical and Electronic Engineers are not exceeded.

5. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a two-year period. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a standard Performance Agreement with the County and post a bond or other suitable security in order to guarantee removal of an abandoned facility. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed and the site returned to its preexisting conditions.

6. No exterior lights on the panel antennas and the Base Transceiver Stations are permitted.

7. The antennas and support posts shall be painted a light gray color to blend with the sky background as viewed from ground-level vantage points. The base transceiver stations shall be painted to match the adjacent walls.

8. The applicant shall be responsible for ensuring that the number of construction vehicles is limited to the minimum number necessary to complete the project.

9. 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.

10. This Use Permit shall remain valid for a 10-year term and will expire on June 20, 2006. The Use Permit may be renewed if the applicant submits a Use Permit renewal application before this date, with the appropriate fees, to the Community Development Agency -- Planning Division.

Tamalpais Fire Protection District

11. PRIOR TO FINAL INSPECTION, the Fire Marshal shall verify to the Community Development Agency -- Planning Division that an approved fire detection system has been installed in accordance with National Fire Protection Association standards in the Base Transceiver Stations. The system must be connected to the fire alarm headquarters of the Tamalpais Fire Protection District through an approved central monitoring system.

San Francisco Bay Conservation and Development Commission

12. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit verification that the San Francisco Bay Conservation and Development Commission has reviewed and approved the proposed project.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE, LET IT BE FURTHER RESOLVED that the applicant must vest this Use Permit and Design Review Exemption approval by **June 20, 1998**, or all rights granted in this approval shall expire, unless the applicant applies for an extension at least 30 days before the expiration date above and the Agency Director approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.88.050 and 22.82.130 of Marin County Code. Vesting this Use Permit and Design Review Exemption approval entails securing a valid building permit and substantially completing the improvements in accordance with the secured building permit.

This Use Permit shall be valid upon timely vesting of the approval and will remain valid until **June 20, 2006**, unless the conditions of approval are violated, in which case the Use Permit may be revoked.

This decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a $500.00 filing fee must be submitted in the Community Development Agency, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **June 27, 1996.**

SECTION IV: ADOPTION

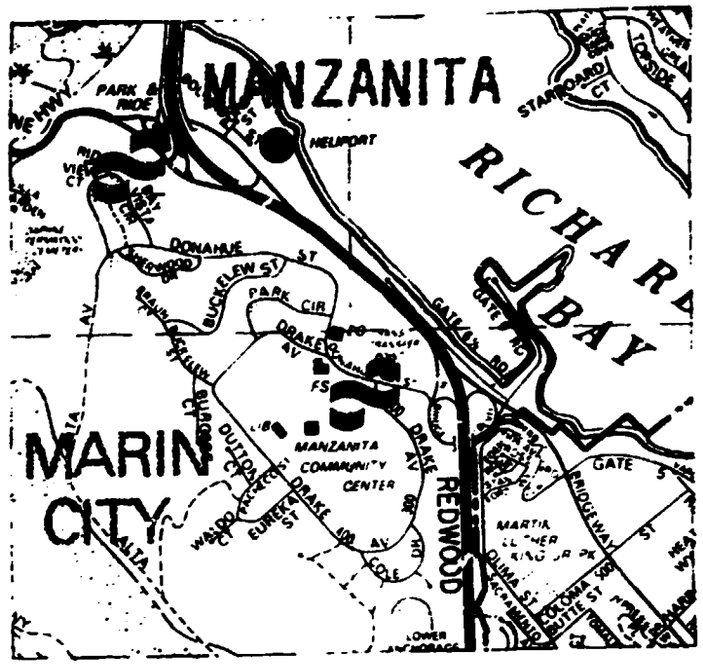
ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 20th day of June, 1996.

BRIAN C. CRAWFORD, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Patrice Stancato
DZA Secretary

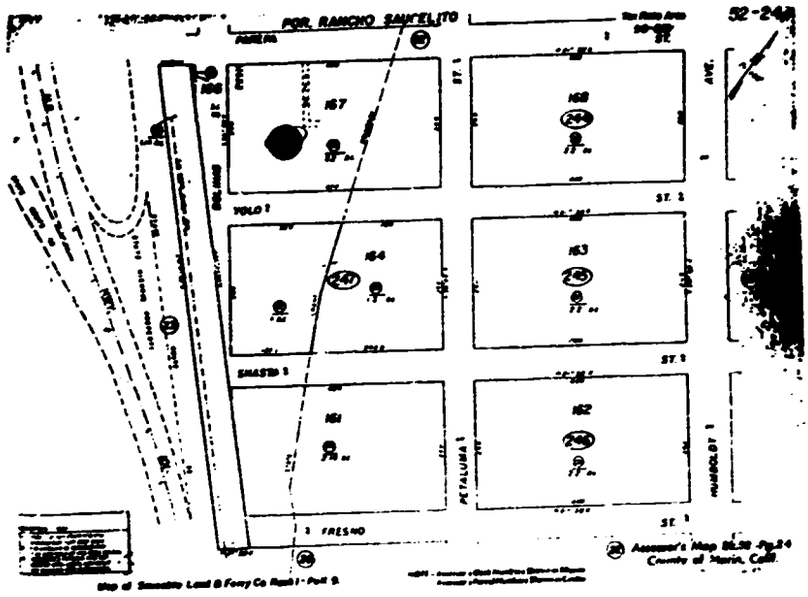
Marin County
Community Development Agency
Location Map



PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01
June 20, 1996
Not to Scale

ATTACHMENT 2

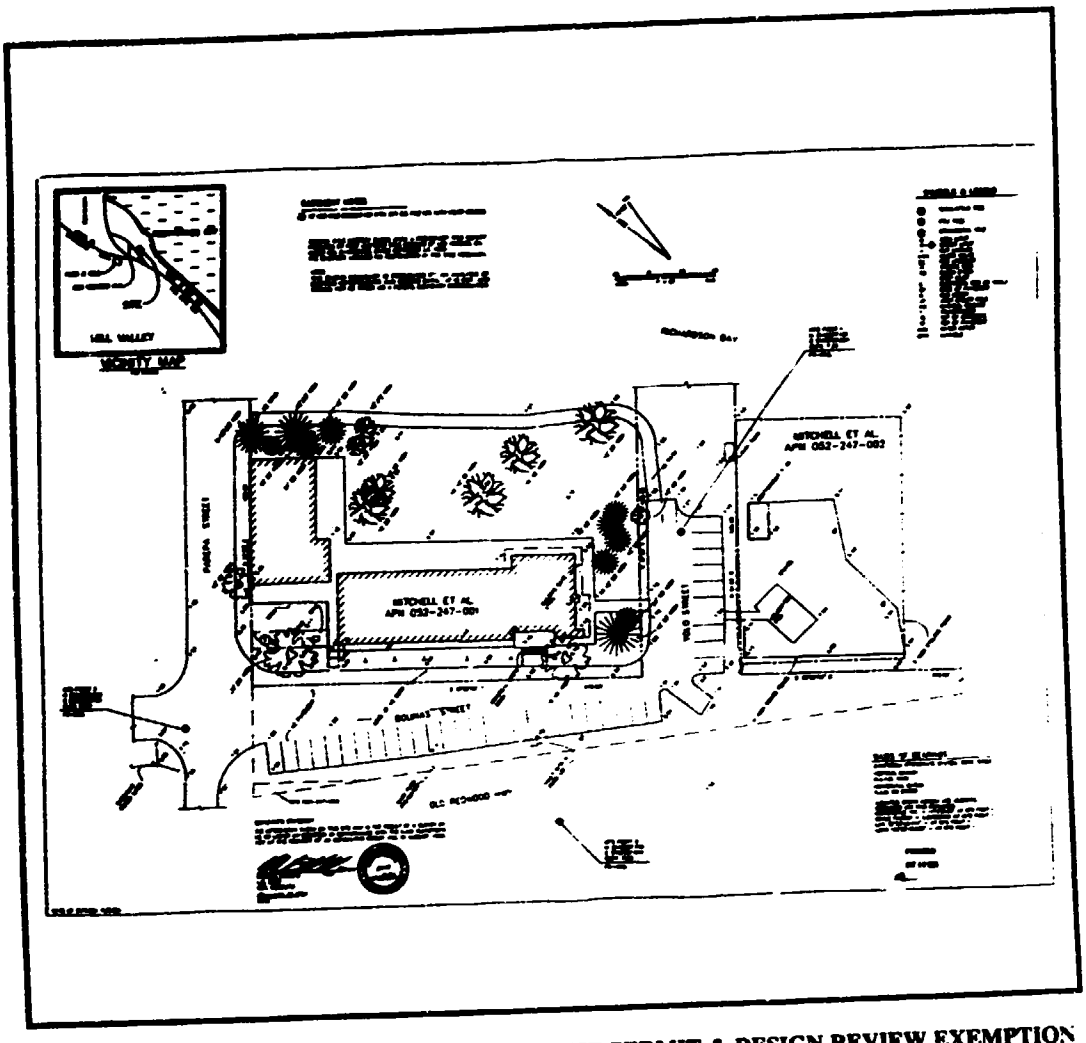
Marin County
Community Development Agency
Assessor's Parcel Map



PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01
June 20, 1996
Not to Scale

ATTACHMENT 3

Marin County
Community Development Agency
Site Plan

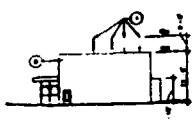


PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01
June 20, 1996
Not to Scale

ATTACHMENT 4

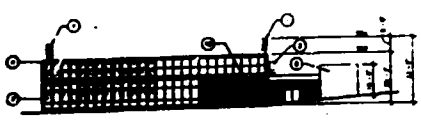
Marin County
Community Development Agency
Elevations

EAST ELEVATION



NORTH ELEVATION

KEY NOTES



WEST ELEVATION

SOUTH ELEVATION

PRICE/PACIFIC BELL USE PERMIT & DESIGN REVIEW EXEMPTION
242 Redwood Highway, Mill Valley
Assessor's Parcel #052-247-01
June 20, 1996
Not to Scale

ATTACHMENT 5

Photograph simulation of proposed antennas. View looking north from parking lot.

DZA ATTACHMENT #6

JM
Consulting Group, Inc

TAM DESIGN REVIEW BOARD: DESIGN REVIEW RECOMMENDATIONS

PROJECT: 242 ASHWOOD HWY DATE: MAY 6, 1996

IV. WE HAVE REVIEWED THIS APPLICATION FOR MERITS & RECOMMEND:

___ Approved as submitted.

X Approval with the following conditions:

A. In order to enhance fire safety, Applicant shall install four (4) hose bibs prior to issuance of Occupancy Permit. One hose bib shall be located on each primary side of the structure.
B. In order to ensure that new landscaping & ground cover plantings will be irrigated sufficiently & in a water-conserving manner, Applicant shall install a drip irrigation system prior to issuance of Occupancy Permit.
C. In order to enhance the structure's visual appeal to the neighborhood upon construction completion, to mitigate any adverse visual impact of the structure, & to prevent future soil erosion of any disturbed soil, Applicant shall install drought resistant trees, shrubs & ground cover on all disturbed soil noted on plans. These plantings shall be at least 50% native, deer-resistant species, & shall be installed prior to issuance of Occupancy Permit.
D. [illegible] the North easterly corner of building to shield the North easterly corner of building from View from Highway
E. Paint ortega pattern stip gray.
F. paint P.T.S. cabinets color of adjacent walls.

___ Continuance with Applicant's consent until: _____

___ Denial for the following reasons:

A. _____
B. _____
C. _____

Motion: POULSEN Vote: 5 Ayes 0 Noes 0 Abstain

Second: CURLEY Abstentions/Reasons:
A. _____
B. _____
C. _____

V. ADDITIONAL MERITS & COMMENTS REGARDING THIS PROJECT & ITS DESIGN:

DZA ATTACHMENT #7

TAMALPAIS FIRE PROTECTION DISTRICT
309 POPLAR STREET
MILL VALLEY, CA 94941

Darryl Anderson
Fire Chief
(415) 380-1100
FAX: (415) 380-1102

Date: MAY 8, 1996

Marin County Planning Department
Civic Center
San Rafael, CA 94903

Re: 242 Redwood Hwy APN 052-247-01

Dear Christine

The proposed plans for the above-listed project have been reviewed. Based on the plans as submitted, the items checked below shall indicate the requirements that will be imposed by the Tamalpais Fire Protection District in accordance with Tamalpais Fire Protection District Ordinance 92/93-1:

I. ACCESS:

___1. All access roads serving a dwelling(s) shall be a minimum of _____ feet in width and be paved.

___2. Driveways off access roads serving dwelling units shall meet Marin County Standards related to dimensions, surfacing and slope (slope not to exceed 21 percent).

___3. All new driveways shall be designed so that emergency vehicles can negotiate turns without having to make backing maneuvers (no switch-backs).

___4. All access roads or driveways in excess of 150 feet in length shall be provided with an approved turn-around.

___5. In addition to the turn-around described above, drive-ways or access roads shall have turn-outs every _____ feet or as required by the fire department. A turn-out shall be described as a shoulder or wide portion of the driving surface which has enough usable surface for vehicles to pass.

___6. Provide a U.L. listed key box as required by the Tamalpais Fire Protection District.

DZA ATTACHMENT #8

II. FIRE FLOW:

__7. PRIOR TO FRAMING, provide _____ Jones Model 3760 fire hydrant(s) to be spaced at 350 feet intervals and capable of providing a flow at the site of 1000 gallons per minute. Hydrant placement (including water main extension) shall be reviewed and approved by T.F.P.D. and M.M.W.D.

✓ 8. Fire sprinkler system required:

a. All new construction;

(b.) To additions in excess of 500 square feet of gross floor area;

c. Existing structure shall be retrofitted with a fire sprinkler system when the cost of repairs or remodels to existing structure exceed 50 percent of the replacement value of that structure.

Plans for fire sprinkler system design shall be reviewed and approved by the T.F.P.D. prior to installation.

III. ADDITIONAL:

__9. The address shall be posted in accordance with requirements of the Uniform Fire Code.

✓ 10. Smoke detectors shall be installed in accordance with the Uniform Building Code.

__11. A remotely located, second means of egress shall be provided for each floor above the first.

__12. Non-combustible roofing required:

a. All new construction;

b. To additions in excess of 500 square feet;

c. Existing roofs shall be replaced with non-combustible roof material when alterations or repairs to existing roofs involve more than 50 percent of the total roof area.

___13. Provide for compliance with Public Resource Code 4291 relating to brush and weed clearance.

___14. Prior to occupancy, a spark arrestor shall be installed on the chimney(s) (1/4" mesh minimum).

✓15. OTHER: THE Building SHALL HAVE INSTALLED THEREIN AN Approved Fire DETECTION (PRODUCTS of Combustion) System IN ACCORDANCE WITH THE STANDARDS AS ESTABLISHED by THE National Fire Protection Assn. SAID SYSTEM SHALL BE connected to THE Fire Alarm Headquarters of THE → SEE BELOW

All on-site improvements, such as water main extensions, hydrants and access roads, must be serviceable prior to framing the structure.

Final occupancy approval shall not be granted/released until authorization to the Planning Department has been received from the fire department.

Sincerely,

Robert L. "Mike" Stone
Deputy Chief

RLS:kj

TAMALPAIS FIRE PROTECTION DISTRICT THROUGH AN APPROVED U.L. CENTRAL MONITORING STATION.

INTER-OFFICE MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

DATE: 5-9-96 DUE: 5-10-96

TO: CHRISTINE GIANNINI
FROM: NATHAN GERADDS
APPROVED: GR
RE: RECEIVED BELL D.R. EXEMPTION & U.P.
A.P. #: 052-247-01
ADDRESS: 242 REDWOOD HWY
MILL VALLEY

TYPE OF DOCUMENT

- ✓ DESIGN REVIEW
- ___ LAND DIVISION
- ✓ USE PERMIT
- ___ VARIANCE
- ___ LOT LINE ADJUSTMENT
- ___ COASTAL PERMIT
- ___ OTHER ___

We have reviewed this application for content and:

- ✓ Find it COMPLETE
- ___ Find it INCOMPLETE
- ___ Recommend DENIAL for reasons stated
- ✓ Find it ACCEPTABLE AS PRESENTED
- ___ Recommend the conditions listed below be completed prior to:
  - ___ Issuance of Building Permit
  - ___ Occupancy
  - ___ Approval of ___
  - ___ Other ___

TRAFFIC

- ___ N.A.
- ___ NO COMMENTS
- ___ COMMENTS INCLUDED

DZA ATTACHMENT #9

STATE OF CALIFORNIA — PETE WILSON, Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY VAN NESS AVENUE, SUITE 2011
SAN FRANCISCO, CALIFORNIA 94102-6080
PHONE: (415) 557-3686

June 3, 1996

JM Consulting Group. Inc.
884 Dubuque Avenue
South San Francisco, California 94080

ATTENTION: James Calkins

SUBJECT: Proposed Personal Communication Services Facilities
242 Redwood Highway, Near Mill Valley, Marin County
(BCDC Inquiry File No. MR.MV.6618.1)

Ladies and Gentlemen:

Thank you for your Notice of Transmittal and attached plan showing the "Normal" High Tide Line, dated May 23, 1996 and received in this office on the same day, regarding proposed antennas and other personal communication service facilities at 242 Redwood Highway in Marin County. Based on the line identified as the "Normal" High Tide Line, the proposed project is within the Commission's "shoreline band" ju[illegible]n because the existing building is within 100 feet of the northerly shoreline of Richardson [illegible]herefore, the proposed project would need a permit from our agency.

For you convenience, I am enclosing a copy of our permit application form and its accompanying instructions. Based on the information reviewed to date, the proposed project can likely be processed administratively as a "minor repair or improvement" in a relatively short period of time without a public hearing. Also, please remember that all plans submitted for a BCDC permit must indicate the Commission's "bay" and "shoreline band" jurisdiction by the 5-foot contour line above Mean Sea Level in locations where tidal marshes are present, or where no tidal marshes are present, the Mean High Tide line, which is approximately 2.4 feet National Geodetic Vertical Datum, and the line 100 feet inland and parallel to the "bay" jurisdiction line. While the "normal" high tide line gives us some understanding of the location of the Bay in the project vicinity, it does not accurately portray the Commission's jurisdiction.

If you have any questions regarding this matter or any of the items mentioned above, please feel free to call me at (415) 557-3689.

Very truly yours

NICHOLAS SALCEDO
Coastal Analyst

NS/mm

cc: Marin County Community Development Agency, Attn. Christine Gimmler, Planner

Dedicated to making San Francisco Bay better

DZA ATTACHMENT #10

FILING REQUESTED BY AND
WHEN FILED RETURN TO:

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903

Attn: Christine Gimmler, Planner

NOTICE OF EXEMPTION

Marin County
Environmental Coordination and Review

April 22, 1996

1.	**Project Name:**	Price/Pac Bell Use Permit 96-406/Design Review Ex. 96-405
2.	**Project Location:**	242 Redwood Highway, Mill Valley Assessor's Parcel #052-247-01/Marin County
3.	**Project Description:**	Application to install and operate an unmanned telecommunications facility consisting of two pairs of roof-mounted panel antennas and two modular base transceiver stations located on the roof of an existing structure on the subject property.
4.	**Public Agency Approving Project:**	Deputy Zoning Administrator
5.	**Project Sponsor:**	J.M. Consulting Group for Pac Bell Mobile Services
6.	**CEQA Exemption Status:**	Categorical Exemption 15303, Class 3
7.	**Reasons for Exemption:**	The proposed project entails the installation and operation of new, small equipment and facilities mounted on the roof of an existing structure on a commercial property and would not result in potentially significant impacts on the environment. Additionaly, a report prepared by Hammett and Edison, Inc. dated March 22, 1996 concludes that the proposed project would not result in any significant risks with respect to human exposure to radio frequency electro magnetic fields.

Project Planner:

Christine Gimmler
Planner

Telephone: (415) 499-6269

Reviewed by:

Tim Haddad
Environmental Coordinator

DZA ATTACHMENT #11

/FORMS/NOTOFEX.DOC
/Rev. 04/22 96]

3. PRICE/PACBELL DESIGN REVIEW EXEMPTION/USE PERMIT

Proposal to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at **242 Redwood Hwy., Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

(Tape 1, Side A @ 7.3)
In response to a request by the hearing officer, staff gave a brief description of the project and stated that, while no written correspondence had been received since the staff report was prepared, several residents of the houseboat marina had expressed concern regarding the proposed project.

Joyce Lynn, a resident of Commodore Landing, stated that she is a journalist who has written articles for the Pacific Sun about potential health effects related to radio frequency (RF) emissions and would like these articles entered into the record. She also presented letters from other concerned residents which address issues regarding health and safety, as well as visual and aesthetic impacts of the project which could affect property values at the marina. She stated that a children's educational facility is currently located on the premises and she presented a letter from the Director expressing his concerns about the projects. Ms. Lynn stated that it is also her understanding that Steve Price is proposing to put some artist studios in the structure directly under the antenna. The residents have questions about the potential health effects on both the children and the people who will work in the studios. She requested that this project be given a hearing before the full Planning Commission.

Terry Adams, Elaine Alyson, and Richard Kuski were present and stated that they were being represented by their legal counsel, Christine Craft.

Christine Craft stated that she is an attorney representing a consortium of marina residents. She stated that she is aware of the section in the Telecommunications Bill which says that a government entity cannot deny a permit for a telecommunications facility based solely on an environmental concern if the proposed facility meets ANSI standards. She stated for the record, however, that nothing in the Telecommunications Bill exempts the County of Marin from liability at some point in the future because the County is aware, or should be aware, that Pacific Bell cannot guarantee the safety of these facilities. She stated that the ANSI standards are over ten years old and the health issues are just beginning to be investigated. Clearly the County would be within its rights to consider potential liability. The marina's residents want to know what the cumulative effects will be from RF fields. They are also concerned about the preschool facility and what effects there will be on the children playing directly under these antennas. They are concerned about the monitoring because there is nothing in the staff report which mentions the specific type of monitoring required. There is a brief mention of monitoring twice a year, but residents are not comfortable that this will be sufficient to determine the actual emissions from the facility. She stated that the staff report determines that this facility does not fall within CEQA simply because

staff says it does not. In addition, staff refers to a study which was written by Hammett & Edison, Inc., a firm hired by Pacific Bell. The person who conducted these studies has only a B.S. degree in engineering but no further educational expertise on the issues of environmental impacts and safety of these towers. Ms. Craft stated that the people whom she represents would like to see this project go before the full Planning Commission to determine whether the County is rushing to judgment and actually speeding up the approval process for Pacific Bell by granting a Design Review Exemption.

James Calkins, a land use planner with JM Consulting Group, which is representing Pacific Bell Mobile Services, stated that several misconceptions had been voiced about the project. Concerns were raised regarding the design review process. However, this project was brought before the Tamalpais Design Review Board, at which time the design was discussed. There is also a misconception that the project will be an EMF emitter. This facility will be an RF emitter, or radio frequency emitter, and will not be in the 60 Mhz range of power lines. The articles from the New Yorker which have been quoted are about power lines and power line facilities. The Hammett & Edison report states that the equipment meets current safety standards. In fact, the transmitter would be only 1/1200th of the existing adopted ANSI standard. Even with the revised ANSI standard which has been proposed, this transmitter would still only be at 1/500th of the emissions set forth as a safe level. Mr. Calkins stated that he does not believe that a risk to children has been substantiated. The World Health Organization has done studies on RF emissions, the majority of which were fetal studies. These systems have been used in England for 10 years so there are real life and real time studies on the health effects of these facilities. There are facilities which are sited at day care centers and schools. These types of projects have been brought before the Board of Supervisors in San Francisco and the County of San Mateo. The studies required by the Telecommunications Plan of Marin County have been done, the facility has been sited in accordance with zoning guidelines, and the project is in compliance with the design review sections of County code. Therefore, the applicant asks that the Deputy Zoning Administrator endorse the staff report, support the Tamalpais Design Review Board, and approve the project.

The hearing officer stated that he had visited the site and had concerns regarding the visual impact of the towers, although he did not find the visual effects of the project to be significant inasmuch as the project towers would not block any bay views or views of the shoreline. Nonetheless, it appears that there may be an opportunity to further minimize the visibility of the project by re-siting the southernmost antenna array towards the interior of the building to make use of the existing trees in the rear yard to screen the views of the antennas from the southern end of the marina. James Calkins responded that he did not feel this would pose an RF problem, but the re-siting would need to be evaluated by the project engineer.

Enid Goldstein stated that she is a KGO radio talkshow host and a resident at the marina. She said that broadcasting people have one of the highest rates of cancer and she is concerned about health effects of the transmitters. She also stated that she does not feel there is adequate monitoring of the project. She said that no one knows the effects, for example, of power surges. She stated that, whatever the reality is, the perception of the proposed facility is one that negatively impacts property values. She would like to see this matter considered before the full Planning Commission.

Seeing no one else present to speak for or against this project, the hearing officer closed the public hearing. The hearing officer stated that, given the number of people who have raised issues and concerns about this project, he will grant the request to refer this matter to the Planning Commission and will tentatively schedule this item for the next available Planning Commission agenda on August 5, 1996. A separate public notice will be sent out in advance of that hearing. During the interim, the hearing officer directed staff to proceed with the following: (1)

examine the re-siting of the southernmost antenna array towards the interior of the building so that existing trees in the rear yard area of the site can be used to screen the views of the antennas from the southern end of the marina; (2) respond to the cumulative RF effects issue; (3) respond to the RF monitoring issue; (4) respond to the question about the CEQA exemption status of the project; (5) investigate the current status of the ANSI standard; (6) consult with County Counsel regarding the County's authority to approve or disapprove this project solely on the basis of environmental effect. namely adverse health effects from RF radiation; and, (7) determine the status of the school located on the subject property, since this use was only allowed to remain in the building until the end of the current school year as part of a previous Use Permit which was approved by the County three or four months ago. Staff should include this information in their report to the Planning Commission.

Submitted 7.11.96 DZA

CITIZENS FOR A BEAUTIFUL AND HEALTHY COUNTY

July 8, 1996

TO: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

RE: Price/PacBell Design Review Exception 96-405 Use Permit 96-406

We strongly urge you to deny this request for a design review exemption for the following reasons:

1. Health and Safety

Both the short and long term effects of radio-frequency radiation are unknown. Even Pacific Bell's own contractor who studied this issue cannot be certain of the health and risks (page 4 of the Hammett & Edison March 1995 report). A special concern is the averaging of emissions to make it appear the antennas comply with guidelines when in fact surges of use could zap citizens or tourists at any particular time. Most health experts agree cell site technology is too new to know its effects As a result, erecting these antennae without further study puts the community at risk and makes guinea pigs of its residents .

These health concerns extend to the owners/residents of the Marina who live less than 300 yards from the proposed site, the employees of the helipad who work in the building of the proposed site, the several dozen young children who play in the Planet, an art and educational space in the building and who play outside directly under the proposed site, the artists who would be working in the studios now under construction in the Helipad directly under the proposed antennae, the tourists and visitors who frequent the marina for seaplane rides and often stand around for long periods of time enjoying the views or have lunch on the park-like setting directly to the east of the building and the hikers and bikers who frequent the bike path directly to the west.

2 Visual impact

This is a request to erect two pairs -- that is four -- Martian-like disks in what is a park like setting. The more than 24 owners/residents of Commodore Landing moved there because of its tranquillity and serenity with panoramic Bay views on one side and lovely trees on the other. In addition, the view from the bike path which borders the proposed site on the west side is one of the most stunning views in Mill Valley of the valley and Mt. Tam.

As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

[redacted]

Susan Tavan 240 Redwood Hwy #9, Mill Valley 94
& Paul Wiley

Enid Forsten 240 Redwood Hwy, Mill Valley 94

Terry Adams 240 Redwood Hwy #3 Mill Valley

Elaine Ahrens 240 Redwood #

PC ATTACHMENT #6

submitted 9/11/96 DEA

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Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

_____	Joyce Lynn 240 Redwood Hwy #M1-2 Mill Valley
_____	240 Redwood Hwy. #11C Mill Valley.
_____	240 Redwood Hwy #11A Mill Valley.

Marin Lumber - 740 Redwood Hwy Mill Valley, 9494
John Lowe 740 Redwood Hwy Mill Valley

Submitted 7/11/96 PZA

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As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

I strongly feel it is time we look out for the health and welfare of citizens, especially the children on the planet. Will they grow up with cancer because big business did not want to investigate long term effects. I sincerely hope not. (over)

x _____

resident of Commodore Landing

As a 40 year old woman growing up in Southern California at a time when cars, pollution where just beginning. Now 20 year later I am faced with chronic lung problems. Please lets not repeat history especially when we now have facts

Sincerely

UpFront

Pacific Sun December 7 – December 13, 1994

Making waves

is phoning home creating unsafe radio frequencies?

BY JOYCE LYNN

Phone calls from your car phone to your office or your baby-sitter, which many Marin residents consider ordinary and necessary, have become a hot-button issue.

An agreement between the county and Cellular One to put a transmission site on Mt. Barnabe in San Geronimo Valley to facilitate cellular phone communication has precipitated a hailstorm of controversy over legal aspects of the county's action and the health effects of radio frequencies.

The Bay Area Cellular One phone company is considering other transmission sites in Marin, notably in Mill Valley, Corte Madera and Tiburon. The firm operates existing facilities on Mt. Tamalpais, at San Quentin and in Sausalito.

Industry representatives, scientific experts, community residents and the county government each claim the right side of the table. The dispute is strikingly similar to the controversy over electromagnetic fields (EMFs) which erupted a couple of years ago when PG&E power lines, which emit EMFs, were found to be dangerously near some playgrounds and classrooms in Marin. PG&E agreed to move the power lines to a distance which studies show reduce heath hazards.

Now the debate has moved to another part of the EMF spectrum—to radio frequencies emitted from microwave equipment involved in cellular phone communication. Radio waves emitted by cellular phones are weak, while those from microwave antennas are much stronger. Such radio frequencies have a host of current-day usages, from microwave ovens to magnetic imaging in medical tests.

In 1986, the Federal Communications Commission adopted the radio frequency protection guide of the American National Standards Institute (ANSI), called "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300kHz to 100GHz." Based on research studies, the most restrictive limit within this range applies at frequencies between 30 and 300MHz, where public safety two-way FM broadcast and VHF television stations operate. The limit is higher at UHF and cellular frequencies. In 1992, the standards institute published more restrictive standards, although some industry watchers question whether even these are restrictive enough.

The county entered into an agreement in 1993 with Cellular One to install and operate a temporary facility of three omnidirectional antennas and one 4-foot microwave antenna on Mt. Barnabe and subsequently to make the facility permanent. A fire department lookout tower and other communications facilities already existed on the 1,466-foot-high mountain. One residence is located on the mountain, and the popular Samuel P. Taylor State Park borders on the west side. Sir Francis Drake Boulevard curves past on the south.

A group of San Geronimo residents, disturbed over potential health hazards and angered that they were not notified of the agreement, petitioned in August 1993 to overturn the board of supervisors' approval of the project. Thereafter, the supes held three public hearings to gather community and industry positions. In October 1993, the board of supervisors commissioned an independent engineering study to measure levels of existing and predicted radio frequencies emitted from equipment on the lookout.

Hammett & Edison, Inc., a Bay Area-based consulting engineering company, concluded in June 1994 that "it is possible persons in the lookout for extended periods would be exposed to RF fields in excess of the most restrictive ANSI," but that "both the residence and Sir Francis Drake Boulevard are so distant that it is not possible for the fields to approach even one percent of the ANSI limit."

The report recommended relocating the antenna, either by increasing the height of the lookout structure or constructing antenna support poles nearby to reduce the radio frequencies in and around the lookout.

At a fourth public hearing on August 2 1994, a long list of community residents from Mill Valley, Woodacre and San Geronimo continued to oppose the plan. Ellen Sugarman, who now lives in Marin and is the author of a respected book on EMFs, suggested that raising the antenna tower 32 feet over the existing fire tower would preclude hazardous radiation from affecting the community.

The board of supervisors adopted Sugarman's recommendation and also exempted the project from meeting the California Environmental Quality Act (CEQA). In addition, the supes adopted a resolution which mandates the county to develop a countywide EMF policy that exceeds federal and industry standards and to conduct a survey of all county transmitter sites, particularly those located near children's facilities and heavily populated areas.

San Geronimo residents involved in appealing the board's approval of the Cellular One use permit have now taken their case to court. According to San Geronimo Valley resident Diane Matthew, the case, now in county superior court, challenges the county to show why the facility is exempt from the CEQA, maintains that the county failed to follow the countywide plan and contends the action violates a 1932 deed of Mt. Barnabe to the fire department for fire protection management.

As the Hammett & Edison study recommended, the antennas with the highest power density have been moved so they are now located away from the lookout tower and are higher than their original location on the tower. Robert D. Weller, author of the report, told the *Pacific Sun* that he has remeasured the RF levels and they are "lower, in some cases much lower" than before the antennas were moved.

Marin Graham, a former professor of engineering at the University of California at Berkeley, had urged the supervisors at the August 2 meeting to remeasure RF levels after the equipment is moved and operative. Still, the ANSI standards themselves continue to raise questions for Graham.

PC ATTACHMENT #7

UpFront

Except for medical treatment, he told the *Pacific Sun*, we do not know how much radiation humans can take. "Are the standards safe? We do not really know," he said. "A number of times the government and industry have said confidently that levels are safe, and then it turns out thirty years later they are not. People are not sure what the government says is safe is safe. Certainly people nearby have reason to be concerned. If [that concern] is really warranted, we don't know for sure."

Matthew, a registered nurse who lives on Mt. Barnabe, contends the Hamrrett & Edison report addresses "only the thermal effect of tissue cooking, and does not talk about ultra high frequency fields bouncing off the hills. Nobody knows how much effect over how many years at what level" has what effect.

"People moved to the valley to get away from urban pollution. Now I'm within direct line of sight of the antenna. I used to feel safe here; not anymore."

Professor Graham perhaps summed up the current and impending dispute when he said, "There are a lot of studies. They do not all agree. We need to sort it out. Right now, it's a mess."

Visit our new Bakery Cafe
2661 Conventsia Hwy South (Hwy 116 West)
Sebastopol, CA 95472
707-829-7733

share channels and finding ... nels will go away."

But there is a deep distrust of Viacom among its subscribers. Some suspect that the company is just using customers' anger to bolster its case against industry regulation. Suki Sennett, who staffs the county Cable TV Oversight Committee, has been

If Viacom doesn't win its injunction, it will probably face a storm of protest from KTEH fans. They're committed, they're organized and they're legion. Says Gillespie, "There are a lot more people who are concerned about this than Viacom ever believed would be."

Sparks over EMFs

Mill Valley schools will pay tab but they want PG&E to guarantee results

BY JOYCE LYNN

Bright flowers adorned the board's table at the Mill Valley School District meeting Monday night, but when the topic turned to electromagnetic fields, angry board members were throwing bricks, not bouquets. The targets were six PG&E representatives who came, gauss meters in hand so to speak, to offer good-faith assurances on their plan to correct potentially hazardous EMF levels at Tam Valley Elementary School.

PG&E's high-tension wires are located over the playing field at Tam Valley Elementary School, about 112 feet from the nearest classroom. Studies during the past decade, especially a recent Swedish study, have found strong correlation between continual exposure to EMF at levels between 2 to 3 milligauss and an increased risk of cancer. The correlation is especially pronounced for childhood leukemia. While levels of 1.2 milligauss are considered safe, EMF levels at Tam Valley's playing field reach as high as 6 milligauss.

Last December, the Mill Valley School District contacted PG&E about correcting the situation, but were told PG&E would not pay for changes in its facilities solely to reduce EMF levels. PG&E cited the inconclusive nature of research results while acknowledging that "EMFs' affect on public health cannot be dismissed." The district's attorney, Georgia Lee Negri, [illegible] the district's attorney, Georgia Lee Negri, [illegible] the district's attorney, Georgia Lee Negri, [illegible] the

the mitigation of health effects."

This evoked a chorus of outrage from Board members:

• Susan Marks: "The disclaimer means if you do a crummy job and the poles fall down, you are not responsible."

• James Mitchell: "You as parents would not send your child to a school district that would write this kind of contract."

• Tom Ashley: "This is like building a roof to last for 20 years, but you guarantee it for one day — providing it doesn't rain that day."

Stacey Case, PG&E division manager, who had returned that day from her honeymoon to face this sour chorus, defended PG&E's good intentions. "Our goal is to support what you want to achieve," she said. "We are committed to moving by September 1 at the cost price specified here." Although exorbitant Sausalito growth is remote, Case said PG&E "tried to give a range based on load growth which is beyond PG&E's control." What if, she speculated, a new shipyard is built or every customer wanted to install five hot tubs?

Case said PG&E sent the school board a standard contract to expedite negotiations and that since this type of agreement is new, no model contracts exist with EMF levels. She acknowledged that the contract was "unacceptable." But she maintained, "It's not an excuse for delay."

Earlier that day, PG&E named attorney Jathan Annand to handle the contract negotiations. Annand said she hoped she and school counsel Woliver "can get language mutually acceptable to people."

Chair Cathie Kastner wanted assurances that the contract will be signed by June 1 so that equipment can be ordered and work completed by September 1 for the start of school in the fall.

"Absolutely," responded Annand.

(After the meeting, school district business manager Mike Patrick told the *Pacific Sun*, "We have been asking since January 26 who Sandra Woliver should contact regarding a contract. We found out today.")

Debate concluded around 10 p.m. with Tam Valley school copresident Kate Hamilton telling the PG&E delegation, "It's disheartening at this point in time to be at this stage. I thought it was very clear what PG&E said they were going to do. We sent information to parents, this is what will be done. I'm disappointed PG&E is not paying for this. I feel strongly it is not our responsibility but, hey, we're worried about our kids."

As the handful of disgruntled Tam Valley school parents left the meeting, one advocated a futile gesture of retaliation, "Let's turn off all our lights."

At press time, Woliver told the *Sun* that she had continued lengthy discussions with Annand, but "PG&E is still unwilling to commit to any range of EMFs."

With a June 1 deadline looming, looks like the EMF issue is going down to the wire.

Great Bay Mortgage Co.

Scuba Dive?

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
RADIO AND TELEVISION

WILLIAM F. HAMMETT, P.E.
DANIEL R. ERICKSEN, P.E.
GERHARD J. STRAUB, P.E.
STANLEY SALEK, P.E.
ROBERT D. WELLER, P.E.
DEVENDRA BELLMORIA
DANIEL G.P. MANSERGH

Consultants to the Firm
ROBERT L. HAMMETT, P.E.
EDWARD EDISON, P.E.

BY FACSIMILE 415/499-7880

July 24, 1996

Mr. Brian C. Crawford
Planning Director
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, California 94903-4157

Dear Brian:

We have been asked to supplement with this letter our March 22, 1996 report concerning the radio frequency (RF) exposure conditions at the Personal Communications Service base station proposed by Pacific Bell Mobile Services to be located at 260 Shoreline Highway in Mill Valley. Of concern is apparently the RF levels *inside* the two-story building on which the base stations antennas are to be located.

You will recall that we had calculated RF exposure conditions on the roof possibly exceeding the ANSI Standard C95.1-1992 guidelines for those narrow areas between the antennas and the nearest roof edge. Due to the attenuating effects of the building roof and walls, however, as well as the increased distance from the antenna, RF power density levels on the second floor of the building directly below the antennas will be reduced by a factor of at least 10 times. This will reduce maximum RF power density on the second floor to levels well below that permitted by the Standard for exposures of unlimited duration.

This result can certainly be confirmed by measurements after construction. In fact, numerous field tests of actual RF exposure conditions inside buildings on which antennas of this type had been mounted indicate that it is more likely the power reductions will be 100 or more times.

Please let us know if further questions arise on this or any related matter.

Sincerely yours,

William F. Hammett

William F. Hammett, P.E.

aj

cc: Mr. Jim Watkins - BY FACSIMILE 415/737-5301

e-mail: hammett@h-e.com
US Mail: Box 280068 • San Francisco, California 94128
Delivery: 1980A Sonoma Highway (temporary) • Sonoma, California 95476
Telephone: 707/996-5200 San Francisco • 707/996-5280 Facsimile • 202/396-5200 D.C.

PC ATTACHMENT #8

Consulting Group, Inc.
TELECOMMUNICATIONS

RECEIVED BY
1996 AUG -9 A 11:50
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

FAX TRANSMITTAL

DATE:	August 8, 1996	**FAX NUMBER:**	415-499-7880
TO:	Mr. Brian C. Crawford Deputy Zoning Administrator County of Marin	**NUMBER OF PAGES:**	1 + cover
FROM:	James R. Calkins	**ORIG. TO FOLLOW:**	Y
RE:	Change in antenna location at 242 Redwood Highway		

THE FOLLOWING DOCUMENTS ARE ENCLOSED:

One (1) Letter addressing your recommendation

PURPOSE/COMMENTS:

The antennas on the southern elevation of the building cannot be moved to the western elevation of the building for additional screening from the houseboat tenants, as suggested by the Zoning Administrator after inspection, without raising the antenna to a significant height. Please see the following letter from our RF engineer, Ed Gutierrez. I have assumed that raising the height is unacceptable and so I have left it remaining at its original location. Should you wish to change it or have any question regarding this matter p ease contact me.

844 Dubuque Avenue • S. San Francisco, California 94080 • Telephone: (415) 737-5338

PC ATTACHMENT #9

Ed Gutierrez
844 Dubuque Ave
South San Francisco, CA. 94080
(415) 737-5371

Pacific Bell Mobile Services

August 2, 1996

Deputy Zoning Administration
County of Marin Community Development Agency
3501 Civic Center Drive, Room 308
San Rafael, CA 94903-4157

Re: Antenna Site on Heliport

Dear Mr. Brian Williams:

I am writing in response to your request that we change the location of our antennas from its current design, which situates our antennas along the sides of the roof, to your recommended location in the middle of the roof. In order to place the antennas in the middle of the roof we would need to raise the antenna height to prevent any shadowing effects by the roof. Our rule of thumb when determining the necessary height needed to clear the roof is for every foot away from the side of the roof a corresponding increase of 1 inch is required in antenna height. From structural drawings I have seen of the building, it looks as though the middle of the building is approximately 110 ft. away from the side of the roof. This would translate to an antenna height of 9.5 ft. from the bottom of the antenna to the roof. The antenna itself is approximately 5 ft. tall. This would place the top of the antenna around 14.5 ft. above the roof. I must add that if a parapet runs along side the roof then the reference plane is the height of the parapet and not the roof.

If this works better for you I have no problem in raising the antenna. If antenna height is an issue and lower is better than placing the antenna near the side of the roof is best.

If you have any further question please do not hesitate to contact me.

Sincerely,

Ed Gutierrez
RF Engineer

Kids' Headquarters, Inc.
220 Redwood Hwy.
Mill Valley, CA 94941
(415) 331-8373

July 25, 1996

*To Whom It May Concern

Re: Price/Pac Bell Design Review Exemption 96-405/Use Permit 96/406

Steve Price has provided Planet staff with a package of information pertaining to the type of PCS transceiver facility proposed for installation at 242 Redwood Highway. It is our understanding that this information has also been provided to others who have expressed concern about that proposal.

The provided information coincides with what little information we have managed to find from other sources, with the effect that we could not feel justified in opposing the project in question.

We feel that children are endangered and hurt by quite an array of new influences in our rapidly changing world. We believe that the degree of consideration given to new environmental influences is greater than the caution given to many other factors, such as the social factors that lead to juvenile drug-abuse, crime, unwanted pregnancy, and even suicide. The Planet, a project of Kids' Headquarters, Inc., has for many years been deeply involved in efforts to reduce those dangers and to strengthen kids against them. The consensus, among those who comment on such issues, consistently upholds the importance of efforts like ours and the need for more work of this kind, but we have found, in more than fifteen years of success, that this general understanding does not "reach the ground" in sufficient strength to facilitate our work. The familiar problems are, in effect, sustained by subtle factors: unexamined and unintended priorities-- failures, among those most responsible, to realize that this particular decision, or that particular decision, is in fact one of the critical moments in the evolution of effective or destructive child-socialization. In other words, despite our well-recognized success, The Planet tends to be tossed around somewhat like a cork on a stormy sea.

As we once again find ourselves clinging to our continued existence at this particular site, amid the apparent procedural technicalities of County zoning and planning requirements, any remaining uncertainty regarding the PCS transceivers must appear to us among the least of the dangers to local children. While maintaining genuine understanding and friendship with our neighbors and our community is among our very highest wishes, we ask all concerned to appreciate the realities we must deal with every day and every year.

Sincerely,

Dave Kersting

Dave Kersting
President
Kids' Headquarters, Inc.
dba: The Planet

RECEIVED
AUG 1 [illegible]
COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

PC ATTACHMENT #10

Attachment 11

Letter of Support for Price/Pac Bell Use Permit and Design Review Exemption

The following individuals have submitted a signed letter of support for the proposed Price/PacBell Use Permit/Design Review Exemption application. Attached to this list is a sample of the form letter used. Copies of this correspondence are available for public review at the Marin County Community Development Agency, Planning Division.

Name	Address	Comment
Jean Guthrie	240 Redwood Hwy., Berth 2	
Jane Chamberlin	P.O. Box 252, Sausalito, 94966	
Richard Charles	240 Redwood Hwy., #5, Mill Valley, 94941	
Geordie Stephens	240 Redwood Hwy., #11c, Mill Valley, 94941	
Susan Hans	240 Redwood Hwy., #1, Mill Valley, 94941	
Sue Brickenridge	240 Redwood Hwy., #1, Mill Valley, 94941	
Elaine Alyson	240 Redwood Hwy., #7, Mill Valley, 94941	
Peter Breinig	242 Redwood Hwy., #2, Mill Valley, 94941	
Mr. McDonald	240 Redwood Hwy., #7, Mill Valley, 94941	
Phil Hith	240 Redwood Hwy., #7, Mill Valley, 94941	
Tom Manuel	110 Palm Ave., Corte Madera, 94925	works at Commodore Center
Jaime Stortie	501 Alameda Del Prado, #313, Novato	employee of Briles Helicopter
S. Roehler	242 Redwood Hwy., Mill Valley, 94941	pilot of Briles Helicopter
John Kerbymiller	175 Upland Rd., Kentfield, 94904	pilot at Sausalito Heliport
Stephen Considine	Kappas Marina East #4, Sausalito, 94965	works at Commodore Center
Katy O'Leary	65 Longfellow Rd., Mill Valley, 94941	
W. Weste	22 Boardwalk #1, Larkspur, 94939	works at Commodore Center
Bill Donnelly		works next door
John Konedine	100 Shoreline, Mill Valley, 94941	

CG/mpr:forms/temp/cgprice.doc

SAMPLE FORM LETTER

RECEIVED BY
1996 AUG 23 P 2:51
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

I am in support of the proposed Pacific Bell Mobile Services PCS wireless telecommunications roof-mounted facility at 242 Redwood Highway, Mill Valley. I appreciate the digital technology which dramatically improves security and clarity during my calls, the capability of offering a variety of voice and data features, and the ability to keep in touch with my family, friends, and resources at any moment I need to. PCS offers these things without interfering with other transmissions, and keeps our community progressing toward the future. As a resident of the area surrounding the proposed site, I ask that you endorse this facility at the September 9th hearing so that we may enjoy access to its benefits as quickly as possible.

Respectfully,

Name: Jean Guthrie

Address: 240 REDWOOD HWY. #BERTH 2

SUMMARY OF SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996

The following is a summary of key provisions. The text of Section 704 is reproduced in its entirety as an attachment to this summary.

1. Local Zoning Authority Preserved
Section 704(a) of the 1996 Act amends Section 332(c) of the Communications Act ("Mobile Services") by adding a new paragraph (7). It preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of personal wireless service facilities, except as provided in the new paragraph (7).

2. Exceptions

a. States and Localities May Not Take Discriminatory or Prohibiting Actions

Section 704(a) of the 1996 Act states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. §332(c)(7)(B)(i).

Review: Any person that is adversely affected by a state or local government's action or failure to act that is inconsistent with Section 332(c)(7) may seek expedited review in the courts. 47 U.S.C. §332(c)(7)(B)(v).

b. Procedures for Ruling on Requests to Place, Construct or Modify Personal Wireless Service Facilities

Section 704(a) also requires a State or local government to act upon a request for authorization to place, construct, or modify personal wireless service facilities within a reasonable time. Any decision to deny a request must be made in writing and be supported by substantial evidence contained in a written record. 47 U.S.C. §332(c)(7)(B)(ii), (iii).

c. Regulations Based On Environmental Effects of RF Emissions Preempted

Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).

Review: Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. § 332(c)(7)(B)(v).

PC ATTACHMENT #12

3. Federal Guidelines Concerning RF Emissions

Section 704(b) requires the FCC to prescribe and make effective new rules regarding the environmental effects of radio frequency emissions, which are under consideration in ET Docket 93-62, within 180 days of enactment of the 1996 Act.

NOTE: The pendency of this proceeding before the FCC does not affect the rules which currently are in effect governing the environmental effects of radio frequency emissions. Section 704(b) gives preemptive effect to these existing rules. See related attachments to the Fact Sheet.

4. Use of Federal or State Government Property

a. Federal Property

Section 704(c) of the 1996 Act requires the President (or his designee) to prescribe procedures by which the federal government may make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control, for the placement of new spectrum-based telecommunications services.

b. State Property

With respect to facilities siting on state property, Section 704(c) of the 1996 Act requires the FCC to provide technical support to States to encourage them to make property, rights-of-way and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services.

NOTE: Information concerning technical support for tower siting which the FCC is making available to state and local governments is attached to the Fact Sheet.

5. Definitions

"Personal wireless services" include commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services. 47 U.S.C. §332(c)(7)(C)(i).

"Commercial mobile services" are defined in Section 332 of the Communications Act and the FCC's rules, and include cellular telephone services regulated under Part 22 of the FCC's rules, SMR services regulated under Part 90 of the FCC's rules, and PCS regulated under Part 24 of the FCC's rules. 47 C.F.R. §20.9.

"Unlicensed wireless services" are defined as the offering of telecommunications services using duly authorized devices which do not require individual licenses; direct-to-home satellite services are excluded from this definition. 47 U.S.C. §332(c)(7)(C)(iii).

Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306)
260 Shoreline Highway
Mill Valley, California

Evaluation of
Radio Frequency
Exposure Conditions

March 22, 1996

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HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

PC ATTACHMENT #13

Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306) • Mill Valley, California

Statement of Stanley Salek, Consulting Engineer

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Pacific Bell Mobile Services ("PBMS") to evaluate the new PCS base station proposed to be located at 260 Shoreline Highway, Mill Valley, California, for compliance with appropriate guidelines for limiting human exposure to radio frequency electromagnetic fields.

Prevailing Exposure Standards

In General Docket 79-144, the Federal Communications Commission adopted the radio frequency protection guide of the American National Standards Institute ("ANSI") Standard C95.1-1982, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz." The effective date for applying this standard to FCC licensees was January 1, 1986. The most restrictive limit applies at frequencies between 30 and 300 MHz, where FM and VHF television stations operate; the limit is higher at UHF, cellular, and PCS frequencies. The exposures are to be averaged over some interval of time (six minutes in C95.1-1982), as it is the rate of absorption of radio frequency ("RF") energy that ANSI is limiting, rather than the peak exposure at any one moment.

In 1992, the American National Standards Institute published ANSI/IEEE Standard C95.1-1992, a summary of which is shown in Figure 1. This revision of C95.1-1982 defines "controlled" and "uncontrolled" environments, setting for the latter more restrictive exposure limits but longer periods for time averaging. Although there are a number of changes from the 1982 Standard, the controlled (*i.e.*, occupational) limits are approximately the same, while uncontrolled (*i.e.*, public) limits are generally five times more restrictive.

For Personal Communications Services ("PCS"), the FCC has adopted on an interim basis the revised standard, and the most restrictive criteria of that standard are used in this report to evaluate the exposure conditions at the proposed cellular site. The limit for continuous exposure to RF energy at 1,850 MHz, the lowest base station frequency assigned PCS use, is 6.16 mW/cm^2 (milliwatts per square centimeter) for occupational exposure situations and 1.23 mW/cm^2 for public exposure situations.

Non-Thermal Effects of RF Energy

Statements are often made that the prevailing standards are "thermally based"; this is usually followed by a description that the standards merely serve to limit the cooking of human tissue, as might occur inside a microwave oven. Such statements are not correct. One of the criteria for "biological effect" used in establishing the ANSI/IEEE limits was behavioral modification in animal subjects. For instance, if a trained rat could not negotiate a familiar maze during exposure to RF energy, that would be a biological effect.

Fourteen subgroups constituted the Biological Validation Working Group that developed the ANSI/IEEE Standard, composed of scientists and experts in the following disciplines: 1) behavior, 2) biorhythms, 3) cardiovasculature, 4) central nervous system, 5) teratology, 6) endocrinology, 7) visual systems, 8) genetics, 9) modulation (RF), 10) hematology-immunology, 11) metabolism-thermoregulation, 12) oncology, 13) combined effects, and 14) psychology. While we do not propose to duplicate the literature review conducted by the ANSI Standards Committee (similar independent reviews have already been conducted by the National Council on Radiation Protection and Measurement, and the American Conference of Governmental Industrial Hygienists), many of the titles listed in the bibliography and list of papers reviewed in establishing the Standard include words such as "Auditory Perception," "Behavior," "Hormones," etc., which are not likely to be associated with thermal effects.

Since the ANSI/IEEE Standard undergoes periodic review and, when necessary, revision, to reflect the latest scientific findings, it is appropriate to require compliance with the current revision of this standard. Additionally, alternative standards may be adopted by the FCC in the future, and it would be both appropriate and necessary to review compliance of facilities with those standards, as well.

Computer Modeling Method

The FCC has provided direction to the telecommunications industry on determining compliance with ANSI in the Office of Science and Technology Bulletin No 65, "Evaluating Compliance With FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation," dated October 1985. We have developed computerized techniques for applying the formulas given in that Bulletin to calculate both ground level and on-tower power densities at radio transmitting sites. The attached Figure 2 describes the ground level calculation methodology in detail. This method of evaluating expected exposure conditions is accepted by the FCC, and its accuracy has been verified by field tests.

Site and Facility Description

It is proposed to install a new PCS base station atop a two-story building, located at 260 Shoreline Highway in Mill Valley. The proposed antenna support poles would be located such that the antennas are completely above the level of the existing roof, so that they would have an unobstructed view of the surrounding area. The only nearby residences appear to be houseboats northeast of the proposed facility. The grounds surrounding the building are all publicly-accessible. Data for the proposed antenna height, antenna type and orientation, and effective radiated power have been supplied by PBMS and are summarized in Figure 3A.

It is proposed to install four 4.5-foot-high "panel" antennas above the highest point of the building. The antennas will operate directionally, with two pairs of antennas oriented in two different directions to provide optimum service to the surrounding geographical area. A transmitter would be connected to each antenna, resulting in an effective radiated power (ERP) of 200 watts per antenna, or a total of 400 watts from a pair of transmit antennas. This power level is less than that in use at typical cellular telephone base station sites.

Base Station Requirements

Because of the short wavelength of the frequencies assigned for the proposed PCS use, the antennas require line-of-sight paths for their signals to propagate. Therefore, they will necessarily be mounted above nearby buildings, terrain, and vegetation; the energy directed toward any accessible location nearby will be limited by the narrow beamwidth of the elevation pattern, as shown by the top pattern of Figure 3B.

As new base stations are added to an existing communications network, the operating powers of the surrounding base stations are reduced and the power of all PCS base stations are themselves low, in order to allow re-use of the same frequencies. Because of the low power alone, it generally is not possible for exposure conditions to approach the ANSI limits without being physically very near the antennas.

Study Results

For the specific parameters of the proposed 260 Shoreline Highway site, I have calculated the highest possible power densities resulting from the operation, assuming as a worst case that the facility is operating at full power. In actual operation, the transmitted power levels are often reduced below their maximum capability to allow other PCS base stations to re-use the same frequencies.

As shown on Figure 4, except on the roof of the building on which the antennas are located, the calculated RF power density is everywhere less than 1% of the most restrictive applicable ANSI limit at all locations near the site. In fact, the highest calculated power density near ground level under the worst case assumptions is 0.76 $\mu W/cm^2$, only 0.062% of the most restrictive limit specified in ANSI Standard C95.1-1992 (*i.e.*, over 1,600 times below the Standard).

Access Restrictions on Rooftop

Because they are proposed to be mounted low above the roof of the building, it would be possible for a person to approach closely the transmit antennas. The energy emitted by almost any transmit antenna can exceed the ANSI limits if one can get close to the antenna for an extended period of time. Measurements taken by the firm of the near-field radiation characteristics of the proposed

antennas have indicated that approaches no closer than about 4 feet should be made to the antennas while they are operating. In order to ensure that exposure conditions for persons who might have access to the antennas do not exceed the applicable exposure guidelines. I therefore recommend either that access to the roof area be suitably restricted to persons who are aware of the potential for exposure as a concomitant of employment and by other cognizant persons, who have been instructed in the mitigation of RF fields, or that an area of the roof extending 4 feet from all of the antennas be appropriately marked and barricaded.

Access to the roof area may be restricted by the posting of a standard RF warning sign at each point of access, or by the installation of suitable access controls, such as locked anti-climb shields on ladders. In the event that roofing, painting, or other activities are required for expended periods on the roof, the transmitters at the site should be turned off, unless measurements, more detailed calculations, or other measures will also ensure that the limits specified in the prevailing standards are not exceeded.

Cumulative Effects with Existing Facilities

There is no evidence that there are cumulative effects to low-levels of RF exposure. While there exists the possibility that chronic exposure to RF energy may cause as yet unknown adverse effects at levels below those specified in the prevailing standards, there have been no definitive findings and no standards have been proposed for such low exposure conditions. Due to public concerns of such effects, there is ongoing research in this area. Because it is not possible to demonstrate conclusively that low levels of RF do not have adverse biological effects (*i.e.*, to prove the negative), scientists typically will not state that such effects do not exist.

As previously stated, the proposed 260 Shoreline Highway facility is located on a rooftop that has controlled access and that is well above the surrounding terrain and buildings. Power density levels at the nearest properties are calculated to be much less than 1% of the most restrictive applicable limit; levels on building interiors would be further reduced by the shielding effect of building walls and roofs. There appear to be no other significant sources of RF energy nearby.

Conclusion

Based on the information and analysis above, it is my professional opinion that the PCS base station facility proposed by PBMS to be located at 260 Shoreline Highway, Mill Valley, will comply with the prevailing standards for limiting human exposure to radio frequency energy and, therefore, the RF exposure conditions will not cause a significant impact on the environment. Calculations indicate that human exposure conditions in all publicly accessible areas meet the ANSI exposure guidelines by an additional safety factor of over 1,600 times. This finding is consistent with

measurements of actual exposure conditions taken by the firm at similar, operating cellular sites, where power density levels are typically much less than 1% of the prevailing standards.

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Summary of ANSI C95.1 Standard
2. RFR.GROUND™ calculation methodology
3. Technical specifications of proposed operation
4. Map showing calculated RF power densities.

March 22, 1996

REGISTERED PROFESSIONAL ENGINEER
STANLEY SALEK
No. E-14217
Exp. 6-30-97
ELECTRICAL
STATE OF CALIFORNIA

Stanley Salek, P.E.

SON, INC.

Affidavit

State of California
County of Sonoma | ss:

Stanley Salek, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registration No. E-14217 which expires on June 30, 1997, and is employed by the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,

2. That he graduated from Florida Institute of Technology with a Bachelor of Science degree in Electrical Engineering in 1981, was employed from 1981 to 1991 in the field of radio engineering at companies including Motorola, Inc., Broadcast Electronics, Inc., Circuit Research Labs, Inc., and the National Association of Broadcasters, and has been associated with the firm of Hammett & Edison, Inc., since July 1991,

3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Pacific Bell Mobile Services to evaluate the new PCS base station proposed to be located at 260 Shoreline Highway, Mill Valley, California, for compliance with appropriate guidelines for limiting human exposure to radio frequency electromagnetic fields,

4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and

5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.

Stanley Salek, P.E.

Subscribed and sworn to before me this 22nd day of March, 1996

ORIGINAL COPY NOTARIZED

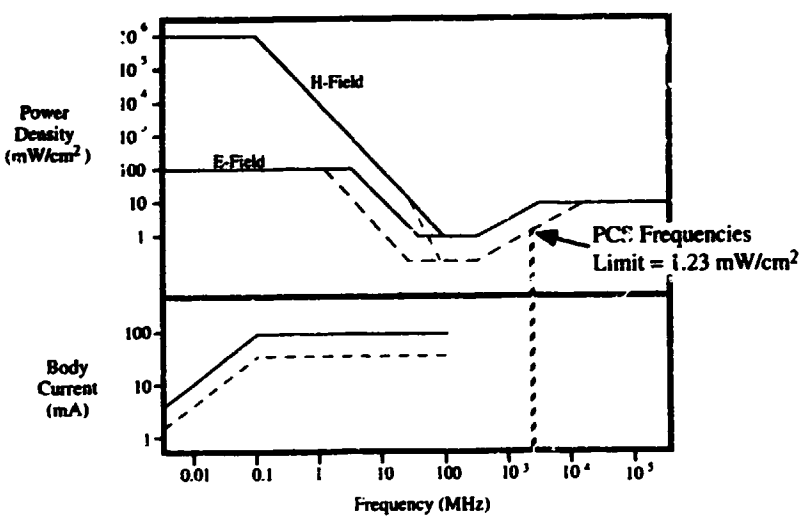
Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306) • Mill Valley, California

ANSI/IEEE C95.1-1992 Radio Frequency Protection Guide

Controlled Environments ——
Uncontrolled Environments – – –

Frequency Applicable Range (MHz)	Electromagnetic Fields: Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm^2)		Body Currents: Induced (Ankle) or Contact (Wrist) (mA)	
0.003 – 0.1	614	*614*	163	*163*			1,000f	*450f*
0.1 – 1.34	614	*614*	16.3/f	*16.3/f*			100	*45*
1.34 – 3.0	614	*823.8/f*	16.3/f	*16.3/f*			100	*45*
3.0 – 30	1,842/f	*823.8/f*	16.3/f	*16.3/f*			100	*45*
30 – 100	61.4	*27.5*	16.3/f	*158.3/$f^{1.668}$*			100	*45*
100 – 300	61.4	*27.5*	0.163	*0.0729*	1.0	*0.2*	no limit	
300 – 3,000					f/300	*f/1500*	no limit	
3,000 – 15,000					10	*f/1500*	no limit	
15,000 – 300,000					10	*10*	no limit	

Note: f is frequency of emission, in MHz.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

960320
Figure 1

RFR.GROUND™ Calculation Methodology

Determination by Computer of ANSI Compliance Conditions

The U.S. Congress has required of the FCC that it evaluate its actions for possible significant impact on the environment. In General Docket 79-144, the FCC adopted the American National Standards Institute Standard C95.1-1982, "American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz." The guidelines in this Standard are now applicable to all FCC-licensed broadcast stations. The most restrictive guideline is 1 mW/cm^2, applying at FM and VHF television frequencies; at UHF television and cellular telephone frequencies, the guideline increases with increasing frequency, up to 5 mW/cm^2, applying at microwave frequencies and above. The exposure guideline at AM frequencies is 100 mW/cm^2. Exposures are to be averaged over a six-minute period, allowing, for example, a two-minute exposure to fields three times the limit if the remainder of the six-minute period does not include any significant exposure.

The FCC Office of Science and Technology Bulletin No. 65 (October 1985) gives the formula for calculating power density from an individual radiation source:

$$\text{power density } S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times [0.4 \times VERP + AERP]}{4\pi D^2}, \text{ in } mW/cm^2,$$

where VERP = total peak visual ERP (all polarizations), in kilowatts,

AERP = total aural ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 ($1.6 \times 1.6 = 2.56$). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 0.4 converts peak visual ERP to an average RMS value; for FM and cellular stations, of course, the value of VERP is zero. The factor of 100 in the numerator converts to the desired units of power density.

This formula has been built into a computer program by Hammett & Edison that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of the actual terrain at the site to obtain more accurate projections. The calculated results are shown on a plat of the calculation grid as a percentage of the appropriate ANSI limit. A solid black dot appearing on the plat indicates an RF field calculated to be in excess of 1% of the appropriate limit. The dots increase in size proportionally with the magnitude of the calculated field up to 100% of the appropriate limit. At calculated fields above 100% of the limit, the dots become open circles, again increasing in size proportionally with the magnitude of the calculated field.

Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306) • Mill Valley, California

Engineering Specifications of Proposed Operation

A. Site

Geographical Coordinates (NAD27)	37° 52' 43" N 122° 30' 47" W
260 Shoreline Highway, Mill Valley, California	

B. Equipment

Support structure	Building, overall height	25 ft
Antennas	DAPA Communications, Inc., Model 58210 (92° panel)	four

C. Height

Elevation of site above mean sea level	7 ft
Effective height of antennas above site	30 ft
Effective height of antennas above mean sea level	37 ft
Overall height of antennas above mean sea level	40 ft

D. Operation

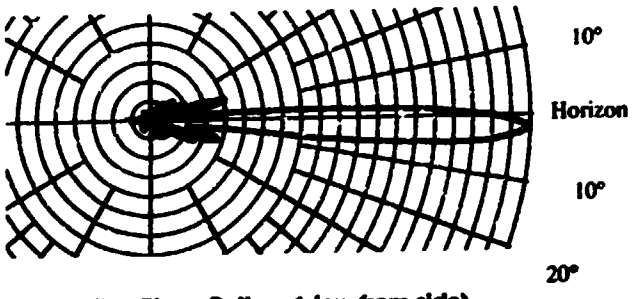
Antenna power gain	14.9 dBd
Antenna electrical beam tilt, downward	2°
Antenna orientation	130°T, 310°T
Maximum effective radiated power, per antenna	200 W
Antennas per sector	two
Maximum effective radiated power, per sector (maximum)	400 W

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

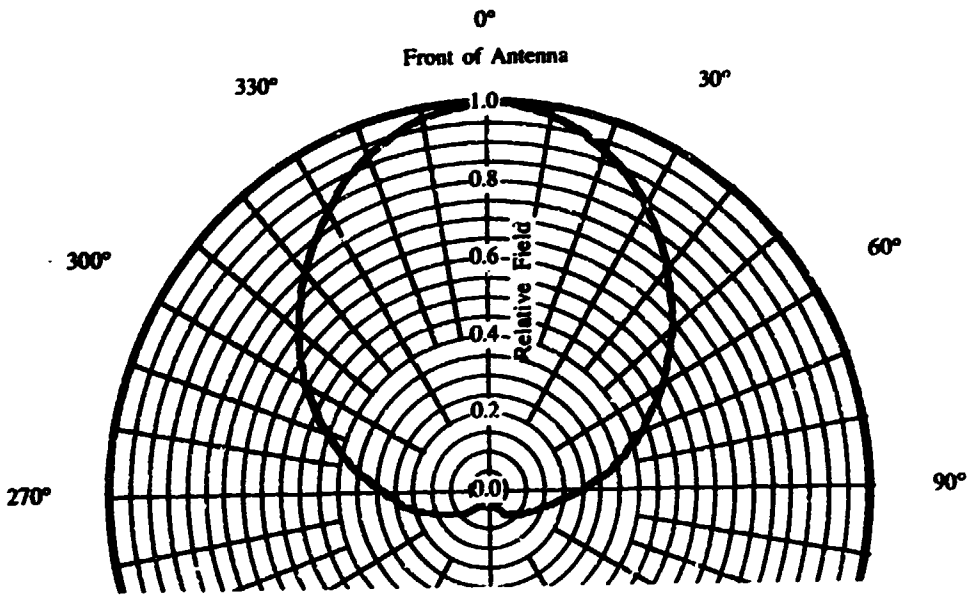
960320
Figure 3A

Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306) • Mill Valley, California

Antenna Radiation Patterns
Dapa Communications, Inc., Model 58210



Elevation Plane Pattern (view from side)



Azimuth Plane Pattern (view from above)

Pattern from manufacturer's published data.

HAMMETT & EDISON, INC.
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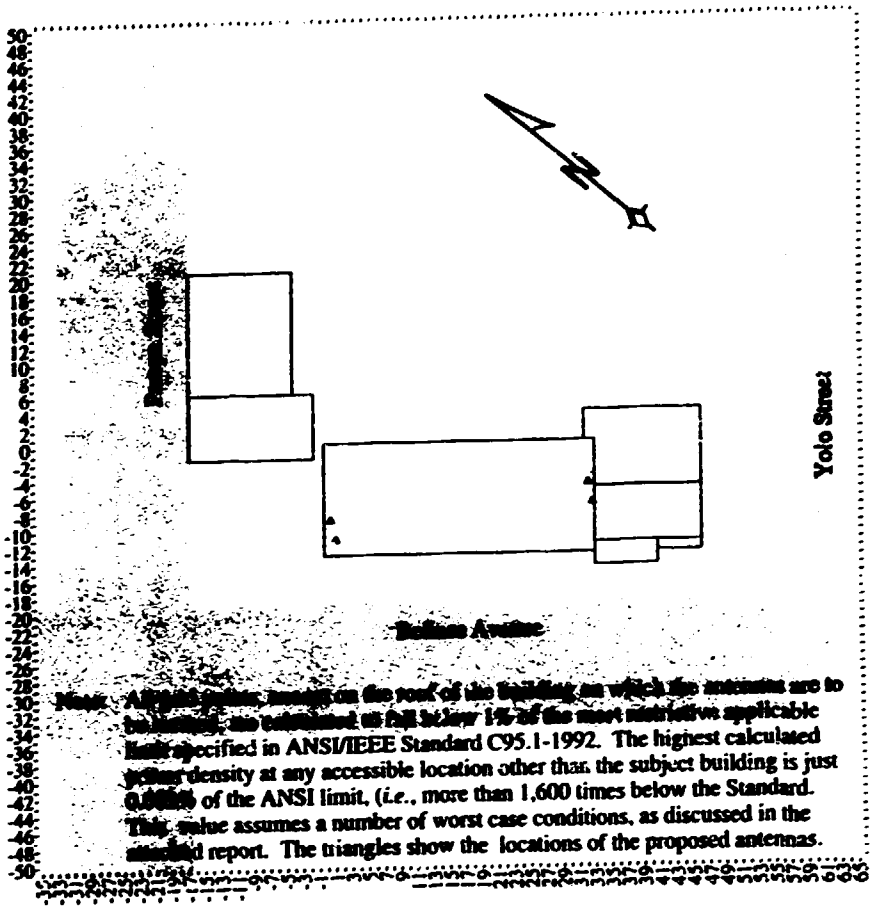
SAN FRANCISCO

960320
Figure 3B

Pacific Bell Mobile Services
Proposed PCS Base Station (#SF-306) • Mill Valley, California

Map of Calculated RF Exposure Conditions



Note: All RF power, incident on the roof of the building on which the antennas are to be mounted, was calculated to fall below 1% of the most restrictive applicable limit specified in ANSI/IEEE Standard C95.1-1992. The highest calculated power density at any accessible location other than the subject building is just 0.0006 of the ANSI limit, (*i.e.*, more than 1,600 times below the Standard. This value assumes a number of worst case conditions, as discussed in the attached report. The triangles show the locations of the proposed antennas.

METERS
5 0 5 10

Calculations performed according to OST Bulletin No. 65, October 1985.
Symbol size proportional to percent of ANSI C95.1-1992 Standard.

[blank] < 1.0% · 10.0% · 30.0% • 100.0% • 300.0%

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

960320
Figure 4

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
RADIO AND TELEVISION

WILLIAM F. HAMMETT, P.E.
DANE E. ERICKSEN, P.E.
GERHARD J. STRAUB, P.E.
STANLEY SALEK, P.E.
ROBERT T. WILL III, P.E.
DEVENDRA BELL MOLIA
DANIEL G.P. MAI WRIGHT
Consultants to the Firm
ROBERT L. HAMMETT, P.E.
EDWARD EDISON, P.E.

BY FACSIMILE 415/499-7880

September 9, 1996

Mr. Brian C. Crawford
Planning Director
Marin County Community Development Agency
3501 Civic Center Drive, Suite 308
San Rafael, California 94903-4157

Dear Brian:

We have been asked to supplement with this letter our March 22, 1996, report concerning the radio frequency (RF) exposure conditions at the Personal Communications Service base station proposed by Pacific Bell Mobile Services to be located at 242 Shoreline Highway in Mill Valley. Of concern is apparently the RF levels *inside* the two-story building on which the base station antennas are to be located.

You will recall that we had calculated RF exposure conditions on the roof possibly exceeding the ANSI Standard C95.1-1992 guidelines for those narrow areas between the antennas and the nearest roof edge. Due to the attenuating effects of the building roof and walls, however, as well as the increased distance from the antennas, RF power density levels on the second floor of the building directly below the antennas will be reduced by a factor of at least 10 times. This will reduce maximum RF power density in rooms on the second floor to levels on the order of 0.005 mW/cm^2, *i.e.*, well below that permitted by the Standard for exposures of unlimited duration.

This result can certainly be confirmed by measurements after construction. In fact, numerous field tests of actual RF exposure conditions inside buildings on which antennas of this type had been mounted indicate that it is more likely the power reductions will be 100 or more times.

Please let us know if further questions arise on this or any related matter.

Sincerely yours,

William F. Hammett, P.E.

ej

cc: Mr. Jim Calkins - BY FACSIMILE 415/737-5301

e-mail:
US Mail:
Delivery:
Telephone:

FLOATING HOMES ASSOCIATION, INC.
P.O. BOX 3054 • SAUSALITO, CA 94966

September 8, 1996

Marin County Planning Commission
3501 Civic Center Drive
San Rafael CA 94903

RE: PRICE/PAC BELL DESIGN REVIEW EXEMPTION 96/405

Dear Sirs/Madams:

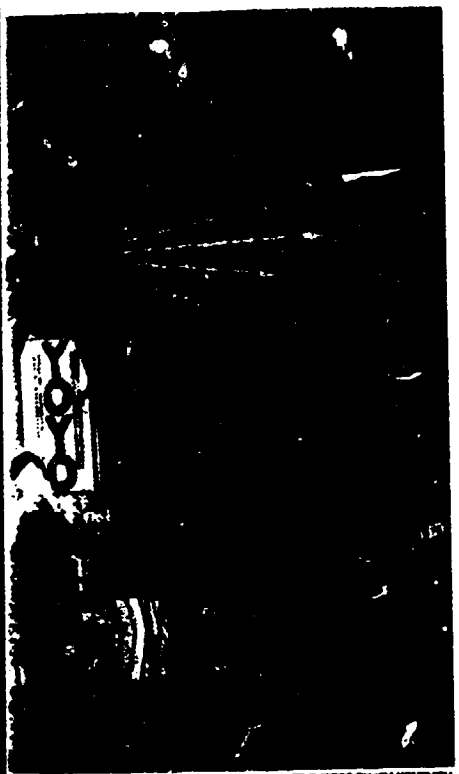
A number of residents of Commodore Marina have expressed their concerns to us in regard to the installation of the Price/PacBel antennas.

The Floating Homes Association strongly encourages the Planning Commission to carefully consider all aspects of the issue.

Sincerely,

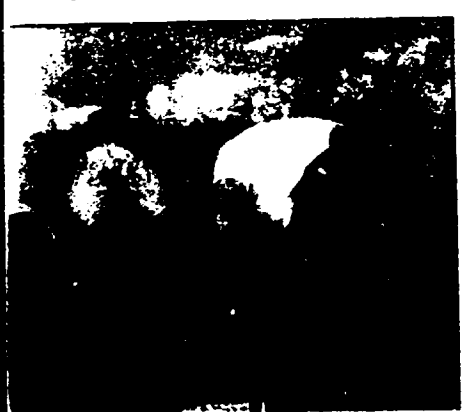
Henry Baer, President

Way ummer



EXAMINER PHOTOS BY KIM KOMENICH

sun in front of the YoYo on the fair's midway. Below, painting their little hooves.



slams into taxi, 2 die

SF CHRON 9/8/96

Police checking if cops were actually in chase with ex-felon who is in jail ward of hospital

By Marsha Ginsburg and Ray Delgado
OF THE EXAMINER STAFF

Two young men who had just moved to San Francisco were killed and four other people were injured early Saturday when a car going 85 mph to evade police collided with a taxi.

The victims were identified by the coroner's office as Christopher Cook, 21, of DeQuincy, La., and his friend, Scott Joseph Regules, 20, of Salt Lake City.

The two were passengers in the taxi. They were riding in the back seat with Jaron Taylor, 22, of San Francisco, who was in fair condition at San Francisco General Hospital with cuts and bruises.

The Yellow Taxi Co. driver, Hardlitagh Ghora, 41, of San Francisco, was also in fair condition at S.F. General on Saturday night.

The suspect, Reuben Johnson, 24, was in serious but stable condition in the jail ward of the hospital with a liver laceration, a nursing supervisor said.

Johnson, who has served time in state prison, was booked on charges of failing to respond to a police vehicle, speeding, vehicular manslaughter, shooting a firearm, drunken driving and violating parole.

His only passenger was his wife, Amelia Johnson, 25. She was in fair condition with a leg fracture and facial scrapes, hospital officials said.

"It's awful," Deputy Coroner Graham Cowley said. "Three kids having a good time ... they get a cab home and ... they get killed and maimed."

Police Chief Fred Lau, calling it

Cell phone battle reaches Sausalito

Pac Bell has plan for Richardson Bay

By Seth Rosenfeld
OF THE EXAMINER STAFF

When radio talk show host Enid Goldstein came to California, she decided she'd one day live on a houseboat because it seemed to be "free and pristine ... a place where you can breathe deeply."

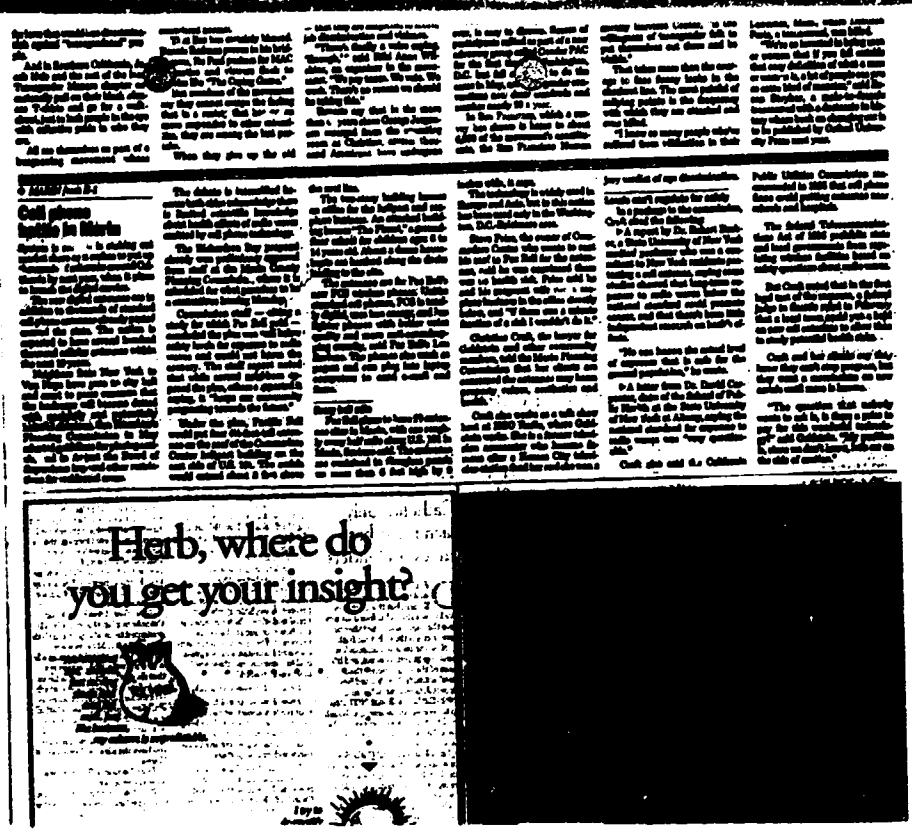
Now she's embroiled in a battle to block Pacific Bell from erecting four digital cell phone antennae near her houseboat that she fears will mar the view and threaten the health of neighbors.

The protest over the plan to put antennae atop a building at Commodore Center on Richardson Bay just north of Sausalito is part of a national controversy over cell phones that is spreading as fast as the booming technology.

Pacific Bell — which insists its new Personal Communications

[*See MARIN, B-11*]

Embezzle



Herb, where do
you get your insight?

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DIVISION

M E M O R A N D U M

TO: Marin County Planning Commission **DATE:** September 5, 1996

FROM: Brian Crawford, Principal Planner

RE: Price/Pacific Bell Use Permit 96-406 and Design Review Exemption 96-405
242 Redwood Highway, Mill Valley; APN 052-247-01

Attached is a letter to the Planning Commission that was submitted to the Community Development Agency on September 4, 1996 in advance of the Commission's consideration of the Price/Pacific Bell permit applications at the public hearing of September 9, 1996.

The letter raises several concerns regarding the proposal which have been expressed by an attorney representing residents or property owners in the vicinity of the project site. In summary, the concerns are that: (1) approval of PCS and other cellular sites can lower property values to the extent that it constitutes a "taking" of the affected landowner's property; (2) human exposure to electromagnetic frequency (EMF) radiation emitted by the operation of cellular facilities can result in significant, negative health effects; (3) the Price/Pacific Bell proposal does not qualify for a categorical exemption from the procedural requirements of the California Environmental Quality Act (CEQA) as recommended by the County Environmental Coordinator; and (4) a decision on the proposal should not be made until the County adopts a moratorium on new cellular facility sites and amends the County's Telecommunications Facilities Policy Plan.

As explained in the following discussion, the concerns pointed out in the attached letter are not adequately supported by substantial evidence in the record to negate the categorical exemption of the project from CEQA or to postpone a decision to approve the permit applications as recommended by staff.

Property Takings

The contentions that property values would be lowered and constitute a "taking of property" is a land use matter and economic issue and not an environmental issue that is required to be addressed pursuant to CEQA.

The determination of whether a public agency's action on a land use matter amounts to an unconstitutional taking is guided by relevant case law. In a series of judgments in the Agins, First English, Nollan and Dolan cases, the courts have indicated that a taking of property by inverse condemnation may occur when: (1) a land use regulation does not advance a legitimate governmental interest (i.e., the nexus rule): and (2) the regulation is unduly restrictive so as to deprive the owner economically viable use of the property. The assertion that the proposed PCS facility will result in a taking of landowner's property on or in the vicinity of the project site has no basis, within the context of relevant case law, because the approval of the project will not result in the County imposing restrictions which would preclude a reasonable use of the property or adjacent properties. Speculation that the proposal may result in a reduction in market value of surrounding property cannot, therefore, be considered a taking in a constitutional sense.

Adverse Health Effects from Exposure to EMF

The issue of adverse health effects from exposure to EMF emitted by the proposed PCS facility is addressed in staff's report to the Planning Commission (see staff report dated September 9, 1996, Public Health and Safety with Respect to Radio Frequency Electromagnetic Fields, p. 3). In summary, a technical analysis of the proposal indicates that the predicated levels of RF emissions will be far below the national standard for maximum exposure to EMF. The County has incorporated this standard in the adopted Telecommunications Facilities Policy Plan to determine permissible levels of EMF exposure from new or expanded telecommunications sites.

The commentor asserts in her letter that scientific research supports the argument that cellular facilities can have significant negative health effects. The assertion relies upon reports prepared for other telecommunications projects in New York which are attached to the commentor's letter. The principal opinions made in the attached reports are that certain EMF studies are not adequate to conclude that RF radiation is not hazardous to human health, and that the ANSI standard does not provide assurance that no hazard to human health will occur from exposure to EMF radiation, especially nonthermal effects.

The information provided in the commentor's letter does not substantiate a decision to deny or postpone approval of the proposed PCS facility. The supporting opinions contained in the reports are based in part upon information which pertains to other telecommunications projects. In addition, while the letter and attached reports generally question the adequacy of research and the ANSI standard to protect human health against adverse nonthermal effects, they do not contain enough factual information which is relevant to the proposed project to conclude that the operation of the proposed PCS facility will adversely affect persons in the vicinity of the project.

Moreover, as explained in staff's report, the Federal Telecommunications Act of 1996 prohibits local regulatory agencies from disapproving or requiring the relocation of a proposed PCS facility solely on environmental effects of RF emissions when the proposed facility meets existing Federal Communication Commission regulations. The FCC has adopted a rule requiring RF facilities to comply with the ANSI standard at on-site and off-site locations. In consideration of the preemption doctrine, the County should not deny the proposed PCS facility on the basis of environmental effects of RF emissions because it complies with the current ANSI standard by a considerable margin.

CEQA Exemption

The categorically exemption recommended for the project should not be negated, as the commentor contends, because the information provided in the commentor's letter is not relevant enough to the proposed project to support a fair argument that the project may result in significant environmental effects. This information explains that there is a correlation between EMF radiation and health effects including nonthermal effects. This correlation does not, however, constitute substantial evidence from which it can be fairly argued that RF emissions at the power levels and frequency predicted for the proposed project will cause significant health effects. The recommendation to categorically exempt the proposal is rightly based upon a project-specific study which indicates that the predicted levels of RF emissions from the project will amount to less than 1% of the ANSI standard at ground level locations which are accessible to the public. The categorical exemption is further justified inasmuch as the ANSI standard is an appropriate threshold for determining significant health effects pursuant to CEQA.

The conclusions are similar to those recently made in an extensive report prepared for the Board of Supervisors to consider another cellular facility project. A copy of the report has been attached to this memorandum to provide the Planning Commission with background information regarding the legal and scientific principles which generally pertain to the issue of CEQA compliance. The conclusions of the report demonstrate that there is not substantial evidence of a correlation between EMF radiation and significant adverse health effects, including non-thermal effects, to support a conclusion that a specific project which meets ANSI standards, including the subject project, may result in significant health effects requiring environmental review pursuant to CEQA.

Postponement of Decision on The Project

The commentor has requested that the County enact moratorium on new cellular sites and postpone a decision on the proposal until the Telecommunications Facilities Policy Plan is amended. The stated purpose of the plan amendment is to assure that future cellular sites are approved in an orderly fashion which limits human exposure to EMF, the County's liability in approving such sites, adverse aesthetic impacts, and impair property values

For the reasons explained in staff's September 9 report and this memorandum, the County's liability pertaining to the approval of cellular sites and the impairment of property values are not the proper subjects of the County's land use regulations for telecommunications facilities. In addition the current Telecommunications Facilities Policy Plan contains standards that have been adopted for the specific purpose of ensuring that new or expanded telecommunications facilities are carefully reviewed and sited, design, and operated in a manner which minimizes or avoids adverse visual, health and other effects (see staff report dated September 9, 1996, Public Health and Safety with Respect to Radio Frequency Electromagnetic Fields, pp. 3 and 4, and Visual Impact, pp. 5 and 6). The proposal has been processed in accordance with the adopted policies and procedures of the Telecommunications Facilities Policy Plan and zoning code, and should, therefore, be acted on without further delay. A moratorium on cellular sites and/or establishment of EMF standards, which would be more stringent than the ANSI standard set by the FCC pursuant to the Federal Telecommunications Act of 1996, is preempted by federal law and may not be legally permissible.

* * * * * *

In conclusion, staff maintains the previous recommendation to approve the Price/Pacific Bell permit applications based upon a categorical exemption from CEQA.

Attachments:

1. Letter from Christine Craft, submitted 9/4/96
2. A Report to the Board of Supervisors of Marin County, California Regarding Potential Non-Thermal Effects From a Cellular Telephone Facility on Mount Barnabe Operated By Bay Area Cellular Telephone Company.

i:bcc/pcreport/pacmemo.doc

-6-

PROOF OF PUBLICATION
(2015.5 C.C.P.)

This space is for the County Clerk's Filing Stamp

MARIN COUNTY PLANNING COMMISSION

STATE OF CALIFORNIA
County of Marin } ss

Proof of Publication of

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25568; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

August 29, 1996

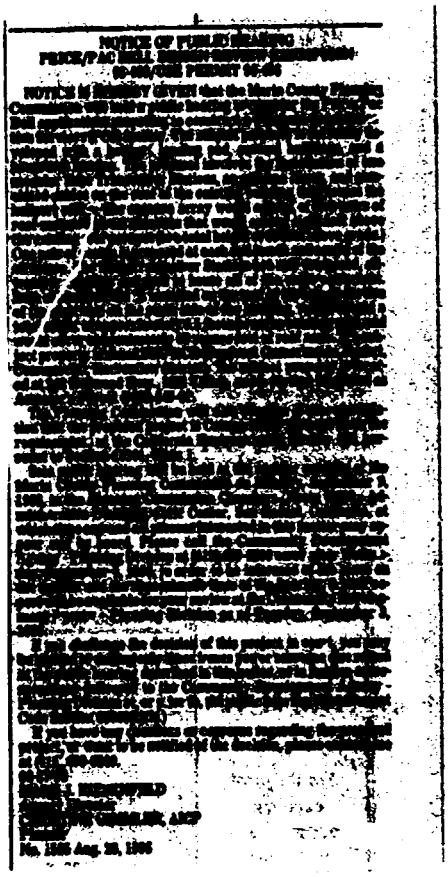
all in the year 19____

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Fran Cooper

Fran Cooper
Signature

Dated this 29th day of August 19 96



PROOF OF PUBLICATION

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF PUBLIC HEARING

PRICE/PAC BELL DESIGN REVIEW EXEMPTION 96-405/USE PERMIT 96-406

NOTICE IS HEREBY GIVEN that the Marin County Planning Commission will hold a public hearing to consider the Price/Pac Bell applications proposing to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels is proposed at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at **242 Redwood Hwy., Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

The Planning Commission will also consider a recommendation that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1.

Said public hearing will be held at the regular meeting of the Marin County Planning Commission on Monday, September 9, 1996, in the Planning Commission Chambers (Room #319 - Administration Building), Civic Center, San Rafael, California, at which time any and all persons interested in this matter may appear and be heard. Please call the Community Development Agency - Planning Division at (415) 499-6269 on or after Wednesday, September 4, 1996, in order to be informed of the place on the agenda and the approximate time of the hearing. A staff report will be available for your review at the Community Development Agency - Planning Division as of Tuesday, September 3, 1996.

If you challenge the decision of this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Agency - Planning Division at, or prior to, the public hearing. (Government Code Section 65009(b)(2).)

If you have any questions or concerns regarding the proposed project, or want to be notified of the decision, please contact me at (415) 499-6269.

MARK J. RIESENFELD
Agency Director

Christine Gimmler, AICP
Planner

cg/ps:pc\notices\price.doc
08/27/96

American sign language interpreters and assistive listening devices may be requested by calling (415) 499-6172 (TDD) or (415) 499-6269 (voice) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

RECEIVED BY

1996 AUG 23 P 2:51

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

I am in support of the proposed Pacific Bell Mobile Services PCS wireless telecommunications roof-mounted facility at 242 Redwood Highway, Mill Valley. I appreciate the digital technology which dramatically improves security and clarity during my calls, the capability of offering a variety of voice and data features, and the ability to keep in touch with my family, friends, and resources at any moment I need to. PCS offers these things without interfering with with other transmissions, and keeps our community progressing toward the future. As a resident of the area surrounding the proposed site, I ask that you endorse this facility at the September 9th hearing so that we may enjoy access to its benefits as quickly as possible.

Respectfully,

Name: Jean Guthrie

Address: 240 Redwood Hwy Berth 2

RECEIVED BY
1996 AUG 23 P 2:51
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
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Respectfully,

Name: Jane Chamberlin
JANE Chamberlin

Address: P.O. Box 252
Sausalito, CA 94966

RECEIVED BY
1996 AUG 16 A 10:58
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Richard Charles

Address: 240 Redwood Hwy #5
Mill Valley, CA 94941

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MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

I am in support of the proposed Pacific Bell Mobile Services PCS wireless telecommunications roof-mounted facility at 242 Redwood Highway, Mill Valley. I appreciate the digital technology which dramatically improves security and clarity during my calls, the capability of offering a variety of voice and data features, and the ability to keep in touch with my family, friends, and resources at any moment I need to. PCS offers these things without interfering with other transmissions, and keeps our community progressing toward the future. As a resident of the area surrounding the proposed site, I ask that you endorse this facility at the September 9th hearing so that we may enjoy access to it benefits as quickly as possible.

Respectfully,

Name: GEORDIE STEPHENS

Address: 240 REDWOOD HWY. #11C.
MILL VALLEY, CA.
9494.

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

I am in support of the proposed Pacific Bell Mobile Services PCS wireless telecommunications roof-mounted facility at 242 Redwood Highway, Mill Valley. I appreciate the digital technology which dramatically improves security and clarity during my calls, the capability of offering a variety of voice and data features, and the ability to keep in touch with my family, friends, and resources at any moment I need to. PCS offers these things without interfering with other transmissions, and keeps our community progressing toward the future. As a resident of the area surrounding the proposed site, I ask that you endorse this facility at the September 9th hearing so that we may enjoy access to its benefits as quickly as possible.

Respectfully,

Name: Susan Hans

Address: 240 Redwood Hwy Bldg #1
Mill Valley, CA 94941

Live 50 yards from Cingular Site

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Dale Breedridge

Address: 240 Redwood Hwy.
Mill Valley, CA 94941

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

August 1996

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

I am in support of the proposed Pacific Bell Mobile Services PCS wireless telecommunications roof-mounted facility at [illegible] Redwood Highway, Mill Valley. I appreciate the digital technology which dramatically improves security and clarity during my calls, the capability of offering a variety of voice and data features, and the ability to keep in touch with my family, friends, and resources at any moment I need to. PCS offers these things without interfering with other transmissions, and keeps our community progressing toward the future. As a resident of the area surrounding the proposed site, I ask that you endorse this facility at the September 9th hearing so that we may enjoy access to its benefits as quickly as possible.

Respectfully,

Elaine Alyson

Name: Elaine Alyson

Address: 240 Redwood Hwy #7
Mill Valley, CA 94941

Resident

RECEIVED BY
1996 AUG 14 A 11:18
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

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Respectfully,

Name: Peter Breinig (Peter Breinig)

Address: 242 Redwood Hwy - Houseboat #2, 2nd nearest to proposed antenna site

Resident

August 1996

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Ph M Donald

Address: 240 Redwood Hwy APT 7
Mill Valley 94941

Commodore Marina Resident

RECEIVED BY
1996 AUG 14 A 11:18
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Phil R. Hall

Address: 240 Redwood Hwy
Mill Valley

Owner of houseboat #7.

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Tom Manuel

Address: 110 Palm Ave
Corte Madera, Ca.
94925

works at Commodore Center

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: LAINE SORTIZ

Address: 501 ALAMEDA DEL PRADO
APT 313 NOVATO CA

EMPLOYEE OF BRILES HELICOPTER

RECEIVED BY
1996 AUG 14 A 11:20
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

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Respectfully,

Name: D. August Rachler

Address: 242 REDWOOD HWY
MILL VALLEY, CA

PILOT FOR BRILES HELICOPTER

RECEIVED BY

1996 AUG 14 A 11:08

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

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Respectfully,

Name:
~~Sam~~ GERRY MILLER
Address:
5 PLANE RD
KENTFIELD, CALIF
94904
415 461-1616

PILOT FLYING AT
SAUSALITO HELIPORT 100—
FT. FROM ANTENNA.

PCS IN AN IMPORTANT
SERVICE TO MARIN.

RECEIVED BY
1996 AUG 14 A 11:07
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Cer..er, Room #319
San Rafael, CA 94903

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Respectfully, Steve Considine

Name: STEPHEN P. CONSIDINE

Address: KAPPAS MARINA EAST #4

SAUSALITO, CA 94965

Works at Commodore Center

RECEIVED BY

1996 AUG 14 A 11:07

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully, Katy O'Leary

Name: KATY O'LEARY

Address: 65 Longfellow Rd.
Mill Valley, Ca. 94941

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

August 1996

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: [signature]

Address:

22 BOARDWALK #1
LARKSPUR 94939

Works at Commodore Center

August 1996

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

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Respectfully,

Name: Bill Donnelly

Address: CONST WKR
NEXT TO SAN FRANCISCO
AND 100 YARDS.

Bill Donnelly
works next door
(w/in 100 yds)

August 1996

RECEIVED

AUG 14 1996

COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
San Rafael, CA 94903

Dear Mr. Crawford:

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Respectfully,

Name: John H Kenaston

Address:
100 SNOCO LANE
MILL VALLEY CA 94941
100 yd. from ARTEMIA

Consulting Group, Inc.
TELECOMMUNICATIONS

August 8, 1996

RECEIVED BY
1996 AUG 13 A 10:49
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

Mr. Brian C. Crawford, AICP
Deputy Zoning Administrator
Marin County Civic Center, Room #319
3501 Civic Center Drive
San Rafael, CA 94903

Dear Mr. Crawford:

This letter is to confirm the change in the Planning Commission hearing date for the proposed PCS site at 242 Redwood Highway (SF306) from August 5, 1996 to September 9, 1996.

If you have any questions or comments please call me at (415) 737-5407. Thank you for your time.

Sincerely,

James R. Calkins

James R. Calkins
Land Use Planner

844 Dubuque Avenue • South San Francisco, CA 94080 • Telephone: (415) 737-5338 • Fax: (415) 737-5361

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY - PLANNING DIVISION

MEMORANDUM

TO: David Zaltsman, Deputy County Counsel

FROM: Brian C. Crawford, AICP, Principal Planner
Christine Gimmler, AICP, Planner

RE: Price/Pac Bell Use Permit and Design Review Exemption
242 Redwood Highway, Mill Valley
Assessor's Parcel Number 052-247-01

DATE: July 19, 1996

Background

As we discussed last week, the County is currently processing an application by Pacific Bell Mobile Services to install a telecommunications facility consisting of two pairs of roof-mounted panel antennas and two base transceiver stations on the roof of an existing commercial building located on the above-referenced property (please see attached staff report). As part of their application, the applicant submitted a report prepared by Hammett & Edison, Inc., which concludes that the proposed facility complies with prevailing ANSI/IEEE standards for limiting human exposure to radio frequency emissions.

During the public hearing for this item at the Deputy Zoning Administrator meeting of July 11th, a number of residents of an existing houseboat marina on the subject property expressed concerns regarding the potential health effects of the proposed facility and requested that the hearing officer refer the application to the Planning Commission. The proposed project is tentatively scheduled to be heard by the Commission on August 5, 1996.

Issue

Staff understands that Section 704(a) of the Telecommunications Act of 1996 specifically prohibits local governments from regulating the placement, construction or modification of personal wireless service facilities (such as the proposed project) on the basis of the environmental effects of radio frequency emissions if the proposed facility is shown to comply with existing Federal Communications Commission regulations regarding such emissions (please see attached Summary of Section 704 of the Telecommunication Act). Staff would appreciate it if you could confirm this understanding with respect to the proposed project and indicate how the Telecommunications Act would effect the County's potential liability in the future for any yet unknown adverse health effects resulting from radio frequency emissions generated by telecommunications facilities approved by the County.

Thank you for your assistance on this item. If you have any questions or need additional information, please call Brian (x6402) or Christine (x6285).

Attachments:
1. Price/Pacific Bell Use Permit/Design Review Exemption staff report
2. Summary of Section 704 of the Telecommunications Act of 1996

cur/cg/dza/memo/cocopacb.doc

/FORMS/MEMO.DOC
(Rev. 07/19/96)

SUMMARY OF SECTION 704 OF THE TELECOMMUNICATIONS ACT OF 1996

The following is a summary of key provisions. The text of Section 704 is reproduced in its entirety as an attachment to this summary.

1. Local Zoning Authority Preserved
Section 704(a) of the 1996 Act amends Section 332(c) of the Communications Act ("Mobile Services") by adding a new paragraph (7). It preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of personal wireless service facilities, except as provided in the new paragraph (7).

2. Exceptions

a. States and Localities May Not Take Discriminatory or Prohibiting Actions

Section 704(a) of the 1996 Act states that the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless services. 47 U.S.C. §332(c)(7)(B)(i).

Review. Any person that is adversely affected by a state or local government's action or failure to act that is inconsistent with Section 332(c)(7) may seek expedited review in the courts. 47 U.S.C. §332(c)(7)(B)(v).

b. Procedures for Ruling on Requests to Place, Construct or Modify Personal Wireless Service Facilities

Section 704(a) also requires a State or local government to act upon a request for authorization to place, construct, or modify personal wireless service facilities within a reasonable time. Any decision to deny a request must be made in writing and be supported by substantial evidence contained in a written record. 47 U.S.C. §332(c)(7)(B)(ii), (iii).

c. Regulations Based On Environmental Effects of RF Emissions Preempted

Section 704(a) of the 1996 Act expressly preempts state and local government regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations concerning such emissions. 47 U.S.C. §332(c)(7)(B)(iv).

Review: Parties may seek relief from the FCC if they are adversely affected by a state or local government's final action or failure to act that is inconsistent with this provision. 47 U.S.C. § 332(c)(7)(B)(v).

3. Federal Guidelines Concerning RF Emissions

Section 704(b) requires the FCC to prescribe and make effective new rules regarding the environmental effects of radio frequency emissions, which are under consideration in ET Docket 93-62, within 180 days of enactment of the 1996 Act.

NOTE: The pendency of this proceeding before the FCC does not affect the rules which currently are in effect governing the environmental effects of radio frequency emissions. Section 704(b) gives preemptive effect to these existing rules. See related attachments to the Fact Sheet.

4. Use of Federal or State Government Property

a. Federal Property

Section 704(c) of the 1996 Act requires the President (or his designee) to prescribe procedures by which the federal government may make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control, for the placement of new spectrum-based telecommunications services.

b. State Property

With respect to facilities siting on state property, Section 704(c) of the 1996 Act requires the FCC to provide technical support to States to encourage them to make property, rights-of-way and easements under their jurisdiction available for the placement of new spectrum-based telecommunications services.

NOTE: Information concerning technical support for tower siting which the FCC is making available to state and local governments is attached to the Fact Sheet.

5. Definitions

"Personal wireless services" include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. 47 U.S.C. §332(c)(7)(C)(i).

"Commercial mobile services" are defined in Section 332 of the Communications Act and the FCC's rules, and include cellular telephone services regulated under Part 22 of the FCC's rules, SMR services regulated under Part 90 of the FCC's rules, and PCS regulated under Part 24 of the FCC's rules. 47 C.F.R. §20.9.

"Unlicensed wireless services" are defined as the offering of telecommunications services using duly-authorized devices which do not require individual licenses; direct-to-home satellite services are excluded from this definition. 47 U.S.C. §332(c)(7)(C)(iii).

RECEIVED BY

'96 JUL 17 P 1:17

MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY

NOTICE OF TRANSMITTAL

DATE: July 16, 1996

DELIVERED BY:

HAND
MAIL X
PICK-UP
OVERNIGHT

TO: Christine Gimmler, AICP
Planner
Marin County Community Development Agency
3501 Civic Center Drive #308
San Rafael, CA 94903

FROM: James R. Calkins

RE: Telecommunications Act of 1996

THE FOLLOWING DOCUMENTS ARE ENCLOSED:

One (1) Section 704 from the Telecommunications Act of 1996 regarding wireless telecommunications.

PURPOSE/COMMENTS:

Here is the information you requested. Should you wish further documentation from the Telecommunications Act please contact me at (415) 737-5407.

104TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
104–458

TELECOMMUNICATIONS ACT OF 1996

JANUARY 31, 1996. Ordered to be printed

RECEIVED BY
MARIN COUNTY
COMMUNITY DEVELOPMENT
AGENCY
'96 JUL 17 P 1:17

Mr. BLILEY, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 652]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 652), to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Telecommunications Act of 1996".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; references.
Sec. 2. Table of contents.
Sec. 3. Definitions.

the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment. Any entity that adds to or modifies its existing attachment after receiving such notification shall bear a proportionate share of the costs incurred by the owner in making such pole, duct, conduit, or right-of-way accessible.

"(i) An entity that obtains an attachment to a pole, conduit, or right-of-way shall not be required to bear any of the costs of rearranging or replacing its attachment, if such rearrangement or replacement is required as a result of an additional attachment or the modification of an existing attachment sought by any other entity (including the owner of such pole, duct, conduit, or right-of-way).".

SEC. 704. FACILITIES SITING; RADIO FREQUENCY EMISSION STANDARDS.

(a) NATIONAL WIRELESS TELECOMMUNICATIONS SITING POLICY.—Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) PRESERVATION OF LOCAL ZONING AUTHORITY.—

"(A) GENERAL AUTHORITY.—Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

"(B) LIMITATIONS.—

"(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

"(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

"(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

"(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

"(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

"(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

"(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

"C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'personal wireless services' means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

"(ii) the term 'personal wireless service facilities' means facilities for the provision of personal wireless services; and

"(iii) the term 'unlicensed wireless service' means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in section 303(v)).".

(b) RADIO FREQUENCY EMISSIONS.—Within 180 days after the enactment of this Act, the Commission shall complete action in ET Docket 93–62 to prescribe and make effective rules regarding the environmental effects of radio frequency emissions.

(c) AVAILABILITY OF PROPERTY.—Within 180 days of the enactment of this Act, the President or his designee shall prescribe procedures by which Federal departments and agencies may make available on a fair, reasonable, and nondiscriminatory basis, property, rights-of-way, and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. These procedures may establish a presumption that requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency's mission, or the current or planned use of the property, rights-of-way, and easements in question. Reasonable fees may be charged to providers of such telecommunications services for use of property, rights-of-way, and easements. The Commission shall provide technical support to States to encourage them to make property, rights-of-way, and easements under their jurisdiction available for such purposes.

SEC. 705. MOBILE SERVICES DIRECT ACCESS TO LONG DISTANCE CARRIERS.

Section 332(c) (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(8) MOBILE SERVICES ACCESS.—A person engaged in the provision of commercial mobile services, insofar as such person is so engaged, shall not be required to provide equal access to common carriers for the provision of telephone toll services. If

Submitted 7/11/96 DZA

CITIZENS FOR A BEAUTIFUL AND HEALTHY COUNTY

July 8, 1996

TO: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

RE: Price/PacBell Design Review Exception 96-405 Use Permit 96-406

We strongly urge you to deny this request for a design review exemption for the following reasons:

1. Health and Safety

Both the short and long term effects of radio-frequency radiation are unknown. Even Pacific Bell's own contractor who studied this issue cannot be certain of the health and risks (page 4 of the Hammett & Edison March 1995 report). A special concern is the averaging of emissions to make it appear the antennas comply with guidelines when in fact surges of use could zap citizens or tourists at any particular time. Most health experts agree cell site technology is too new to know its effects As a result, erecting these antennae without further study puts the community at risk and makes guinea pigs of its residents .

These health concerns extend to the owners/residents of the Marina who live less than 300 yards from the proposed site, the employees of the helipad who work in the building of the proposed site, the several dozen young children who play in the Planet, an art and educational space in the building and who play outside directly under the proposed site, the artists who would be working in the studios now under construction in the Helipad directly under the proposed antennae, the tourists and visitors who frequent the marina for seaplane rides and often stand around for long periods of time enjoying the views or have lunch on the park-like setting directly to the east of the building and the hikers and bikers who frequent the bike path directly to the west.

2 Visual impact

This is a request to erect two pairs -- that is four -- Martian-like disks in what is a park like setting. The more than 24 owners/residents of Commodore Landing moved there because of its tranquillity and serenity with panoramic Bay views on one side and lovely trees on the other. In addition, the view from the bike path which borders the proposed site on the west side is one of the most stunning views in Mill Valley of the valley and Mt. Tam.

As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

I strongly feel it is time we look out for the health and welfare of citizens, especially the children of the planet. Will they grow up with cancer because big business did not want to investigate long term effects. I sincerely hope not. (over)

x _____

Resident of Commodore Landing

As A 40 year old woman growing up in Southern California at a time when CARS, Pollution where just beginning. Now 20 years later I am faced with chronic lung problems. Please lets not repeat history especially When we now have facts

Sincerely

Submitted 7/11/96 DCA

CITIZENS FOR A BEAUTIFUL AND HEALTHY COUNTY

July 8, 1996

TO: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

RE: Price/PacBell Design Review Exception 96-405 Use Permit 96-406

We strongly urge you to deny this request for a design review exemption for the following reasons:

1. Health and Safety

Both the short and long term effects of radio-frequency radiation are unknown. Even Pacific Bell's own contractor who studied this issue cannot be certain of the health and risks (page 4 of the Hammett & Edison March 1995 report). A special concern is the averaging of emissions to make it appear the antennas comply with guidelines when in fact surges of use could zap citizens or tourists at any particular time. Most health experts agree cell site technology is too new to know its effects As a result, erecting these antennae without further study puts the community at risk and makes guinea pigs of its residents .

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As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

_____	Joyce Lynn 240 Redwood Hwy #11-2 Mill Valley
_____	... 240 REDWOOD HWY. #11C MILL VALLEY.
_____	[illegible] 240 Redwood Hwy #11A Mill Valley
_____	_____
_____	_____
_____	_____

Submitted 7/8/96 DZA

CITIZENS FOR A BEAUTIFUL AND HEALTHY COUNTY

July 8, 1996

TO: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

RE: Price/PacBell Design Review Exception 96-405 Use Permit 96-406

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As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

Marcia Simon - 740 Redwood Hwy. Mill Valley, 94941
John Simon 740 Redwood Hwy. Mill Valley

Submitted 7/11/96 DZA

CITIZENS FOR A BEAUTIFUL AND HEALTHY COUNTY

July 8, 1996

TO: MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

RE: Price/PacBell Design Review Exception 96-405 Use Permit 96-406

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As a result, the property values of the Marina houseboat owners would be negatively impacted as well as the aesthetic loveliness of their homes .

Because of the far-reaching consequences of the proposed plan, we urge you to deny this exemption.

[redacted]

Susan Jaeger 240 Redwood Hwy #9, Mill Valley 94941
& Paul Wong

Enid Feerstein 240 Redwood Hwy, Mill Valley 94941

Terry Adams 240 Redwood Hwy #3 Mill Valley 94941

Elaine Alyson 240 Redwood Hwy #3 Mill Valley 94941

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

REVISED NOTICE OF PUBLIC HEARING

PRICE/PAC BELL DESIGN REVIEW EXEMPTION 96-405/USE PERMIT 96-406

NOTICE IS HEREBY GIVEN that the Marin County Deputy Zoning Administrator's hearing for this project, which was originally noticed and scheduled for June 20, 1996, has been continued to July 11, 1996. The public hearing will be held to consider the Price/Pac Bell applications proposing to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at **242 Redwood Hwy., Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

The proposed project has been determined to be Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1.

The public hearing will be held at the regular meeting of the Marin County Deputy Zoning Administrator on Thursday, July 11, 1996, in the Planning Commission Chambers (Room 319, Admin. Building) Civic Center, San Rafael, California, at which time any and all persons interested in this matter may appear and be heard. Please call the Community Development Agency - Planning Division at (415) 499-6269 on or after Friday, July 5, 1996, if you want to know the approximate time of the hearing. A staff report will be available for your review at the Community Development Agency - Planning Division as of Monday, July 8, 1996.

If you challenge the decision of this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Agency - Planning Division at, or prior to, the public hearing. (Government Code Section 65009(b)(2).)

If you have any questions or concerns regarding the proposed project, or want to be notified of the decision, please contact me at (415) 499-6269.

MARK J. RIESENFELD
Agency Director

Christine Gimmler, AICP
Planner

cg:ps\i\dza\notices\price.doc
07/01/96

3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

Marin County Community Development Agency
3501 Civic Center Drive, #308
San Rafael, CA 94903-4157

C5. PRICE/PACBELL USE PERMIT/DESIGN REVIEW EXEMPTION

Proposal to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at 242 Redwood Hwy., Mill Valley, and is further identified as Assessor's Parcel #052-247-01.

(Tape 1, Side A @ 4.0)

Staff recommended that this item be continued to a future hearing due to a problem with the public noticing. Seeing no one in the audience who wished to speak for or against this item, the hearing officer granted a continuance to the Deputy Zoning Administrator hearing of July 11, 1996. The hearing officer also directed staff to re-notice the project and provide a supplementary memorandum with any comments or correspondence received as a result thereof.

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY
MEMORANDUM

TO: **Brian Crawford, Deputy Zoning Administrator**

FROM: Christine Gimmler, Planner CAG

RE: **June 20, 1996 DZA Hearing Item C5: Price/Pac Bell Use Permit/Design Review Exemption**

DATE: June 19, 1996

It has come to staff's attention that, due to a mapping error, property owners within the houseboat marina located on the subject property did not receive public notices regarding the above reference application. In order to provide adequate public noticing in accordance with California Government Code requirements, staff recommends that this item be continued to the hearing of July 11, 1996.

cc: J.T. Wick, Principal Planner
James Calkins, JM Consulting Group for Pacific Bell Mobile Services
Steve Price, property owner

/FORMS/MEMO.DOC
(Rev. 06/19/96)

PROOF OF PUBLICATION
(2015.5 C.C.P.)

This space is for the County Clerk's Filing Stamp

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

STATE OF CALIFORNIA
County of Marin } ss

Proof of Publication of

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25568; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates to-wit:

June 9, 1996

~~within the year 19~~

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Fran Cooper
Fran Cooper
Signature

Dated this 9th day of June 19 96

PROOF OF PUBLIC

Public Notice | Public Notice

NOTICE OF PUBLIC HEARING
DEPUTY ZONING ADMINISTRATOR

NOTICE IS HEREBY GIVEN that the Marin County Deputy Zoning Administrator will hold a public hearing to consider the following:

• GATEWAY RETAIL PARTNERS (RED BOY PIZZA) USE PERMIT: Proposal to consider the Red Boy Pizza application to allow beer and wine service in conjunction with a proposed pizza restaurant that would be located within a 900 square foot retail space in the Marin City U.A.A. retail center (Osteria Center). The 16-seat restaurant would be open from 11 a.m. to Midnight daily. Zoning for the property is PC (Planned Commercial). The subject property is located at 180 Shoreline Street, Marin City, and is further identified as Assessor's Parcel Number 052-080-01.

• GRUEN SECOND UNIT USE PERMIT: Proposal to legalize an existing second unit located on the lower floor of a 3,264 square foot single-family residence on an approximately 0,000 square foot parcel. According to the applicant, the 576 square foot second unit was constructed in 1987. The subject property is zoned R-1:B-1 (Residential, Single-Family, 6,000 square foot minimum lot size). The subject property is located at 350 Daisy Ave., Mill Valley, and is further identified as Assessor's Parcel [illegible].

• SAN [illegible] FIRE DISTRICT USE PERMIT: Proposal to install a Personal Communications Services (PCS) wireless communications facility on the roof of the Kentfield Fire Station. The proposed project involves installation of two modular Base Transceiver Stations, an antenna array and associated cables. The Base Transceiver Stations are radio-equipped, all-weather cabinets designed to house all of the radio equipment. Each cabinet would be approximately three feet tall and cover approximately 10 square feet of roof area. The antenna array would consist of six panel antennas on three support posts that would have a maximum height of 8.5 feet above the roof parapet, and a 32.5 foot above grade. Each panel antenna would be approximately 5 feet tall, 6 inches wide, and 2 inches deep. The unmanned communications facility would operate 24 hours a day and would not require additional power, water, or solid waste removal services. Local fire telephone and electrical power would be the only services required. Only maintenance technicians would conduct routine maintenance of the facility once a month. Zoning for the subject property is PF (Public Facilities). The subject property is located at 100 Sir Francis Drake Blvd., Kentfield, and is further identified as Assessor's Parcel [illegible].

• [illegible] USE PERMIT EXEMPTION/USE PERMIT: Proposal to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a hillcrest building, several hillcrests, and a [illegible] meadow. The proposed project involves the installation of six modular Base Transceiver Stations, an antenna array, and fifty related cables on the roof of the existing building. The Base Transceiver Stations are radio-equipped, all-weather cabinets designed to house all of the radio equipment. Each cabinet would be approximately three feet tall and cover approximately 10 square feet of roof area. The antenna array would consist of two pairs of [illegible] panel antennas on three support posts that would have a maximum height of 32 feet above grade. One pair of panels would be located at each end [illegible] of the building. The Base Transceiver Stations are radio-equipped, all-weather cabinets designed to house all of the radio equipment. The subject property is zoned [illegible] Commercial, Recreation district. The subject property is located at 340 Bernal Way, Mill Valley, and is further identified as Assessor's Parcel [illegible].

• [illegible] USE PERMIT: Proposal to legalize a 661 square foot second dwelling unit located on the first floor of an existing 702 square foot single-family residence on a 13,070 square foot lot. The first floor level was converted to a guest room in 1986 with a Building Permit but the conversion to a second unit, with a separate kitchen, was completed without permit. The subject property is zoned R-1:B-1, Single-Family Residential, R-1 Building District, 6,000 square foot minimum lot area. The subject property is located at 350 Browning St., Mill Valley, and is further identified as Assessor's Parcel [illegible].

These projects have been [illegible]

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF PUBLIC HEARING

PRICE/PAC BELL DESIGN REVIEW EXEMPTION 96-405/USE PERMIT 96-406

NOTICE IS HEREBY GIVEN that the Marin County Deputy Zoning Administrator will hold a public hearing to consider the Price/Pac Bell applications proposing to construct a Personal Communication Services (PCS) facility. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. The subject property is zoned BFC-R:R (Bayfront Conservation, Resort, Commercial, Recreation district). The subject property is located at **242 Redwood Hwy., Mill Valley**, and is further identified as **Assessor's Parcel #052-247-01**.

The proposed project has been determined to be Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1.

The public hearing will be held at the regular meeting of the Marin County Deputy Zoning Administrator on Thursday, June 20, 1996, in the Planning Commission Chambers (Room 319, Admin. Building) Civic Center, San Rafael, California, at which time any and all persons interested in this matter may appear and be heard. Please call the Community Development Agency - Planning Division at (415) 499-6269 on or after Friday, June 14, 1996, if you want to know the approximate time of the hearing. A staff report will be available for your review at the Community Development Agency - Planning Division as of Monday, June 17, 1996.

If you challenge the decision of this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Community Development Agency - Planning Division at, or prior to, the public hearing. (Government Code Section 55009(b)(2).)

If you have any questions or concerns regarding the proposed project, or want to be notified of the decision, please contact me at (415) 499-6269.

MARK J. RIESENFELD
Agency Director

Christine Gimmler, AICP
Planner

cg:pa\i\dza\notices\price.doc
06/05/96

American sign language interpreters and assistive listening devices may be requested by calling (415) 499-6172 (TDD) or (415) 499-6269 (voice) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

3501 Civic Center Drive, #308 - San Rafael, California 94903 - Telephone (415) 499-6269 - Fax (415) 499-7880

STATE OF CALIFORNIA PETE WILSON, Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

THIRTY VAN NESS AVENUE, SUITE 2011
SAN FRANCISCO, CALIFORNIA 94102-6080
PHONE: (415) 557-3686

RECEIVED
MAY 15 1996

May 15, 1996

Marin County
Community Development Agency
3501 Civic Center Drive, #308
San Rafael, California 94903-4157

ATTENTION: Christine Gimmler, Planner

SUBJECT: Proposed Personal Communication Services Facilities
242 Redwood Highway, Near Mill Valley, Marin County
(BCDC Inquiry File No. MR.MV.6618.1)

Ladies and Gentlemen:

Thank you for your letter and enclosures, dated April 23, 1996, and received in this office on April 24, 1996, regarding proposed antennas and other personal communication service facilities at 242 Redwood Highway in Marin County. Based on the information submitted it is unclear whether the proposed project is within the Commission's "shoreline band" jurisdiction. The Site Plan, Sheet C-2, should indicate the 5-foot contour line above Mean Sea Level in the locations where tidal marshes are present. In areas where no tidal marshes are present, the Mean High Tide line, which is approximately 5.2 feet Mean Lower Low Water datum, should be shown instead. These lines determine the Commission's "bay" jurisdiction. In addition, a line 100 feet inland and parallel to the "bay" jurisdiction line should be shown, as this line indicates the limits of the Commission's "shoreline band" jurisdiction. If the existing building to which the modifications are proposed is within the Commission's "shoreline band" jurisdiction, the project would require a permit from BCDC prior to any work associated with the project.

Again, thank you for the opportunity to comment on the proposed project. If you have any questions regarding this matter or any of the items mentioned above, please feel free to call me at (415) 557-3689.

Very truly yours

NICHOLAS SALCEDO
Coastal Analyst

NS/mm

cc: JM Consulting Group, Attn. James Calkins

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

NOTICE OF PROJECT STATUS

May 16, 1996

JM Consulting Group
James Calkins
844 Dubuque Ave.
So. San Francisco, CA 94080

RE: **Price/Pac Bell DX 96-405 & UP 96-406**
242 Redwood Hwy., Mill Valley
Assessor's Parcel #052-247-01

Dear Mr. Calkins:

The Community Development Agency - Planning Division and reviewing agencies have examined your application and have determined that it is complete. Now we will evaluate the potential environmental impacts and merits of the project and schedule it for a decision. This notification is in accordance with State law which requires that we inform you in writing of the status of your application within 30 days of its acceptance for filing.

Your application has been tentatively scheduled for hearing before the **Deputy Zoning Administrator** on **June 20, 1996**. I will send you a copy of the staff report several days before the scheduled hearing date above. My report will include a recommendation on the merits of the application.

If you disagree with this decision regarding completeness of your application, you may appeal it to the Planning Commission. A Petition for Appeal and a $500.00 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., **May 23, 1996.**

Please call me at (415) 499-6269 if you have any questions about the status of your application. If I cannot take your call for some reason, please leave a message on my voicemail.

Sincerely,

Christine Gimmler, AICP
Planner

CG/mpr:temp/forms/cgpricps.doc

cc: Steve Price

3501 Civic Center Drive, #308 - San Rafael, California 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

TRANSMITTAL MEMORANDUM

TO: Department of Public Works (DPW), Land Use & Water Resources
DPW, Radio Shop, Attn: Ron Kiesel
Sausalito-Marin City Sanitary District
Marin Municipal Water District
Mill Valley-Tam Fire Department
Tam DRB
San Francisco Bay Conservation and Development Commission

FROM: Christine Gimmler, AICP, Planner

DATE: April 23, 1996

SUBJECT: Price/Pac Bell Design Review Exemption 96-405 & Use Permit 96-406
Assessor's Parcel #052-247-01
242 Redwood Hwy., Mill Valley

APPLICANT: JM Consulting Group for Pac Bell Mobile Services
James Calkins
844 Dubuque Ave.
So. San Francisco, CA 94080
(415) 737-5407

DECISIONMAKER FOR THIS APPLICATION: Deputy Zoning Administrator

PROJECT DESCRIPTION: The applicant is requesting Use Permit approval and a Design Review Exemption to construct a Personal Communication Services (PCS) facility at 242 Redwood Highway, Mill Valley. The subject property is currently developed with a heliport landing pad, several buildings, and a houseboat marina. The proposal involves the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area.

The subject property is zoned BFC-RCR (Bayfront Conservation, Resort, Commercial, Recreation district).

COMPLETENESS OF THE APPLICATION:

Please inform staff in writing whether this application contains the information you need to make a recommendation on this proposal. If it does not contain sufficient information, please specify the information you need. You may not be able to request additional information later in the process. Your comments on the completeness of this application must be received in this office by May 10, 1996.

3501 Civic Center Drive, #308 - San Rafael, California 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

ENVIRONMENTAL REVIEW:

Staff has made a preliminary determination that this project is Categorically Exempt from the requirements of the California Environmental Quality Act according to Section 15301, Class 1 of the 1992 CEQA Guidelines.

MERITS OF THE PROJECT:

If the application is complete, and no Environmental Impact Report is to be prepared for the project, please tell us your comments on the merits of the proposal. Please indicate whether the project conforms to the laws and policies you use to evaluate the project and recommend changes or conditions that you deem necessary based on your evaluation. These comments must be received in this office by May 10, 1996.

cc: Marin County Fire Dept.
Steve Price

CG/wpr:forms/temp/cgprlctr.doc

FILING REQUESTED BY AND
WHEN FILED RETURN TO:

Marin County Community Development Agency
Planning Division
3501 Civic Center Drive, #308
San Rafael, CA 94903

Attn: Christine Gimmler, Planner

NOTICE OF EXEMPTION

Marin County
Environmental Coordination and Review

April 22, 1996

1.	**Project Name:**	Price/Pac Bell Use Permit 96-406/Design Review Ex. 96-405
2.	**Project Location:**	242 Redwood Highway, Mill Valley Assessor's Parcel #052-247-01/Marin County
3.	**Project Description:**	Application to install and operate an unmanned telecommunications facility consisting of two pairs of roof-mounted panel antennas and two modular base transceiver stations located on the roof of an existing structure on the subject property.
4.	**Public Agency Approving Project:**	Deputy Zoning Administrator
5.	**Project Sponsor:**	J.M. Consulting Group for Pac Bell Mobile Services
6.	**CEQA Exemption Status:**	Categorical Exemption 15303, Class 3
7.	**Reasons for Exemption:**	The proposed project entails the installation and operation of new, small equipment and facilities mounted on the roof of an existing structure on a commercial property and would not result in potentially significant impacts on the environment. Additionaly, a report prepared by Hammett and Edison, Inc. dated March 22, 1996 concludes that the proposed project would not result in any significant risks with respect to human exposure to radio frequency electro magnetic fields.

Project Planner:

Christine Gimmler
Planner

Telephone: (415) 499-6269

Reviewed by:

Tim Haddad
Environmental Coordinator

Project denied by P.C. 9/9/96
CE prepared/not filed at

/FORMS/NOTOFEX.DOC
(Rev. 04/22/96)

Joyce Lynn

2/10/96

For the record

re: price/Pac Bell

exemption

for PCS site

at Redwood

Highway

Lynn
PO Box 93
Mill Valley CA 94942

Making waves

Is phoning home creating unsafe radio frequencies?

BY JOYCE LYNN

Phone calls from your car phone to your office or your baby-sitter, which many Marin residents consider ordinary and necessary, have become a hot-button issue.

An agreement between the county and Cellular One to put a transmission site on Mt. Barnabe in San Geronimo Valley to facilitate cellular phone communication has precipitated a hailstorm of controversy over legal aspects of the county's action and the health effects of radio frequencies.

The Bay Area Cellular One phone company is considering other transmission sites in Marin, notably in Mill Valley, Corte Madera and Tiburon. The firm operates existing facilities on Mt. Tamalpais, at San Quentin and in Sausalito.

Industry representatives, scientific experts, community residents and the county government each claim the right side of the table. The dispute is strikingly similar to the controversy over electromagnetic fields (EMFs) which erupted a couple of years ago when PG&E power lines, which emit EMFs, were found to be dangerously near some playgrounds and classrooms in Marin. PG&E agreed to move the power lines to a distance which studies show reduce heath hazards.

Now the debate has moved to another part of the EMF spectrum—to radio frequencies emitted from microwave equipment involved in cellular phone communication. Radio waves emitted by cellular phones are weak, while those from microwave antennas are much stronger. Such radio frequencies have a host of current-day usages, from microwave ovens to magnetic imaging in medical tests.

In 1986, the Federal Communications Commission adopted the radio frequency protection guide of the American National Standards Institute (ANSI), called "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300kHz to 100GHz." Based on research studies, the most restrictive limit within this range applies at frequencies between 30 and 300MHz, where public safety two-way FM broadcast and VHF television stations operate. The limit is higher at UHF and cellular frequencies. In 1992, the standards institute published more restrictive standards, although some industry watchers question whether even these are restrictive enough.

The county entered into an agreement in 1993 with Cellular One to install and operate a temporary facility of three omnidirectional antennas and one 4-foot microwave antenna on Mt. Barnabe and subsequently to make the facility permanent. A fire department lookout tower and other communications facilities already existed on the 1,466-foot-high mountain. One residence is located on the mountain, and the popular Samuel P. Taylor State Park borders on the west side. Sir Francis Drake Boulevard curves past on the south.

A group of San Geronimo residents, disturbed over potential health hazards and angered that they were not notified of the agreement, petitioned in August 1993 to overturn the board of supervisors' approval of the project. Thereafter, the supes held three public hearings to gather community and industry positions. In October 1993, the board of supervisors commissioned an independent engineering study to measure levels of existing and predicted radio frequencies emitted from equipment on the lookout.

Hammett & Edison, Inc., a Bay Area-based consulting engineering company, concluded in June 1994 that "it is possible persons in the lookout for extended periods would be exposed to RF fields in excess of the most restrictive ANSI," but that "both the residence and Sir Francis Drake Boulevard are so distant that it is not possible for the fields to approach even one percent of the ANSI limit."

The report recommended relocating the antenna, either by increasing the height of the lookout structure or constructing antenna support poles nearby to reduce the radio frequencies in and around the lookout.

At a fourth public hearing on August 2, 1994, a long list of community residents from Mill Valley, Woodacre and San Geronimo continued to oppose the plan. Ellen Sugarman, who now lives in Marin and is the author of a respected book on EMFs, suggested that raising the antenna tower 32 feet over the existing fire tower would preclude hazardous radiation from affecting the community.

The board of supervisors adopted Sugarman's recommendation and also exempted the project from meeting the California Environmental Quality Act (CEQA). In addition, the supes adopted a resolution which mandates the county to develop a countywide EMF policy that exceeds federal and industry standards and to conduct a survey of all county transmitter sites, particularly those located near children's facilities and heavily populated areas.

San Geronimo residents involved in appealing the board's approval of the Cellular One use permit have now taken their case to court. According to San Geronimo Valley resident Diane Matthew, the case, now in county superior court, challenges the county to show why the facility is exempt from the CEQA, maintains that the county failed to follow the countywide plan and contends the action violates a 1932 deed of Mt. Barnabe to the fire department for fire protection management.

As the Hammett & Edison study recommended, the antennas with the highest power density have been moved so they are now located away from the lookout tower and are higher than their original location on the tower. Robert D. Weller, author of the report, told the *Pacific Sun* that he has remeasured the RF levels and they are "lower, in some cases much lower" than before the antennas were moved.

Martin Graham, a former professor of engineering at the University of California at Berkeley, had urged the supervisors at the August 2 meeting to remeasure RF levels after the equipment is moved and operative. Still, the ANSI standards themselves continue to raise questions for Graham.

UpFront

Except for medical treatment, he told the *Pacific Sun*, we do not know how much radiation humans can take. "Are the standards safe? We do not really know," he said. "A number of times the government and industry have said confidently that levels are safe, and then it turns out thirty years later they are not. People are not sure what the government says is safe is safe. Certainly people nearby have reason to be concerned. If [that concern] is really warranted, we don't know for sure."

Matthew, a registered nurse who lives on Mt. Barnabe, contends the Hammett & Edison report addresses "only the thermal effect of tissue cooking, and does not talk about ultra high frequency fields bouncing off the hills. Nobody knows how much effect over how many years at what level" has what effect.

"People moved to the valley to get away from urban pollution. Now I'm within direct line of sight of the antenna. I used to feel safe here; not anymore."

Professor Graham perhaps summed up the current and impending dispute when he said, "There are a lot of studies. They do not all agree. We need to sort it out. Right now, it's a mess."

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...by the middle of 1995, we will [illegible] 500-channel system or higher," says Pea. "So some of these problems with having to share channels and finding room for channels will go away."

But there is a deep distrust of Viacom among its subscribers. Some suspect that the company is just using customers' anger to bolster its case against industry regulation. Suki Sennett, who staffs the county Cable TV Oversight Committee, has been angry. "Everybody hates Viacom," says Gillespie, "because they're a monopoly and yet they're answerable to no one. As far as I'm concerned, it's un-American."

If Viacom doesn't win its injunction, it will probably face a storm of protest from KTEH fans. They're committed, they're organized and they're legion. Says Gillespie, "There are a lot more people who are concerned about this than Viacom ever believed would be."

Sparks over EMFs

Mill Valley schools will pay tab but they want PG&E to guarantee results

BY JOYCE LYNN

Bright flowers adorned the board's table at the Mill Valley School District meeting Monday night, but when the topic turned to electromagnetic fields, angry board members were throwing bricks, not bouquets. The targets were six PG&E representatives who came, gauss meters in hand so to speak, to offer good-faith assurances on their plan to correct potentially hazardous EMF levels at Tam Valley Elementary School.

PG&E's high-tension wires are located over the playing field at Tam Valley Elementary School, about 112 feet from the nearest classroom. Studies during the past decade, especially a recent Swedish study, have found strong correlation between continual exposure to EMF at levels between 2 to 3 milligauss and an increased risk of cancer. The correlation is especially pronounced for childhood leukemia. While levels of 1.2 milligauss are considered safe, EMF levels at Tam Valley's playing field reach as high as 6 milligauss.

Last December, the Mill Valley School District contacted PG&E about correcting the situation, but were told PG&E would not pay for changes in its facilities solely to reduce EMF levels. PG&E cited the inconclusive nature of research results while acknowledging that "EMFs' affect on public health cannot be dismissed."

The school district, [illegible] greasy communists, decided to pay the estimated $105,000 cost of the modifications, but it wants PG&E to guarantee that the EMF levels would be reduced to the safe 1.2 milligauss level and the work completed by September 1.

Monday's bone of contention was a two-page draft contract PG&E's legal department faxed to school district counsel Sandra Wolfver that day. According to the draft, PG&E would install high steel poles on the school's playing field to raise and reconfigure existing lines into a triangular alignment to reduce current EMF levels found at 6 milligauss at peak school time use to approximately 1.2 milligauss. However, PG&E would not actually guarantee this EMF level.

> **"This disclaimer means if you do a crummy job and the poles fall down, you are not responsible."**

PG&E acknowledged that EMF levels could vary with line loads. The line over Tam Valley School serves Sausalito, and if the load doubles, PG&E projected a mid-span EMF level of approximately 2 milligauss.

The draft contract contained these "good-faith estimates," but also a blanket disclaimer: "Notwithstanding the foregoing, PG&E makes no warranty, guaranty, or representation, express or implied with respect to the work or its quality, reliability, accuracy, usefulness or results obtained therefrom, including, but not limited to,

the mitigation of health effects."

This evoked a chorus of outrage from Board members:

• Susan Marks: "The disclaimer means if you do a crummy job and the poles fall down, you are not responsible."

• James Mitchell: "You as parents would not send your child to a school district that would write this kind of contract."

• Tom Ashley: "This is like building a roof to last for 20 years, but you guarantee it for one day — providing it doesn't rain that day."

Stacey Case, PG&E division manager, who had returned that day from her honeymoon to face this sour chorus, defended PG&E's good intentions. "Our goal is to support what you want to achieve," she said. "We are committed to moving by September 1 at the cost price specified here." Although exorbitant Sausalito growth is remote, Case said PG&E "tried to give a range based on load growth which is beyond PG&E's control." What if, she speculated, a new shipyard is built or every customer wanted to install five hot tubs?

Case said PG&E sent the school board a standard contract to expedite negotiations and that since this type of agreement is new, no model contracts exist with EMF levels. She acknowledged that the contract was "unacceptable." But she maintained, "It's not an excuse for delay."

Earlier that day, PG&E named attorney Jathan Annand to handle the contract negotiations. Annand said she hoped she and school counsel Woliver "can get language mutually acceptable to people."

Chair Cathie Kascher wanted assurances that the contract will be signed by June 1 so that equipment can be ordered and work completed by September 1 for the start of school in the fall.

"Absolutely," responded Annand.

(After the meeting, school district business manager Mike Patrick told the *Pacific Sun*, "We have been asking since January 26 who Sandra Woliver should contact regarding a contract. We found out today.")

Debate concluded around 10 p.m. with Tam Valley school copresident Kate Hamilton telling the PG&E delegation, "It's disheartening at this point in time to be at this stage. I thought it was very clear what PG&E said they were going to do. We sent information to parents, this is what will be done. I'm disappointed PG&E is not paying for this. I feel strongly it is not our responsibility but, hey, we're worried about our kids."

As the handful of disgruntled Tam Valley school parents left the meeting, one advocated a futile gesture of retaliation, "Let's turn off all our lights."

At press time, Woliver told the *Sun* that she had continued lengthy discussions with Annand, but "PG&E is still unwilling to commit to any range of EMFs."

With a June 1 deadline looming, looks like the EMF issue is going down to the wire.

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Marin County
Community Development Agency

Mark J. Riesenfeld, AICP, Director

February 2, 1996

John R. Berg, Land Use Planner
JM Consulting Group, Inc.
844 Dubuque Avenue
South San Francisco, CA 94080

RE: Pre-application Review -- Pacific Bell Mobile Services Personal Communication Services Facility
242 Redwood Highway, Mill Valley PRICE
Assessor's Parcel Number 052-247-01
PBMS Project Number: SF-306

Dear Mr. Berg:

This letter is in response to your request on behalf of Pacific Bell Mobile Services for a pre-application review of a proposed Personal Communication Services (PCS) facility at 242 Redwood Highway, Mill Valley. The proposed project site is located on the eastern side of Highway 101, north of Sausalito and is currently developed with a heliport landing pad, several buildings, an eleven berth houseboat marina, and associated parking areas.

As a subsidiary of Pacific Telesis, Pacific Bell Mobile Services is a public utility licensed and mandated by the Federal Communication Commission to operate wireless communication facilities in California. This facility would provide wireless communication service to residents and businesses in Southern Marin County. Based on the submitted materials, the proposal appears to involve the installation of two modular Base Transceiver Stations, an antenna array, and associated cables on the roof of the existing building that houses the heliport office on the project site. The antenna array would consist of two pairs of roof-mounted panel antennas that would extend eight feet above the existing roof parapet (to a total height of 33 feet above grade). One pair of panels would be located at each end (north and south) of the structure. The Base Transceiver Stations are self-contained, all-weather cabinets designed to house all of the radio equipment. Both cabinets would be installed on the roof of the lowest portion of the structure on the south side of the building, would extend a total height of approximately 6.5 feet above the existing roof, and would cover approximately 50 square feet of roof area. This unstaffed facility would operate 24 hours a day and would not require sewer, water, or solid waste removal services. Land line telephone and electrical power would be the only services required.

This letter preliminarily summarizes some issues, applicable policies and procedures as they may pertain to the proposal and regulations of the zoning ordinance and policies of *The Marin Countywide Plan*, the *Tamalpais Area Community Plan*, and the *County of Marin Telecommunications Facilities Policy Plan*.

3501 Civic Center Drive, Room 308, San Rafael, California 94903-4157 -- Telephone (415) 499-6269 -- Fax (415) 499-7880

Zoning Regulations

The project site is governed by Bayfront Conservation, Resort and Commercial Recreation District (BFC-RCR) zoning, which allows a variety of resort and recreational uses as well certain associated service uses subject to the securing of a Use Permit. Pursuant to Section 22.88.010(2) of Marin County Code, public utility and service uses may be approved by Use Permit in a BFC-RCR zoning district when it is found to be necessary for public health, safety, convenience or welfare. Pursuant to Section 22.88.020(3) of the code, in order to grant the Use Permit, it must be found that the establishment, maintenance or conducting of the use for which a Use Permit is sought will not be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of such use and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood. A Use Permit application and current fee schedule are attached for your records.

Pursuant to Section 22.82.020 of the code, the proposed project also requires Design Review approval. The intent and objectives of Design Review include, but are not limited to: (1) preservation and enhancement of the natural beauty of the land and of the manmade environment; (2) maintenance and improvement of the qualities of, and relationships between, individual buildings and physical improvements which best contribute to the amenities and attractiveness of an area; (3) stimulation of creative design solutions; and (4) integration of the function, appearance and location of improvements so as to best achieve a balance between private rights and the public interest and welfare. A Design Review application and current fee schedule are attached for your records.

Due to the visibility of the proposed facility from Highway 101 and the San Francisco Bay Trail, staff has concerns regarding the potential visual impacts of the project. Based on the visual sensitivity of the bayfront property, the location of a telecommunications facility on the proposed site must be justified from a technological standpoint. In addition, visual simulations may be required from selected locations to properly assess visual impacts. The potential visual impacts of the facility could be reduced by resiting the panel antennas to a lower portion of the roof, minimizing the height and number of antennas, and utilizing appropriate, nonreflective exterior colors that blend with the dominant viewshed background. Visual impacts may also be reduced by utilizing an alternative site in the vicinity where the antenna array could be screened by existing buildings or landscaping.

The Marin Countywide Plan

The Marin Countywide Plan (Countywide Plan) is a comprehensive, long-range general plan for the unincorporated areas of the County that contains goals, objectives, policies and programs to guide existing and future development. For purposes of environmental planning, the Countywide Plan divides the County into three environmental corridors based on the predominant natural features and land uses of each corridor. The proposed project site is located within the City-Centered Corridor which is generally designated for urban development where infrastructure and facilities are available for such development.

The Countywide Plan assigns specific land use designations to all properties it governs in order to define a predominant land use type for a particular site. The underlying land use designation identified in the Countywide Plan for the project site is "RC" – Recreational Commercial. This land use designation is generally intended for resorts and privately-owned reacreational facilities. However, Policy CD-8.13 of the Countywide Plan recognizes that certain facilities and uses, such as the proposed

telecommunications project, may be found to be consistent with recreational uses, subject to Use Permit approval.

The subject property is also subject to the Bayfront Conservation Zone Overlay, which encourages uses that protect and enhance bayfront lands and promote the use and enjoyment of the bay without resulting in adverse impacts on bayfront habitat or water resources. In addition, Countywide Plan policies require the County to protect the aesthetic and scenic qualities of bayfront lands and specifies that existing and proposed built elements which could detract from the visual quality of shoreline or marsh areas should be eliminated or blended into the environment to the maximum extent feasible.

Objective CF-8 of the Countywide Plan incorporates by reference the policies of the *County of Marin Telecommunications Facilities Policy Plan* (Telecommunications Plan) into the Community Facilities Element of the Countywide Plan in order to ensure that the siting and design of telecommunications facilities is compatible with other land uses, provides protection from vandalism and fire hazards, and minimizes visual impacts, potential health risks and impacts on adjacent uses. The Telecommunications Plan policies are discussed in more detail below.

Tamalpais Area Community Plan 1992

The primary goal of the Community Plan is to conserve the semi-rural, small-town residential and commercial character and scale of the community and preserve the quality of the natural environment. In this regard, the most relevant policy of the Community Plan, Policy LU1.3, requires new development to be compatible with the scale (bulk, mass, height) and appearance (colors, materials, and design) of the surrounding neighborhood and to be integrated with and subordinate to the natural setting of the area.

The Community Plan also contains land use diagrams (Figures 17-20) with land use designations that are intended to show the planned distribution of expected land uses within the planning area, including a description of the type, density and intensity of the uses. The Community Plan land use designation for the project site is Shoreline Commercial, which allows a mixture of open space and commercial development. Appropriate commercial uses could include office, restaurant, recreation and limited retail uses. The proposed project would not be subject to the commercial building density and intensity standards of this land use designation.

As part of the Use Permit/Design Review process, the Community Development Agency will contact the Tamalpais Design Review Board for comments on the proposal. The Design Review Board functions as an advisory group regarding Community Plan design and character issues. A determination of project consistency with Community Plan Policy LU1.3 and the Shoreline Commercial land use designation must be made.

County of Marin Telecommunications Facilities Policy Plan

The Telecommunications Plan recommends numerous policies and standards that are intended to guide applicants in their selection of sites and design of facilities so that potential adverse impacts of a telecommunications project are minimized. According to the Telecommunications Plan, it appears that the proposal could be characterized as a minor facility. A minor facility does not create potential health hazards, is not significant in terms of size or height, and is accessory to a primary use of property. However, as described above, staff has concerns regarding the visibility of the facility given the bayfront location of the subject property. Minor facilities are generally considered to be

appropriate in terms of scale and character, but they must be reviewed for compliance with the development standards and policies of the Telecommunications Plan to ensure that potential impacts are mitigated by the specific design and siting of the facility. The following policies and issues of the Telecommunications Plan are of particular importance: (1) land use compatibility, (2) visual impacts, (3) public health and safety with respect to electromagnetic energy, (4) public safety with respect to design, (5) operational impacts, and (6) the review process.

Land Use Compatibility. In order to ensure that new facilities are compatible with other land uses in the vicinity, it should be determined that proposed telecommunications projects are consistent with applicable land use policies and are designed to reduce conflicts with open space and recreational resources and minimize the consumption of land and natural resources. Sites that are close to residential areas, needed for other kinds of development, or in the vicinity of existing or proposed recreational trails or open space areas should be avoided. New telecommunications facilities should only be permitted in ridge and upland greenbelt areas where no other technically feasible and available sites exist. Finally, development of facilities in identified creekside, bayfront, ridge and upland greenbelt, and coastal areas, must conform to the development policies of the Environmental Quality Element of the Countywide Plan. *(Policies LU 1.1, LU 1.2, LU 1.3, LU 1.4, LU 1.5; Programs LU 1.1.1, LU 1.1.2, LU 1.1.3, LU 1.3.2, LU 1.4.1. LU 1.4.2, and LU 1.5.2)*

Visual Impacts. In order to ensure that new facilities are sited, designed and built in a manner which minimizes visual impacts to surrounding areas, it should be determined that the site selected minimizes potential visual impacts to the greatest extent feasible, particularly from any adjacent development and public areas. The Base Transceiver Stations should be screened, the support tower and antenna array should be set at the minimum height required to permit the proposed services, and utilities extended to service the site must be undergrounded. In addition, the exterior colors should be appropriate, nonreflective colors that blend with the landscape against which they will be seen. Lastly, if necessary, landscaping may be required to further mitigate any visual impacts. *(Policies VIS 2.1, VIS 2.2, VIS 2.3 and VIS 2.4; Programs VIS 2.2.3, VIS 2.2.5, VIS 2.2.8, VIS 2.3.1, VIS 2.3.2, VIS 2.3.3, VIS 2.3.4 and VIS 2.4.2)*

Public Health and Safety with Respect to Electromagnetic Energy. In order to ensure that new facilities are sited, designed and built in a manner which minimizes potential health risks from Non-Ionizing Electromagnetic Radiation ("NIER"), applications for new facilities should include information on the existing and proposed power levels and frequencies in order to permit an adequate assessment and regulation of NIER emission potential. As part of the application submittal, a report must be prepared and submitted by a qualified professional with expertise in the field of radio frequency radiation health risk assessment. The report shall evaluate the health risks of the project and include a cumulative analysis of the radio frequency radiation effects to people from the proposed facility, especially those residents within close proximity to the project site. The report shall include power density calculations for the site and a review of the scientific literature on the health risks of similar facilities to document the projected thermal and non-thermal biological effects from the project. *(Policy NIER 1.2; Programs NIER 1.2.1 and NIER 1.2.2)*

Public Safety with Respect to Design. In order to ensure that new facilities provide for adequate structural integrity and public safety with respect to design, applicants are required to submit a report from a professional engineer that describes the design of the proposed antenna support tower, including the number and type of antennas that it is designed to accommodate, and provides information that demonstrates compliance with applicable building code structural standards. In order to protect against vandalism and unauthorized access, the site should have a security program including physical features,

such as fencing , anti-climbing devices or elevating ladders on the tower and/or monitoring by staff or electronic devices. In the event of failure, the tower should be designed so that it would fall within the fenced portion of the site and/or away from adjacent development. Lastly, operators are required to dismantle and remove the facility if it has been inoperative or abandoned for a two-year period. Operators may be required to post a bond or other suitable security as a condition of the Use Permit in order to guarantee removal of an abandoned facility. (*Policies PS 1.1, PS 1.2, PS 1.3, PS 1.4 and PS 1.6; Programs PS 1.1.1. PS 1.4.1 and PS 1.6.3*)

Operational Impacts. In order to ensure that potential noise impacts from the operation of any backup generator equipment or air conditioning equipment for the Base Transceiver Stations are minimized, such noise-producing equipment should be properly sited and/or insulated. (*Policy OI 1.1 and Program OI 1.1.2*)

Review Process. In order to evaluate compliance with conditions of project approval and policies of the Telecommunications Plan, Use Permits are subject to periodic review and renewal and are typically granted for a maximum period of 10 years. (*Policy RP 2.1*)

Environmental Review

Pursuant to the California Environmental Quality Act, the project may be exempt from environmental review if it meets applicable plan policy and zoning requirements and if it does not result in potential significant impacts, especially those associated with visual aesthetics and public health and safety. However, if any impact is determined to be significant, environmental review may be required. In the event environmental review is required, the planner handling your application would notify you as soon as the determination is rendered. If the project is not exempt from environmental review, the first step in the environmental review process involves the preparation of an Initial Study to examine potential significant effects on the environment that may result from the project. Depending on the outcome of this Initial Study, which would be circulated for public comment and review, the project would most likely result in the adoption of a Mitigated Negative Declaration of Environmental Impact. An Environmental Review fact sheet and application form are attached for your records.

Please note that your pre-application fees will be applied toward your application fees should you wish to proceed with an application for a Use Permit and Design Review for the proposed project and if you apply within one year from the date of this letter. If you have any questions or need additional information, please contact me at 499-6285.

Sincerely,

Christine Gimmler, AICP
Planner

Attachments:
Use Permit Fact Sheet
Design Review Fact Sheet
Environmental Review Fact Sheet
Zoning/Development Application
Environmental Review Submission
Design Review Supplemental Checklist
Fee Schedule

cc: J.T. Wick, AICP, Principal Planner

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Christine Craft
Attorney at Law

(916) 331-2157 Fax (916) 339-9557

Morrow Cater
Planning Commissioner
Community Development Agency
Marin County Civic Center
3501 Civic Center Drive
San Rafael,California
94903-4157

Dear Mr. Cater;

I am writing on behalf of my clients,a consortium of individuals with property interests both residential and commercial who would be affected by the approval of the Price/Pac Bell PCS facility at 242 Redwood Highway in Mill Valley.

As in many communities all across the United States,their concerns are focused on three areas: property values,aesthetics, and health.

A recent front page article in the San Francisco Chronicle Business section pointed out that residential property can lose as much as 30 or 40% of its value when cell towers and antennas are sited nearby. Renters are affected as well as owners. Subletting or assigning a property interest can become much more difficult.

We believe that approval of these cell sites can amount to a clear and unconstitutional "taking" without compensation.

People who choose to live along a waterfront or for that matter anywhere in Marin County are particularly concerned about the aesthetics of cellular towers and antennae. Even when the applicant "disguises" towers with shrubs,trees,or camouflage paint,surely no one can successfully argue that the installation of cellular equipment improves the view.

Additionally,we have done extensive research on the safety questions surrounding cellular towers and have discovered that most of the science has been bought and paid for by the very industry which stands to make huge financial gain if they can pepper the landscape with these cellular projects. Even that research cannot guarantee that such projects don't cause cellular changes,leukemias and other negative health effects.

In fact there is a respectable body of science which bolsters the argument that cellular towers can cause significant, negative health effects. I have enclosed in this packet an article by Dr. Robert Becker which was used in a challenge of a similar project in New York state. Additionally, I've enclosed a letter to successful challengers in San Francisco from Dr. David Carpenter who is the Dean of the School of Public Health at the University of Albany in New York. We have also contacted Dr. Andrew Marino at the University of Louisiana Medical School whose work regarding the negative effects of cell towers you have already encountered in the Mt.Barnabe litigation.

Let me assure you that my clients would be eager to challenge any approval of the Price/Pac Bell project on the ground that it is exempt from the California Environmental Quality Act("CEQA") and its guidelines. As you well know,this important state law requires environmental review for projects which may have a significant impact on the environment.

Under CEQA (Pub.Res. Code §§ 21000, et seq.) and its regulations (Cal. Code Regs., title 14, §§ 15000 et seq.) a jurisdiction's governing body is subject to the law when it ascertains and approves any project with a potential impact on the environment.

Finally I'd like to bring to your attention recent litigation in the state of Washington which says in essence that county governments can still make zoning decisions or declare moratoriums on the siting of cell towers. This case about which I include a brief article was the first test in federal court of the 1996 Telecommunications Act which despite its language does not preempt local zoning and planning decisions.

We realize that we cannot stop the proliferation of cellular towers and antennae,but we urge the Planning Commission to support a moratorium on new sites until the Marin County Telecommunications Plan itself can be amended to assure that future sitings will be approved in an ordered fashion that limits human exposure,county liability,botched aesthetics and impaired property values.

Thank you for your consideration and for taking the time to read the enclosures. We look forward to the Planning Commission Hearing on September 9th,1996.

Sincerely,

Christine Craft

Christine Craft

Office of the Dean
School of Public Health
A joint venture with the
New York State Department of Health
In affiliation with Albany Medical College

Executive Park South
Albany, New York 12203-3727

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UNIVERSITY AT ALBANY
STATE UNIVERSITY OF NEW YORK

December 18, 1995

Ms. Mary Irene Zemanek

Dear Ms. Zemanecic

Recently I had a conversation with Mr. Richard Lee of the Department of Health concerning my previous letter to you about cellular phone towers, and I am writing to clarify and emphasize a few points that appear to me to be critical in this debate.

Mr. Lee appears to place great emphasis upon the ANSI standards for radio frequency exposure. It is essential to understand that "the IEEE, ANSI, and NCRP exposure limits for RF radiation are based on acute exposures that cause thermal effects in laboratory animals" (J.A. Elder, Thermal, cumulative and life span effects of cancer in mammals exposed to radio frequency radiation. In *Biological Effects of Electric and Magnetic Fields*, Volume 2, D.O. Carpenter and S. Ayrapetyan, Eds., Academic Press, 1994, pp 277-295). None of these standards have even considered the issue of human health effects, specifically cancer, and all are based upon the very questionable assumption that there are no effects of importance than those related to acute heating. On this basis, these standards, in my judgment, have no relevance to the question of human health. They only are designed to prevent people from being cooked by RF fields.

Mr. Lee also quotes the recommendations of the NCRP Report No. 86 (Biological effects and exposure criteria for radio frequency electromagnetic fields) as supporting the conclusion of there being adequate data from human studies to allow one to dismiss any question of concern. This is, in fact, an excellent summary of human studies done to date, but I draw a very different conclusion from reading the report. The report mentions four epidemiologic studies of human populations. Robinette et al. (1980) investigated morbidity and mortality of US navy personal exposed to radar, and Lilienfeld et al. (1978) looked at similar indicators of occupants of the US embassy building in Moscow, which was exposed to RF radiation. Neither reported any change in morbidity or mortality. However, the observations of Milham (1982) and Coleman et al. (1983) are also quoted, where elevations in leukemia were noted in ham radio operators and electricians.

There are other studies which also report positive associations between RF exposure and cancer (Milham, 1985; 1988a and b; Szmigielski et al., 1988, all referenced in Elder, 1994). All of these studies lack good dosimetry with regard to levels of exposure. Copies of the relevant pages from Elder (1994) and NCRP Report No. 86 at attached.

In my view these studies of human exposure to RF fields and cancer are grossly inadequate evidence to conclude that RF radiation is not hazardous to humans. In fact, I would be inclined to draw the opposite conclusions, although it must be recognized that ham radio operators and electricians are exposed to both 60 Hz and RF fields, and it is not possible in these studies to distinguish which is correlated with the elevated incidence of leukemia. I hope these comments explain the basis of my previous statement that there is at present neither adequate evidence to conclude that human exposure to RF radiation is "safe", or is hazardous. I emphasize that I do not believe evidence to date allows one to conclude that RF exposure is definitely hazardous to human health, but there is certainly reason to be cautious since, if anything, the majority of the studies are suggestive of an association between exposure and cancer.

I have reviewed the comments made by Dr. Jerry Bushberg at a recent hearing. I agree with his conclusions that there have been no human studies at the specific frequencies involved in the proposed cellular phone towers. However, such studies are clearly possible given the widespread profusion of cellular phone towers. In my judgement, such studies should be done before any conclusion that these specific electromagnetic fields are safe is made.

I hope these comments help explain my concern on this issue.

Sincerely,

David O. Carpenter, M.D.
Dean

DOC:daf
Enclosure

« Cellular Phone Notes »

The CTIA has taken its case for the ANSI/IEEE RF/MW radiation standard to the EPA. On May 21, CTIA President Thomas Wheeler met with EPA Administrator Carol Browner in an effort to convince her that her staff should back off from its objections to the ANSI standard. The EPA wants the FCC to adopt the limits recommended by the NCRP (see *MWN*, J/F 94). Along with many others in the industry, the CTIA had lobbied the FCC directly, but the commission has long maintained that it has no expertise in health issues and will take its cues from the federal health agencies, notably the EPA (see *MWN*, M/A96). In a May 17 letter, Wheeler warned Browner that, "It would be a serious mistake for the FCC to adopt either the older 1986 NCRP standard or a 'hybrid' standard," adding that "departing from the widely accepted ANSI/IEEE guidelines will create confusion and delay in deployment of new cellular and PCS technologies." For technical support at the meeting, Wheeler brought along Dr. Eleanor Adair of the John Pierce Laboratory in New Haven, CT. Sources said that Browner held her ground and continues to support the policies of her staff at EPA's Office of Radiation and Indoor Air (ORIA). "I found her insistence on the EPA position interesting," Adair told *Microwave News*. "It left little room for discussion." Browner's office had no comment on the meeting, but Mary Smith, the director of ORIA's Indoor Environments Division, said that the EPA was expecting more information from the CTIA and that there would probably be another meeting at the EPA—although not with Browner.

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The headline on the front page of the April 14 London *Sunday Times* was certainly provocative: DANGER: MOBILE PHONES CAN "COOK" YOUR BRAIN. The *Sunday Times* was reporting on a draft proposal by a committee of CENELEC, the European standards organization, to exempt from compliance testing any hand-held phone with a power output of less than 20 mW. Jonathan Leake of the *Sunday Times* interpreted this to mean that 20 mW is the "safe limit," and, therefore, that any higher level is risky. From this perspective, the headline might make some sense—since phones in the U.S. and the U.K. routinely emit up to 30 times more than 20 mW. To bolster his claim, Leake cited confirmation from Dr. Camelia Gabriel of Microwave Consultants Ltd. in London. The story was picked up by other newspapers all over the world—sometimes with additional embellishment. At the *Advertiser* in Australia, an editor took the *Sunday Times*' logic one step further, telling his readers that the paper had "claimed most mobile phones on the market exceeded safe radiation levels." In a letter sent to, but not published by, the *Sunday Times*, Gabriel expressed her strong objections. "Had I been able to check the article before publication, I would have deleted or amended most of what was written," she wrote. Undeterred, Leake followed up with another story on April 21: SHIELD BLOCKS RAYS OF MOBILE PHONES. This story included a prediction by Dr. Narendra Singh of the University of Washington, Seattle: "It seems far-fetched but the mobile phone of the future may have to come with a supply of antioxidants" for protection against microwave exposure. Singh was as dismayed as Gabriel. "I deny that I made such a statement" to Leake, Singh wrote to the editor of the *Sunday Times*. Singh's disclaimer also never made it into print.

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In the first legal test of the Telecommunications Act of 1996, a federal judge in Seattle has refused to overturn a small town's moratorium on new wireless communications towers. Under the law, state and local governments retain their authority to regulate wireless facilities—except on the basis of RF/MW safety levels (see *MWN*, M/A96). On February 13, 1996, five days after President Clinton signed the telecom act, the City Council of Medina, WA, adopted Resolution No.236, putting a hold on all new permits for six months in order to provide "a reasonable period of time" to study the "potential health risks associated with cell sites." Medina, a small town near Seattle with a population of 3,000, had received applications for antenna construction from five different companies. Sprint Spectrum, which wants to build a 100-foot tower, took the town to court. In a May 3 ruling, U.S. District Judge William Dwyer ruled that the Medina moratorium is a legitimate exercise of zoning power. Dwyer wrote:

> There is nothing to suggest that Congress, by requiring action "within a reasonable period of time," intended to force local government procedures onto a rigid timetable where the circumstances call for study, deliberation and decision-making among competing applicants. The city [of Medina] is seeking to determine, among other things, whether tall antenna towers are still necessary for the purpose at hand. It is entitled to find that out.

The moratorium will expire on August 12.

Drs. Henry Lai and Narendra Singh of the University of Washington, Seattle, have extended their study on the effects of 2450 MHz microwave radiation on the DNA in rat brains. They had previously reported an increase in single-strand DNA breaks (see *MWN*, N/D94) and have now found an increase in double-strand breaks. Writing in the April 1996 issue of the *International Journal of Radiation Biology* (69, pp.513-521), Lai and Singh noted that DNA breaks could lead both to cancer and to accelerated aging. "It is imperative that the effects of [RF/MW radiation] on DNA in brain cells be further studied and understood," they argued. Meanwhile, Dr. Gary Williams of the American Health Foundation in New York City has taken issue with the Lai–Singh paper on single-strand breaks. In a comment—with a reply from Lai and Singh—published in the most recent issue of *Bioelectromagnetics* (17, p.165), he charged that their data "are difficult to reconcile with current knowledge of physical or chemical damage to DNA." Williams, who was selected by the members of WTR to serve on their peer-review board, concluded that, "Considerably more research is required to establish whether microwave[s] interact with DNA in rat brain cells."

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DR. BECKER'S REPORT

PLEASE NOTE DR. BECKERS CV. AT THE END. NOT INCLUDED IS THE FACT THAT HE HAS TWICE BEEN NOMINATED FOR A NOBEL PRIZE

POTENTIAL HEALTH HAZARDS ASSOCIATED WITH THE NYNEX ANTENNA INSTALLATION AT THE WINGED FOOT COUNTRY CLUB WATER TOWER, MAMARONECK NEW YORK

NYNEX proposes to install nine transmitting antennas on the water tower to operate in the 880 MHz region for cellular telephone service. In regard to possible health effects in the human population that would be exposed to the radiation field, NYNEX relies exclusively on the emission levels from this installation being within the recommended standards set forth in the ANSI C 95.1-1982, and C95.1-1991 specifications. The assurance of no deliterious effects upon the health of the human population exposed rests entirely upon the integrity of this standard.

THE VALIDITY OF THE STANDARD

It must be initially stated that despite the apparent scientific accuracy of the ANSI standard, it has neither a basis in scientific fact nor a validation by appropriate laboratorystudies or epidemiological investigations on human populations.

The attempt to set a standard for safe exposure to microwave radiation has been an ongoing process since the early 1950's. At that time, technology was producing radar equipment with far greater power than that used in World War II and it had become known that heat was produced in the human body when exposed to microwave radiation. At the same time, a physician, Dr. J.T. McLaughlin, at Hughes Aircraft (which had an extensive R&D program in radar) reported more than 100 cases of health effects in humans chronically exposed to microwaves [1]. These ranged from internal bleeding, and cataract formation to leukemias and brain tumors. As a result, the military services recognized the need for some standard of exposure for their personnel and a committee of all three services was set up. The controversy that ensued took several years to

resolve.

The controversy revolved about two opposing views. Based upon the concept that all important functions in living organisms were solely chemical in nature, it was then the prevailing opinion of the scientific establishment that non-ionizing electromagnetic radiation (in contradistinction to ionizing radiation such as X-rays and atomic radiation) could not possibly have any biological effects whatsoever except for microwave radiation which was of sufficient strength to cause heating of the body. Supporters of this view believed that all clinical reports of harm were associated with heating and that a standard that simply prevented body heating was sufficient. However, this view, known as *thermal effects,* was hardly universally accepted. The opposing view that bioeffects could occur from microwave exposure below the level causing heating was known as *athermal effects*. This view was held by many in that part of the scientific community that was knowledgable in radar and radiation medicine. Proponents of the athermal view held that while we did not know the mechanism involved, this did not mean that such a mechanism did not exist and since its existence was shown by such clinical cases as collected by Dr. McLaughlin, a much lower level of exposure was required. The final standard accepted by the military in 1960 was 10 mW/cm^2, a level based solely on *mathematical calculations* of the microwave energy required to produce heating of a fluid filled sphere approximating the size of the human body. This thermal level was accepted primarily because of the lack of a suitable mechanism to explain the athermal effects, clinical and laboratory evidence for athermal effects were rejected on these theoretical grounds. I should explain that 10 mW/cm^2 is simply a measure of the *power* of the radiation, expressed in milliWatts per square centimeter of body surface.

As the military finished setting their standard, the American National Standards Institute (ANSI) became involved in proposing a standard for industrial and civilian exposure. The ANSI Subcommittee on radio-frequency hazards (C95) was given the task

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and because of the growing controversy the initial ANSI standard was not adopted until six years later. This standard (C95.1-1966) also accepted the thermal effects position and adopted the same 10 mW/cm^2 standard as the safe level for exposure for the civilian population.

As soon as these standards were set, more controversy erupted and has continued until today. As a result, the ANSI standard has been changed several times from a uniform 10 mW/cm^2 independent of frequency to a complex set of levels ranging from well above the original 10 mW/cm^2 (for frequencies below 10 MHz) to below 1 mW/cm^2 (for a range of frequencies centered at 100 MHz) and depending upon controlled vs uncontrolled exposures. Each change that was made was again based solely on thermal theoretical grounds. The present ANSI standard still does not take into consideration athermal effects.

While the exact mechanism by which microwaves, or any other portion of the electromagnetic spectrum, produces biological effects below the level of heating is still not clear, there is now no doubt that such effects do occur. Furthermore, research at both the laboratory and epidemiological levels has clearly indicated that the potential for harm does exist. Unfortunately, powerful forces within the government and industry have so far prevented the kind of research programs that would clearly indicate the safe level of microwave exposure for humans and permit the establishment of a truely safe standard.

The present ANSI standard is simply a theoretical construct of a committee whose membership is dominated by representatives from the military, government and industry. The standard has little, if any, basis in fact and its application in any given situation serves only to convey a false sense of security. I wish to emphasize that, at this point in time, no one knows the actual level of exposure that is safe for the general population.

EVIDENCE FOR HARM RESULTING FROM EXPOSURE TO MICROWAVE RADIATION

Before I enumerate some of the evidences that indicate the potential for harm from exposure to microwave radiation, a few simple basic principles of electromagnetic radiation have to be introduced. This radiation is theoretically composed of photons that travel through space with a wave motion at the speed of light. We organize this radiation on the basis of its frequency (number of times it oscillates per second, designated as Hertz or Hz per second) into the Electromagnetic Spectrum, starting at the lowest frequencies and going to the highest. Certain portions of this continuous spectrum are arbitrarily given names. For example, the radiation from the standard 60 Hz (60 cycles per second) AC, electric power lines falls into the Extra Low Frequency range. The radiation from the proposed NYNEX antenna, 800 Mhs (800 million oscillations per second) falls into the Microwave range. Radio waves, AM, FM and short wave, fall into the Radio Frequency range located between Low Frequency and Microwave. All of this is quite arbitrary, the spectrum is continuous from 0.001 Hz to many trillions of oscillations per second.

All electromagnetic radiation contains energy which is proportional to the frequency with the lowest energy in the lowest frequency and the highest energy in the highest frequency. Microwave radiation contains sufficient inherint energy to cause obvious body heating. Just above microwaves on the spectrum is light, both visible and infra red, which produces an obvious biological effect - vision. Above light are even higher frequencies which contain energy sufficient to ionize chemical structures. This ionizing portion of the spectrum includes, X-Rays, atomic radiation and cosmic rays. Light therefore is the dividing line between the ionizing portion and the non-ionizing portions of the spectrum. While there is no question of the bioeffects of ionizing radiation, *it is important to understand*

that all of the radiation on the Electromagnetic Spectrum from the highest frequency ionizing to the lowest frequency non-ionizing is basically the same thing, oscillating photons.

If the ANSI standard is useless, are there evidences for: harm from exposure to any portion of the electromagnetic spectrum and second evidences for harmful effects specifically in the microwave region? It must be noted that scientific work in both of these areas has been ongoing for the past three decades and that a large,confusing data base has been built up. It is impossible in a report of this nature to completely review all of this material. I have discussed a few specific, reliable studies, other reports and certain events that I believe reveal the evidences for harm at athermal levels of exposure and the limits of our knowledge concerning safe levels. Most of the reliable reports cast serious doubt on the safety of chronic exposure to even low levels of radiation in any portion of the entire electromagnetic spectrum. There is much more information available and a reference list of items discussed herein as well as recommendations for additional sources is appended. It should be noted that while the data base is now very large, many studies and reports resulted from either poorly funded research programs or from programs whose funding support was suspect. It has been literally impossible to obtain funding to perform truly independent research in this area. My personal opinions, as expressed in the recommendations section, are based upon the totality of this data base and my own experiences working in the field for more than 35 years.

When questions concerning the safety of exposure to microwaves first surfaced, the thermal concept alone was considered and led to the original military and ANSI standards. The athermal concept was initially based on the possibility that the wave length of microwave radiation was so short that it might couple with portions of the body much in the nature of an receiving antenna. However, this concept limited the possible bioeffects to a narrow band of frequencies. More recently, another concept has gained credance-

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that some important functions in living organisms were performed by physical processes rather then chemical. This concept made possible biological effects from *any* portion of the non-ionizing spectrum and if bioeffects were shown to occur and have hazardous connotations, there would be a compelling reason for such effects and connotations to be transfered to other portions of the spectrum.

• On the basis of energy content, radiation from 60 Hz power frequency sources would be an extemely unlikely source of bioeffects let alone hazards. Conversely, if biohazards were shown to be produced by 60 Hz radiation, it would not only negate the thermal (power) concept but also it would call into question the safety of all portions of the non-ionizing spectrum. Consequently, when the question of radiation hazards from high power electric transmission lines was raised in 1973 very great pressure was exerted to discredit and stop the process, (2). Because of a number of extremely fortuitous circumstances these efforts did not succeed. This is not the place to present all of the pertainent data that subsequently developed on this question. A short review of the status as of 1990 has been published (3), and ongoing data on this subject is available in a respected, authoritative publication, (4). Suffice it to say that many research projects reported over the past decade have confirmed that this Extra Low Frequency Radiation, despite its negligable power content and extremely long wave length, is hazardous to human health. A recent large scale epidemiological study involving more than 200,000 workers in three large electrical utilities has indicated significant risks of leukemia (5). This, and other epidemiological research has provided us with firm knowledge of the exposure level that is safe although this has yet to be codified as a national standard. This level could not have been determined theoretically. The major question remaining is one of the methodology of revising our electric power system to meet this safety level. This evidence for a real hazard of considerable extent fom the theoretically least likely portion of the non-ionizing spectrum calls into question the entire thermal theoretical construct and raises

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serious questions of potential hazards from other portions of the spectrum including microwaves.

If the question of the safety of high voltage power lines has been dealt with in this responsible fashion, why has not the question of the safety of microwaves, which was raised some 20 years earlier, been similarly resolved ? The answer to this lies not in science or medicine but in political, military and economic considerations. Since the explosion of electronic technology that occured during World War II, the military and intelligence services have relied ever more heavily on this modality until the entire defense strategy rested on unlimited use of electromagnetic radiation. Until recently, raising the question of safety of any portion of the spectrum was viewed as a risk to national security. Industry, involved in the development of electromagnetic radiation for communication and consumer product purposes, has held similar views. Unfortunately, science, which is historically reluctant to accept or even consider new concepts that challenge the prest dogma, initially lent its prestige to the endeavor to suppress adequate evaluation of these hazards. The sole reason why the hazards of electric power radiation have been adequetly evaluated is because the question was introduced in the public area. This has only begun to occur in regard to the potential hazards of microwave radiation.

While we lack knowledge in the microwave area sufficient to arrive at a valid standard for human exposure, adequate evidence has been obtained for the existence of hazards at extremely low, athermal levels of exposure. A few examples of the most pertainent studies and actions taken by other governmental agencies follow.

- Beginning in 1953, the US Embassy in Moscow was irradiated with microwave radiation at a power density of between 0.1and 24 μW/cm2 by some agency of the Soviet Union. Note, 20 $\mu W/cm^2$ equals 0.002 mW/cm^2. Over the next 15 years this circumstance was studied in secret by the United States Government.

Personnel exposed at the Embassy were neither notified of the circumstance, nor informed as to the reasons for various tests done on them. It is reasonable to conclude that part of the secrecy resulted from the exceedingly low level of the radiation used by the Russian agency as compared to the security level established by the US military. At this date, major details of this incident are still classified. During the course of this event it became known that the Russian standard for civilian microwave exposure was approximately one thousand times lower than the then extant US standard of 10 mW/cm2. While there has been much speculation concerning the motives of the Russians and of the US agencies involved, little firm information has been made available and what has been provided is suspect in many quarters. Serious doubts still exist concerning harm caused to US personnel in the Embassy despite disclaimers by governmental agencies. Such doubts will remain until full and complete disclosure is made.

• In the early 1980's, Drs. William Morton and David Phillips of the Environmental Medicine Division and Department of Public Health & Preventive Medicine, Oregon Health Sciences University received a grant (#R-805832)from the EPA to investigate the relationship, if any, between radiowave density levels in the UHF band and incidence or mortality rates of several types of cancer in the Portland-Vancouver metropolitan area. The EPA conducted an extensive program of actual measurement of the field densities in each census tract in Portland, Oregon. Morton and Phillips collected data on all cases of all types of cancer in each census tract over a period of more than 10 years.

The study was prompted by an apparent local cluster of uterine cancer cases in a Portland neighborhood with an unusual concentration of broadcast towers during 1968 - 1972. The study involved determining the incidence of a number of different types of cancer in each census tract in the area over years ranging from 1963-1977 (exact ranges differed for various types of cancer). These

determinations were then evaluated for confounding factors such as socio-economic class, occupation, etc. They were then related to measurements of the radiation density in each census tract for; the low UHF (54-88 MHz), FM Broadcast UHF (88 - 108 MHz) and high UHF (176-216 MHz) made by the EPA.

The incidence of non-lymphatic leukemia showed a significant positive correlation with all three radiowave bands but most consistently with the FM Broadcast UHF band (88-108 MHz) and the summary rate for radiation-related leukemia was significantly correlated with the high UHF band (176-216 MHz). Of considerable interest was the fact that the major type of leukemia between 1963 and 1967 was lymphatic leukemia which demonstrated a positive correlation but between 1973 and 1977 the major type was non-lymphatic leukemia which nevertheless demonstrated a similar correlation.

The measured power densities of the radiation ranged from a mean of 2.1 nW/cm^2 in the low UHF range, to a mean of 39.2 nW/cm^2 in the FM broadcast UHF range and a mean of 4.9 nW/cm^2 in the High UHF range. The highest individual measurement recorded was 5889.1 nW/cm^2 in the FM Broadcast range and the next highest in the same range was 702.8 nW/cm^2. It must be emphesized that these measurments are in nW (nanoWatts) and that it takes one million nanoWatts to equal 1mW. Therefore, all measurements of power density in this study were far below the present ANSI standard of 1 mW/cm2 with the means of power density in all UHF ranges all being far below 0.1 mW/cm^2.

The project report was completed in 1983, the EPA response was negative, funds to continue the project were not made available and there has been no replication of this study. I have been kindly supplied by Dr. Morton with a copy of the full study and report made to the EPA. In my opinion, the study was completely and carefully done and the results are valid. A small, poorly supported

study of a similar nature was done in Hawaii shortly after Morton completed his study. It reached the same conclusions but the data base was insufficient to validate them or Mortons's. Despite the vanishingly low levels of radiation measured, it is my opinion (shared by other workers) that the study is valid and that an adequate replication of Morton's study is urgently needed in view of the very large population group presently exposed and the increase in usage in the VHF and related microwave bands.

The levels of radiation in the VHF ranges that correlated with an increased risk for both lymphatic and non-lymphatic leukemia in Morton's study were far below the present ANSI standard. While the frequencies involved in the study differed from the 900 MHz range used in cellular communications, the difference is slight and there is no compelling reason to exclude Morton's results from consideration in the circumstance being addressed.

- During Morton's study, the Air Force began a very extensive study on the bioeffects of chronic exposure to microwave radiation. This was under the direction of Dr. Arthur W. Guy of the University of Washington School of Medicine and involved exposing rats to 0.48 mW/cm^2 of microwave radiation at 2450 MHz for 21 hours per day for periods of time up to 24 months. The most significant finding was that 18 cancers developed in the 100 rats in the exposed group compared to only 4 cancers in the 100 rats in the control group. Additional significant findings were that the size of the adrenal glands in the exposed group were twice that of the glands in the control group nd that this was accompanied by significant increases in the blood tests for stress response hormones in the exposed group. There were, in addition, seven benign tumors of the adrenal cortex in the experimental group and none in the controls. When the types of cancers were analysed, it was found that seven of the 18 tumors in the exposed group were in the endocrine glands; pititary, adrenal and thyroid with the remainder in various other tissues. The conclusion reached by most scientists was that the exposed animals had suffered severe chronic stress and that the

cancers of the endocrine system were possibly the result of this. However, there were 11 malignant tumors of other tissues in the exposed group compared with only four in the control group, indicating a strongly possible carcinogenic or cancer promoting effect of the microwave exposure. Such a conclusion is supported by laboratory work done by Dr. Stephen Cleary of Virginia Common wealth University. He has reported that human brain tumor cells significantly increase their growth rate when exposed to microwave radiation below the thermal level (7).

For microwave hazard evaluation purposes it is important to note that power density of the microwave in Guy's study was below the present ANSI standard and it is impossible to escape the conclusion that chronic exposure to microwave radiation at this level is both carcinogenic and productive of major stress. Further, when Marlen's and Guy's studies are considered concurrently, we find evidenceds of carcinogenic effect from radiation both above and below the 300 MHz band. It is reasonable to conclude therefore, that this frequency range is also carcinogenic.

There were a number of technical peculiarities in this project which are reviewed in (3). It should be noted that considerable effort was spent attempting to minimize and obfuscate the actual results in the scientific and public press subsequent to the actual release of the information from Guy's study.

• In the late 1970's, the EPA began a program to determine the hazards of all electromagnetic radiation. Very little actual information was forthcoming and no specific recommendations for standards except for a request for public comment on a number of proposals for radiofrequency/microwave standards ranging from doing nothing to a level of 0.1 mW/cm2 was issued in July of 1986.. By September of 1986, the EPA closed its active research program on electromagnetic radiation. However, apparently in response to increasing scientific reports indicating hazards associated with both Extra Low Frequency and Microwave exposure, the EPA issued a Draft

Report, " Evaluation of the Potential Carcinogenicity of Electromagnetic Fields" (EPA/600/6-90/005B) in June of 1990. It is a requirement that all EPA Draft Reports pass through the White House for approval. This report was immediately suppressed . However,it was leaked to Microwave News in its entirety and shortly thereafter became public. Since then the report has been continuously subjected to a number of committee evaluations and revisions and has yet to be released by the White House. Few copies of the original report are extant.

The report was a lengthy and complete review of all the scientific data then available on the carcinogenic effects of all portions of the electromagnetic spectrum. On the basis of this data evaluation, two conclusions were reached.

The EPA proposed to classify Extra Low Frequency fields (including primarily the electric power frequency of 60 Hz) as probable carcinogens. A classification that would permit the EPA to begin evaluating tentative exposure standards. The Radiofrequency and Microwave fields were proposed to be classified as possible carcinogens, a classification that mandated further study of the potential hazards.

Probably on the basis of its analysis the EPA, in a statement to the FCC in January 1994, indicated that it felt there were serious flaws in the ANSI C95.1 guideline.

Following the Draft Report, the EPA program on non - ionizing electromagnetic radiation suffered continuous funding declines and was to have been all but eliminated from the budget for the forthcoming Fiscal Year. Only recently has there been a change in the overall picture when President Clinton requested the EPA to re-activate the entire program and complete work on a final version of the 1990 Draft Report for release. It may be that an adequate assessment of safe exposure levels is finally at hand.

The studies and events cited constitute only a small portion of the data presently available and are intended to provide the reviewer with the most pertainent information and with examples of the type of studies that urgently need to be done.

CONCLUSIONS AND RECOMMENDATIONS IN REGARD TO THE PROPOSED NYNEX CELLULAR ANTENNA SYSTEM AT THE WINGED FOOT COUNTRY CLUB, MAMARONECK, NEW YORK

From the foregoing, one can draw a number of conclusions pertinent to the question of potential human health hazards resulting from the presently proposed installation.

- Reliance upon the present ANSI C95.1-1991 standard for assurance that no hazard to human health will occur from the radiation emitted by the proposed installation is not possible. The standard has been shown to be simply a theoretical construct based upon a now discredited theory and lacking a factual basis.

- Human epidemiological and animal laboratory studies have shown that exposure to such radiation is cancer producing and/or cancer promoting at chronic exposure levels well below the present ANSI standard and at frequencies both above and below the 900 Mhz band.

- The actual safe level for human chronic exposure to radiation in any portion of the radiofrequency-microwave range, including the 900 Mhz band, is completely unknown.

With these conclusions in mind and from materials furnished, several pertinent observations may be made concerning this specific installation.

- There are at least five residences within a radius of 400 feet from the base of the water tower that are constantly occupied. The level of radiation in all of them will be above that reported by

Marion as being significantly associated with the incidence of leukemia. Of specific concern is the probable occupancy of these residences by pregnant women, young children and individuals with pre-existing malignancies of any type. The EPA has considered this group as probably being at greater risk.

• The closest structures to the base of the water tower are repair, maintenance and office buildings occupied by employees of the Winged Foot Country Club. It is assumed that these are occupied on the average for eight hours per day, constituting a chronic exposure to fields greater than those in the residences noted. While these will be, for the most part, adults, the level of hazard is correspondingly greater considering the stronger field intensity to which these employees would be exposed.

In siting installations that emit electromagnetic radiation for communication purposes, it has been the practice to chose the exact site based only upon engineering considerations of maximizing the effective communication range. Given the possible harmful effects upon humans so exposed and the uncertainty of the safe level of exposure it has become prudent to consider the impact of exposure to the radiation upon the human population and to chose installation sites that minimize this impact. The marked increase in litigation in this area over the past decade, particularly in situations where hazards have been ignored, should also be taken into consideration in site selection.

I, therefore, recommend that the antenna (and in fact all installations of similar nature) be located at least 2500 feet from any area occupied by humans for eight hours per day or longer. I expect that the extensive grounds of this golf course would have several locations that would comply. While neither I, nor anyone else, can guarantee that this restriction will provide complete safety it is my opinion that this is a more prudent solution to this problem than reliance upon the questionable ANSI C95.1-1991 standard.

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Curriculum Vitae

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Present Position	**Consultant, Bioelectromagnetic Research and Therapeutics**
Research Interests	**Relationships between low strength electrical and magnetic fields and living organisms**
Honors	**William S. Middleton Research Award VA Veterans Administration, 1964** **Distinguished Alumnus Award SUNY College of Medicine, 1966** **Nicholas Andry Award American Association Bone/Joint Surgeons, 1979** **Honorary Member, American Academy of Orthopedic Surgery, 1979**
Listings	**American Men & Women of Science** **Who's Who United States** **Who's Who Frontier Science & Technology** **Who's Who Technology Today** **International Who's Who in Medicine**
Patents	**US #4,528,265** **Canada # 1214748**
Scientific Papers	**Over 150 articles in peer reviewed scientific journals**
Books	**Mechanisms of Growth Control (editor)** **C.C. Thomas 1981**

Electromagnetism & Life (with Marino, A.A. State University Press NY, 1982

The Body Electric (with Seldon, G.) William Morrow & Co, NY 1985

Health Hazards of Electromagnetic Fields Private publication, 1985, 1986

Cross Currents Tarcher/Putnam, NY/CA, 1990

Memberships

American Association Advancement of Science
New York Academy of the Sciences
Bioelectromagnetics Society
International Society of Bioelectricity

Public Service

Committee on Bioeffects, Joint Tactical Advisory Committee, IEEE, 1965

Bioeffects Committee, Project Sanguine US Navy, 1973

Initiator, first public hearing on health effects high voltage electrical power lines New York State Public Service Commission, 1976

Originator, New York State Power Lines Project, New York State Department of Health, 1980-1985

A Report to the Board of Supervisors of Marin County, California Regarding Potential Non-Thermal Effects of Electromagnetic Radiation from a Cellular Telephone Facility on Mount Barnabe Operated by Bay Area Cellular Telephone Company

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March 22, 1996

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NATURE AND ORIGINS OF THE EMF REPORT

This report, which is referred to as the "EMF Report", was prepared to partially fulfill the terms of an agreement (the "Settlement Agreement") by the Mount Barnabe Homeowners Association ("MBHA"), the Bay Area Cellular Telephone Company ("BACTC") and Marin County to settle a lawsuit (*Mount Barnabe Homeowners Association v. County of Marin*, (Marin County Superior Court Case No. 161428)).

The principal issue in the lawsuit is whether the County should require BACTC to prepare an environmental impact report ("EIR") under the California Environmental Quality Act ("CEQA"), because nonthermal effects of electromagnetic fields ("EMF") from a cellular facility proposed by BACTC may significantly affect people in the vicinity of the facility. The County concluded the cellular facility BACTC proposed to install on Mount Barnabe would not have a significant effect on the environment and issued a CEQA determination of nonsignificance. It did not require BACTC to prepare an EIR. MBHA appealed the County's CEQA determination to Superior Court.

Rather than continue to litigate the matter for now, the parties to the lawsuit agreed to select a consultant to reconsider the issue of whether BACTC should be required to prepare an EIR based on a relatively narrow scope of inquiry. Paragraph 2 of the Settlement Agreement provides in relevant part as follows:

> g. After consultation with the TAC [Technical Advisory Committee], the consultant retained to prepare the EMF Report shall survey existing peer-reviewed studies and summaries/studies prepared by governmental and quasi-governmental agencies (e.g., American National Standards Institute or National Council for [*sic*] Radiation Protection), as well as other published scientific reports relating to non-thermal effects associated with emissions of electromagnetic frequency radiation. The consultant shall use these studies and/or summaries to determine whether there is a fair argument (as described in 14 Calif. Code Regs. § 15064(g)) that emissions from BACTC's Mount Barnabe cell site may have a significant adverse impact on people in the vicinity of the Mount Barnabe Fire Lookout Station. In preparing the EMF Report and determining whether there is a fair argument that emissions from BACTC's Mount Barnabe cell site may have a significant adverse impact on people in the vicinity of the Mount Barnabe Fire Lookout Station, the consultant shall also consider:
>
> i. The frequency and power density of emissions from BACTC's Mount Barnabe cell site;
>
> ii. The proximity of people to the Mount Barnabe Fire Lookout Station;

iii. The reports and testimony included in the Administrative Record, including, without limitation, the Wang Report, the Polson Report, the Hammett & Edison Report, and the two declarations of Dr. Andrew Marino;

iv. Any Additional Evidence submitted by the parties pursuant to paragraph 3 below; [1]

v. The potential cumulative effects, if any, of the BACTC facility in conjunction with existing facilities located at the Mount Barnabe Fire Lookout Station; and

vi. Any other factor(s) or information the consultant deems appropriate.

h. Upon review of the scientific literature, the consultant shall stipulate, for continuous public exposure (including exposure to children, embryos/fetuses, populations that may be sensitive to electromagnetic frequency exposure, the infirm, and people who are immunologically compromised) at the Mount Barnabe Fire Lookout Station, the exposure power density and associated specific absorption rate at cellular frequencies below which, in his/her opinion, one could reasonably be assured that there would not be any deleterious human or environmental effects.

The Settlement Agreement directs the consultant to submit the EMF Report to the County within 60 days after the date the consultant was retained. By agreement of the parties and under the terms of the contract between the consultant and Marin County, that date was later extended by 15 days to a total of 75 days from the date of retention. The consultant was retained January 9, 1996. Therefore the EMF Report is due by March 25, 1996.

The Settlement Agreement further provides that County staff will prepare a report about non-thermal effects of electromagnetic frequency radiation emitted from the BACTC Mt. Barnabe cell site summarizing the EMF Report and recommending further action by the Board of Supervisors consistent therewith. The Board of Supervisors will hold a public hearing to consider the staff report and other relevant testimony and evidence and to consider taking further actions within its jurisdiction. A party may petition the court to restart the litigation following the final action of the Board of Supervisors in this matter.

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1 Paragraph 3 of the Settlement Agreement provides as follows:

> Any party to this Settlement Agreement shall file with the County, the TAC, and/or the consultant preparing the EMF Report any additional documents, studies or other evidence relating to non-thermal effects from electromagnetic frequency radiation ("Additional Evidence") the party believes should be included in the administrative record no later than 20 days after the Retention Date by facsimile or overnight mail.

Until the Board of Supervisors holds a public hearing and rescinds or modifies its earlier actions authorizing the BACTC facility or until a court requires otherwise, the Settlement Agreement authorizes BACTC to install, operate and maintain the cellular facility that is the main subject of this report. BACTC does so at its own risk.

This Report has been prepared consistent with the terms of the Settlement Agreement as amended by subsequent agreement of the parties. The parties submitted to the consultant citations to cases in which the "fair argument" rule is addressed. See Appendix A. The consultant reviewed those cases and summarizes his understanding of the law later in this Report. The parties also submitted to the consultant citations to or copies of documents relevant to the issue of whether there is a fair argument that EMF from the proposed BACTC facility may have a significant adverse impact on people in the vicinity of the Mount Barnabe Fire Lookout Station. The cited documents are listed in Appendix B and form the basis for the consultant's conclusions in the main body of this Report.

The consultant who prepared the EMF Report is a lawyer (in Oregon) and a land use planner, not a scientist or medical professional. The consultant is familiar with the concepts and issues addressed in the Report from literature-based research the consultant has done since 1979 to advise local governments, including Marin County, about regulating siting of facilities that generate radiofrequency EMFs. The EMF Report is the professional opinion of the consultant after many hours spent reading and considering the cases in Appendix A and the literature in Appendix B.

STATEMENT OF THE ISSUE

The issue addressed in the EMF Report is whether there is substantial evidence in the record on which the EMF Report is based that a fair argument can be made that the EMF emissions of the proposed BACTC facility, alone or in combination with other existing sources of EMF emissions, may have a significant impact on the environment.

APPROACH TO THE ISSUE

The consultant read the cases cited by the parties to gain an understanding of the law relevant to the report. See Appendix A and pages 9 - 11 of the Report for a summary.

The consultant then read the administrative record prepared by the County in this matter and all of the literature cited or provided by the parties. See Appendix B.

From the record, the consultant identified the basic facts relevant to the case, i.e., relevant to the BACTC application and the site of the proposed cellular facility. See pages 6 - 8 of the Report for a summary.

From the literature, the consultant distinguished between evidence that was apparently "substantial" on its face, and evidence that was not apparently "substantial" on its face. Much of the administrative record before the County was not relevant or was not probative; therefore it was not "substantial" on its face. Evidence that was not "substantial" on its face was not considered further.

From the evidence that was "substantial" on its face, the consultant distinguished between evidence that purported to show *directly* that radiofrequency EMF radiation may cause significant effects and evidence that purported to show *by inference* that EMF radiation may cause such effects.

The consultant then evaluated the reasonableness of the inferences that would have to be drawn from the indirect evidence to show radiofrequency EMF radiation may cause such effects, given the whole record on which the EMF Report is based.

Based on the consultant's conclusions after reviewing the foregoing information, the consultant recommends maximum permissible exposure levels for EMFs.

SUMMARY OF THE CONCLUSIONS

The consultant concludes, based on the whole record, that EMF radiation can have certain observable effects on biological systems or parts that cannot be explained solely on the basis of heating. Therefore, under certain conditions involving combinations of frequency, mode, power, duration, ambient temperature, relative location or geometry, species, predisposition of the subject and other factors, EMF radiation appears to contribute to or to cause nonthermal effects. But the existence of nonthermal effects from EMF radiation does not constitute substantial evidence that such effects are significant or adverse.

There is no direct evidence that EMF radiation at the power levels and frequency relevant in the BACTC case causes significant effects.

There is indirect evidence, including expert testimony, that EMF radiation causes nonthermal effects and that those effects may be significant. However the consultant finds that inferences that need to be drawn from such evidence and testimony to show the EMF radiation in this case is significant are not reasonable. Such inferences are not supported by facts and/or do not show that such effects may be significant. Therefore such evidence is not "substantial evidence" as that term is used in CEQA.

Therefore, based on the whole record, the consultant concludes there is not substantial evidence that a fair argument can be made that EMF radiation from the BACTC facility on Mount Barnabe, alone or in combination with other existing sources of EMF emissions, may have a significant adverse effect on people in the vicinity of that facility or on the environment generally.

The consultant further concludes and recommends that Marin County allow EMF emissions that do not exceed the standards articulated in IEEE C95.1-1991. The record as a whole substantiates that continuous public exposure to emissions consistent with those standards, which allow a whole-body averaged specific absorption rate ("SAR")[2] of 0.08 watts per kilogram ("W/kg"), does not result in any deleterious human or environmental effects.

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2 Specific Absorption Rate ("SAR") is the time rate at which radiofrequency EMF (from approximately 3 Mhz to 6 GHz) is imparted to a unit of mass of a biological body. Reference 3, p. 24. Basic facts about EMF radiation are summarized in Appendix C

BASIC FACTS ABOUT THE MOUNT BARNABE SITE

The relevant basic facts about the Mount Barnabe site are in studies prepared by Hammett and Edison, Inc. in June, 1994 (Reference 27, pp. 125-143) and in July and September, 1995 (References 29 and 30, respectively), a report by H.L. Wang (Reference 27, pp. 2-10), and a report by P. Polson (Reference 27, pp. 938-946).

The Mount Barnabe site is developed with a Fire Lookout that is 31 feet tall. A balcony surrounds the Lookout. Public access is permitted to the Lookout balcony.

The Lookout supports 17 antennas, most of which are mounted above the roof. Public access is not permitted to the roof. Four "dish" microwave antennas are mounted to the side of the building. Three of the microwave antennas are operated by the County and one by BACTC. One UHF yagi antenna on the east wall of the building is used by an amateur radio group. Four of the antennas do not transmit.

Pursuant to the Settlement Agreement and prior approval by Marin County, BACTC recently installed three omni-directional antennas on the building, one of which is a transmitting antenna that is the subject of the lawsuit and the focus of this EMF Report.

About 10 feet east of the Lookout is a steel tower on which five antennas recently were relocated from the Lookout. The Board of Supervisors ordered this relocation based on the results of the 1994 Hammett and Edison study. By increasing the distance between the antennas and the Lookout balcony, the tower resulted in reduced EMF exposure levels for the general public on and in the vicinity of the Lookout.

Members of the general public are most exposed to EMF from the BACTC site when situated on the Lookout balcony. Their exposure in that location would be for a relatively short period of time. That is, tourists typically climb the Lookout to observe the view. Once they have done so, they return to ground level. The location closest to the Lookout where members of the general public would be exposed for longer periods of time (i.e., up to 24 hours a day) is a dwelling situated about 738 feet northeast of the Lookout.

Ground level fields from antennas on the Lookout and the adjoining tower are always lower than those on the Lookout balcony, because the ground is farther from the antennas,[3] and the antennas radiate most power in a horizontal plane to maximize their coverage. Downward-directed energy generally serves no purpose and is minimized.

The BACTC antenna that is the main subject of this EMF Report radiates omnidirectionally in the horizontal plane and has eight channels. It transmits at a frequency of 869 megahertz ("MHz"). It is mounted about 35 feet above the ground. Each channel has an effective radiated power ("ERP") of 50 watts (relative to the dipole) resulting in a maximum possible output power of 400 watts. Based on the Polson report, the BACTC antenna has a vertical 3-dB beam width of about 7 degrees.

The Hammett and Edison reports include actual field measurements of electric fields and equivalent plane wave power densities from each of the transmitters on the Mount Barnabe site. The field measurements were made using instruments and protocols consistent with broadly accepted engineering practices.

The Hammett and Edison measurements are based on worst case conditions (e.g., assuming all transmitters are operated concurrently at maximum power and result in maxima at the same location). In actual use, the total power radiated by antennas will be less. For instance, a given land mobile (two-way) antenna will transmit only part of the time, and the cellular transmitters will be operated only at 40 percent of their maximum possible power level. Also the point at which maximum fields occur will vary with the location and propagation characteristics of the antenna.

The results of Hammett and Edison's latest field measurements are the most useful for purposes of the EMF Report, because they were made after installation of the BACTC facility that is the main subject of this report, and they include fields emitted by all of the other transmitting antennas on the Mount Barnabe site. Results of those measurements appear in Table 1. The BACTC facility is transmitter no. 1.

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3 Once removed about a wavelength from a transmitting antenna, power density associated with that antenna dissipates at a rate equal to the inverse square of the distance from the antenna. That is, if the power density is "x" at a given distance from the antenna, then the power density would be "x/4" at a point twice as far from the antenna.

TABLE 1

EMF EMISSION LEVELS ON MOUNT BARNABE[4]

Transmitter	Frequency (MHz)	Electric field (V/m)	Power Density (μW/cm²)	IEEE limit[5] (μW/cm²)	Fraction of limit
1	869.0000	13.0	45	569	0.077
2	155.1000	6.1	10	200	0.049
3	463.0000	2.8	2	309	0.007
4	170.1000	6.0	10	200	0.048
5	439.8750	4.7	6	293	0.020
6	856.7375	1.1	0	571	0.001
7	46.2800	2.8	2	200	0.010
8	39.2400	12.0	38	200	0.191
9	39.5800	16.5	72	200	0.361
10	156.2400	5.5	8	200	0.040
11	857.9375	1.1	0	572	0.001
12	151.4150	4.5	5	200	0.027
15	860.9375	1.1	0	574	0.001
16	451.9375	0.6	0	301	0.000
Total					0.833

[4] Dr. Marino opined that "the radiation characteristics of the antennas presented mounted have not been adequately characterized... The radiation characteristics of the antennas that constitute the proposed expanded use of the site have also not been characterized." Reference 27, p. 860. Based on the information in Table 1 and References 29 and 30, the consultant finds the record shows clearly that the radiation characteristics of the existing and proposed antennas have been characterized sufficient to evaluate their potential for causing significant effects. Dr. Marino's opinion in this matter is not supported by facts.

[5] IEEE is the acronym for the Institute of Electronic and Electrical Engineers. IEEE has promulgated standards and guides for the safe use and measurement of electromagnetic energy up to 300 Gigahertz ("GHz"). The limit identified in the table is referred to as "IEEE C95.1-1991." See Reference 3

SUMMARY OF THE RELEVANT LAW

The law that is relevant to the EMF Report is the California Environmental Quality Act ("CEQA"). CEQA lays out a three-stage process. (*No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d 68, 74, 118 Cal.Rptr. 34, 529 P2d 66 (1974); Guidelines, § 15002, subd. (k))

First, the agency must determine whether the particular activity is covered by CEQA. (Guidelines, § 15002, subd. (k)(1)) CEQA applies to any activity which is a "project" and which is not exempt. Generally speaking, any activity a public agency has discretion to carry on or to approve which has the potential for resulting in a physical change in the environment is a "project". (*Gentry v. Murrieta City*, 35 Cal.App.4th 1359, 43 Cal.Rptr.2d 170 (1995))

Marin County is a public agency. It had discretion whether to approve a permit for the BACTC facility. Therefore the BACTC facility is subject to compliance with CEQA.

Having decided whether an activity is a project subject to CEQA, the agency next must determine whether the project may have significant environmental effects. (Guidelines, § 15063, subd. (k)(2)) Except when the project clearly *will* have such effects, the agency must conduct an initial study to assist it in making this determination. (Guidelines, §§ 15063, subds. (a), (c)(1), 15365 (emphasis in original))

Based on the initial study, the agency may find no substantial evidence that the project may have a significant effect on the environment. In that case, in lieu of an environmental impact report ("EIR"), it may adopt a statement that the project will have no significant environmental effect. Such a statement is called a negative declaration. (Cal. Pub. Resources Code §§ 21064, 21080, subd. (c); Guidelines, §§ 15063, subd. (b)(2), 15064, subd. (g)(2), 15070, subd. (a), 15371)

If the record contains substantial evidence that a fair argument exists that the project may have a significant effect on the environment, the agency cannot adopt a negative declaration: it must go on to the third stage of the CEQA process: preparation and certification of an EIR. (*Quail Botanical Gardens Foundation, Inc. v. City of Encenitas*, 29 Cal.App.4th 1597 at pp. 1601-1602, 35 Cal.Rptr.2d 470 (1994); §§ 21100, 21151; Guidelines, §§ 15002, subd. (k)(3), 15063, subd. (b)(1), 15064, subds. (a)(1), (g)(1), 15362)

Whether there is substantial evidence that a fair argument exists that a project may have a significant effect on the environment is largely a legal issue rather than factual. The agency does not resolve conflicts in the evidence but determines only whether substantial evidence exists in the record to support the prescribed fair argument. (*Sundstrom v. County of Mendocino*, 202 Cal. App.3d 296, 311, 248 Cal.Rptr 352 (1988))

If such evidence is found, it cannot be overcome by evidence to the contrary. (*Leonoff v. Monterey County Bd. of Supervisors*, 222 Cal.App.3d at p. 1348, 272 Cal.Rptr 372 (1994); *Citizen Action to Serve All Students v. Thornley*, 222 Cal.App.3d at p. 754, 272 Cal.Rptr. 83 (1990); *City of Carmel-By-The-Sea v. Board of Supervisors*, 183 Cal.App.3d 229 at 244-245, 227 Cal.Rptr. 899 (1986);*Friends of "B" Street v. City of Hayward*, 106 Cal.App.3d at p.1002, 165 Cal.Rptr. 514 (1980))

The lead agency, however, has some discretion to determine whether particular evidence is "substantial." (*Gentry v. Murrieta City*, 35 Cal.App.4th 1359, 43 Cal.Rptr.2d 170 (1995) at 198-199; *Newberry Springs Water Assn v. County of San Bernadino*, 150 Cal.App.3d 740, 750, 198 Cal.Rptr. 100 (1984); *Brentwood Assn for No Drilling, Inc. v. City of Los Angeles*, 134 Cal.App.3d 491, 504, 184 Cal.Rptr. 664 (1982))

The determination of whether or not evidence is "substantial" is in itself a weighing process. An agency is not supposed to look only to some evidence to the exclusion of all contrary evidence. Evidence which rebuts, contradicts or diminishes the reliability or credibility of evidence is properly considered. The absence of supporting evidence also is properly considered. The agency must assess both the evidence in favor of the significant environmental impact and the evidence to the contrary --- only then can it properly decide if there is a fair argument supported by substantial evidence in light of the whole record. (*Citizens' Committee to Save Our Village v. City of Claremont*, 37 Cal.App.4th 1157, 1168, 44 Cal.Rptr.2d 288 (1995); *Lucas Valley Homeowners Assn. v. County of Marin*, 233 Cal.App.3d 130, 142, 284 Cal.Rptr. 427 (1991); *City of Antioch v. City Council of the City of Pittsburg*, 187 Cal.App.3d 1325, 1331, 232 Cal.Rptr. 507 (1987); Cal. Pub. Resources Code § 21080(d))

The operative words in the so-called fair argument standard are "substantial evidence." Argument, speculation, unsubstantiated opinion or narrative and evidence which is clearly inaccurate or erroneous is not substantial evidence. "Substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion supported by

facts." (Pub. Resources Code § 21080(e) (emphasis added); *Citizens Committee v. City of Claremont*, 44 Cal.Rptr.2d at 494-495)

Substantial evidence does not mean overwhelming or overpowering evidence. Substantial evidence is simply evidence which is of "ponderable legal significance ... reasonable in nature, credible and of solid value." (*Lucas Valley Homeowners Assn. v. County of Marin*, 233 Cal.App.3d at p. 142, 284 Cal.Rptr. 427 (1991)) CEQA Guidelines state that "'Substantial evidence' is "enough relevant information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (Cal. Code Regs., tit. 14, § 15384, subd. (a))

If there is a serious public controversy over the environmental effects of a project, such that both sides of the controversy present conflicting evidence or conflicting expert testimony, the general guide is that an EIR shall be required. But the general guide applies only "in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment." (Cal. Code Regs., tit. 14, § 15064 (h))

Presumably if the local agency can decide that the case is not marginal, or that evidence on one side substantially outweighs or detracts from the probative value of evidence on the other side, the general guide does not control. This appears to have been the result in one case where the court rejected one expert's opinion that a one percent increase in traffic at an intersection was significant, noting "conflicting assertions do not *ipso facto* give rise to substantial 'fair argument' evidence. (*Citizen Action to Serve All Students v. Thornley*, 222 Cal.App.3d 748 at p. 755-756, 272 Cal.Rptr. 83 (1990))

If the local agency has failed to study an area of possible environmental impact, a fair argument may be based on the limited facts in the record. Deficiencies in the record may actually enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences. But an absence of evidence in the record on a particular issue does not automatically invalidate a negative declaration. The lack of study is not evidence that there will be a significant impact. (*Leonoff v. Monterey County Bd. of Supervisors*, 222 Cal.App.3d at p. 1354, 272 Cal.Rptr. 372 (1990))

POTENTIAL HEALTH EFFECTS OF EMF EXPOSURE

Potential health effects of EMF have been studied for about thirty years. By 1993, there were more than 12,000 such studies and the number of studies grows several hundred per year. Reference 27, pp. 942.[6]

Energy from radiofrequency (RF) EMFs can be absorbed by people causing molecules to move rapidly and creating heat. For people and most other mammals, this added heat may amount to 70 percent or more of the metabolic heat production (1 to 3 W/kg) before a significant rise is tissue temperature occurs (>0.1° C), because the body has an efficient thermoregulatory system that endeavors to maintain homeostasis. Secondary effects of RF EMFs attributable to elevated temperature have been well categorized and in general differ little from effects of hyperthermia induced by other means. These effects are not the subject of the EMF Report.

Some tissue interactions with RF EMFs produce temperature increments orders of magnitude less than 0.1 C. These interactions cause physiological and perhaps other changes that cannot be attributed to elevated temperature *per se*. Reference 10, p. 145. But there is a dispute about whether and at what levels such effects may occur and whether they are significant to human health. That dispute is the focus of this Report.

The controversy regarding the existence and significance of nonthermal effects is ongoing. As stated by the National Council on Radiation Protection and Measurements (NCRP):

> The lack of quantitative data on the biological effects of RFEM fields has resulted in widespread concern that such exposure poses the risk of injury to health regardless of intensity. Although there are several thousands of reports --- scientific papers, books, articles, and newspaper accounts --- of widely varying scientific quality that present data or opinion on the biological response to RFEM radiations, no consensus has emerged regarding thresholds and mechanisms of injury at specific absorption rates (SARs) below a few watts per kilogram (W/kg). The wide variation in RFEM-radiation exposure criteria around the world reflects this absence of consensus...

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6 That was part of the rationale advanced by the attorney for the MBHA for requiring an EIR in this case, i.e. that "considerably more research has been performed in the five years since the county issued its [telecommunications facility] Policy Plan." Reference 27, p. 2160. Nevertheless none of the references provided by the MBHA were published after adoption of the County Policy Plan. That plan was based on an analysis of potential significant effects of RF facilities and specifically addressed nonthermal effects noting that they are not proven. The lack of more recent evidence to support the position advocated by Dr Marino on behalf of the MBHA detracts from the probative value of the testimony that research performed in the last five years supports the position advocated by witnesses for MBHA.

> The complexity of the interaction of [RFEM] fields with biological systems makes it difficult to interpret the large volume of literature on the subject, because a substantial fraction of the research reported in the literature lacks the essential quantitation discussed in NCRP report No. 67.[7] The biological effects of exposure to RFEM fields depend on many factors that complicate the interpretation of the literature ...
>
> Unlike ionizing radiation, RFEM radiation must be specified in terms of carrier frequency, modulation, electric and magnetic field strengths (or power density when applicable), and zone of irradiation (near or far field). Also complicating the task of recommending exposure guides is the fact that unrestricted exposure of the body to a plane-wave or a multipath field at a given intensity can have results far different from those of partial-body exposure at the same intensity... [T]he spatially averaged field strength, depending on the volume of space over which the fields are averaged, may vary for a given body from practically zero to levels far exceeding any proposed limit on exposure....
>
> There is an inherent difficulty in distinguishing and discriminating between thermal and athermal effects, a difficulty borne both of a methodological problem and of faulty inference. When, for example, a complex organism exhibits a behavioral or physiological response to irradiation by an RFEM field, the phenomenological character of the response provides no definitive leverage on which mechanism of three possible classes is operative: thermal, athermal (field-specific) or the two in combination... The issue of faulty inference is exemplified by the widely held view in the bioelectromagnetics community that biological responses to weak fields are *a priori* evidence of athermal causation.... [T]he strength of the incident field has no *a priori* bearing on the question of mechanisms." Reference 5. pp. 1-3, 6-7.

Following a format used by the many of the authors whose work forms the record for the EMF Report, the consultant will discuss possible nonthermal effects as follows:

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7 NCRP states that the following factors are "critical" to the performance and reporting of experiments for assessing the effects of RFEM fields:

1. Power density (or E and H field strengths) and specific absorption rates.
2. Duration of exposure and exposure schedule.
3. Wavelength or frequency of the radiation.
4. Mass and dimensions of the biological target.
5. Thermoregulatory capabilities of the organism.
6. Tissue thickness and composition.
7. Orientation of the subject with respect to field vectors.
8. Waveform (continuous or pulsed and modulation factors).
9. Electrical and biological shielding and shadowing.
10. Environmental factors (e.g., ambient temperature, relative humidity, light and air velocity).
11. Physiological and psychological status of the subject (anesthesia, restriant, handling, nutritional state, feeding and watering schedule).
12. Experimental design and instrumentation (RFEM source, monitoring equipment, etc.).
13. Sample size and statistical analyses. (Reference 10, p. 38)

1. Epidemiological studies
2. Macrocellular and cellular effects
3. Chromosomal and mutagenic effects
4. Carcinogenesis
5. Effects on reproduction, growth and development
6. Effects on hematopoietic and immune systems
7. Effects on endocrine system
8. Effects on cardiovascular function
9. Effects on the blood-brain barrier
10. Effects on the central nervous system
11. Effects on behavior
12. Cataractogenesis

1. Epidemiological studies

Epidemiological studies could provide the best evidence of nonthermal effects, because such studies involve human subjects in real world settings. However epidemiological studies of exposure to radiofrequency EMF are few in number and are generally limited in scope. Most such studies have been of people in military service or in industrial settings. Many such studies are unable to reconstruct exposure data from available records or the recall of study subjects. Most such studies have not been able to calculate cumulative or averaged SARs or average field strengths. Most of the studies that have been done involve EMFs at extra low frequency (ELF) rather than at radiofrequencies (RF). See Appendix E for a brief discussion of why ELF and RF EMFs have different effects.

One study of more than 40,000 members of the military exposed to RF EMFs from 1955 to 1976 (mortality by specific cause of death, hospitalization during military service, later hospitalization during military service, and VA disability compensation), including a large group exposed to EMFs at SARs of less than 1 mw/cm^2, showed no adverse effects attributable to EMF exposure. (Reference 10, pp. 207-211).

Long-term, low-level RF EMF exposure of American Embassy personnel in Moscow (maximum power densities of ≤5 μW/cm^2 for 9 hr/day and of <1 to 15 μW/cm^2 for 18 hr/day) showed no difference in health status when compared to foreign service personnel or their dependents in other stations or to scientists at Johns Hopkins. (Reference 10, pp. 213-214, Reference 15, pp. 537-538)

Other epidemiological studies of specific health effects are described in the sections of the report related to those effects. The consultant concludes these studies do not show exposure to nonthermalizing levels of RF EMFs, like the BACTC facility, cause significant effects if any. Studies do not and probably cannot show low levels of RF EMFs do not cause any effects. But the weight of the evidence is such that most researchers would agree with the conclusion of a recent study that:

"The lack of converging epidemiological and biological support for the occasionally reported adverse health effects [from ELF EMFs] is consistent with calculation of quantities based on fundamental laws of physics for describing electric or magnetic fields. These calculations show that the electric and magnetic fields induced in the human body from external ELF-EMF sources are very weak and generally much weaker than intrinsic fields created by the normal, natural thermal movement of ions within the body. Given this lack of conclusive evidence, any assessment of health risk associated with fields emitted by these sources would be speculative and seemingly unjustified." Reference 12, p. 17.

Although ELF EMFs interact differently with the body than RF EMFs (see Appendix E), the conclusion reached in the foregoing study applies equally to RF EMFs.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects based on epidemiological studies are not supported by facts; therefore such inferences are not reasonable.

2. Macrocellular and cellular effects

After reviewing more than 30 recent experiments reviewing macrocellular and cellular effects, the NCRP concluded "irradiation of the enzyme solutions in the experiments reported above had few effects not attributable to elevated temperature." (Reference 10, p. 23) "[O]ver a wide range of frequencies and power densities there appear to be no effects of RFEM radiation on mitochondrial structure and function not attributable to changes of temperature." (Reference 10, p. 27) "In the studies of microorganisms discussed here, irradiation did not result in genetic, cell-replication, colony-forming, molecular-structural or survival effects, with the possible exception of stimulation of photosynthesis in algae." (Reference 10, p. 30; Reference 26, pp. 22-23) "The weight of the evidence is that, with the exception of calcium efflux experiments, ... athermal effects of microwave power on

cellular function are difficult to demonstrate." (Reference 10, p. 34) NCRP failed to find any effect on cell transformation and tumor cells that cannot be explained by temperature changes, noting that "even small temperature changes (≥0.2 C) can significantly increase growth." (Reference 10, pp. 35-37)

Regarding calcium ion efflux, a recent review of more than 40 studies involving mostly *in vitro* exposures at ELFs (see Appendix E) concludes "under specific combinations of conditions, electric and magnetic fields can influence biological processes as monitored by calcium ion release from tissues... Taken together, the evidence overwhelmingly indicates that electric and magnetic fields can alter normal calcium homeostasis and lead to changes in the response to biological systems to their environment. It remains to be clearly demonstrated that these field-induced perturbations force the biological systems beyond the normal physiological range to a level at which the pre-exposure equilibrium cannot be restored and permanent changes occur that could result in an unhealthy biological response." Reference 23, pp. 204-205.

Studies of cells *in vitro* show "definite evidence of direct, frequency dependent and field strength dependent alterations of various types of mammalian cells that cannot be attributed to heating per se." The outer surface of the cell membrane is the primary locus for EMF-induced cellular effects. Reference 4, chapter 14. It may be concluded that EMF-induced cellular alterations in *in vitro* systems occur at approximately the same levels as encountered in occupational settings, which are at higher power levels and at different frequencies than occur at the BACTC site. There are major impediments to use of *in vitro* data for predicting effects *in vivo*, including the lack of an apparent dose/response relationship, dosimetric and power density uncertainties, and the lack of an adequate theory to explain the extremely low interaction energies, intensities and modulation windows and apparently complex temporal dependency at which effects have been observed *in vitro*. Reference 26, p. 35.

It is not shown directly and cannot be reasonably inferred from the record that RF EMFs at power levels and frequencies relevant in this case cause changes in calcium ion efflux or other cellular parameters. Even if they do, based on the ELF experiments, they have not been shown to cause effects that are significant, (i.e., they have not been shown to cause effects that are permanent or exceed the capacity of the body to accommodate them safely).

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on cells are not supported by facts; therefore such inferences are not reasonable.

3. Chromosomal and mutagenic effects

One of the studies cited by MBHA includes the following conclusions about potential effects of nucleic acids, genes and chromosomes (Reference 23, chapter 5):

- DNA in aqueous solutions have been shown to absorb microwaves. Absorption increased with increasing DNA chain-length and with frequency. It remains to be seen whether this resonant absorption is relevant to any biological effect *in vivo*.

- With few exceptions, attempts to induce gene mutations and sister chromatid exchanges[8] by exposure to EM fields have been unsuccessful.

- RF EMFs have been shown to induce chromosomal aberrations in a number of test systems; however, it is difficult to state unequivocally that these effects are nonthermal. Also the results are not consisten , and most studies failed to show any effect.

- In the absence of thermal effects, nonionizing EM fields do not cause DNA damage measurable by DNA breaks, DNA repair, or differential killing of repair defective organisms.

The NCRP concluded "RFEM fields under certain conditions of exposure has been shown to induce various types of chromosomal aberrations... Highly thermalizing fields induce chromosomal stickiness and breakage as contrasted to lower levels of exposure where this phenomenon has not been reported... A threshold power density or field strength for the induction of chromosomal aberrations cannot be specified, but such effects do not appear to be induced at powe densities below 1 mW/cm^2 or at field strengths ≤ 200 V/m... There are at present no known mechanisms for the induction of mutations or chromosomal aberrations by RFEM radiation at nonthermagenic intensities." Reference 10, p. 43.

References 1, 2 and 6 through 9 also support the conclusions listed above. Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on chromosomes are not supported by facts; therefore such inferences are not reasonable.

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8 Sister chromatid exchanges (SCEs) are the most sensitive index of chemical interaction with the DNA of the cell. Reference 1.

4. Carcinogenesis

Carcinogenesis is the process of inducing cancer or malignant neoplasia. Neoplasia is uncontrolled growth or cell division in tissue. A malignant neoplasm or cancer is a group of cells that replicate uncontrollably and has the capacity to shed cells which enter the blood stream and travel to other parts of the body to colonize and form new tumors.

In recent years carcinogenesis has been viewed as a multi-stage process that, at its simplest level, consists of (1) the induction of malignant transformation by genetic damage, (2) promotion or the enhanced growth or survival of malignantly transformed cells, and (3) progression of malignant cells through the blood stream to other parts of the body.

One of the two principle arguments made by MBHA to show nonthermal EMFs from the BACTC facility may be significant is that cancer development is influenced by EMFs. Dr. Marino cited 33 studies from 1979 to 1991 to support his testimony. See Reference 27. pp. 864-870. But the consultant concludes those studies do not support the inferences urged by Dr. Marino, because they are not reasonably related to the exposure conditions in the BACTC case, they lack details necessary to evaluate their probative value, and/or they are so at odds with the substantial weight of scientific studies that they are not reliable.

- At least 9 of the studies cited in Dr. Marino's testimony involve power lines, which emit EMFs at a frequency of 50-60 Hz, commonly referred to as extra low frequencies (ELF). ELF and RF fields interact differently with the body. See Appendix E. Based on the differences between ELF and RF EMFs and their interaction with biological systems, inferences about the effect of RF EMFs based on evidence about ELF EMFs are not reasonable when not supported by a plausible model or laboratory evidence linking them.

- The other studies cited in Dr. Marino's testimony generally do not specify the source of the EMFs. Therefore it cannot be determined whether the frequencies in question are ELF, RF or something else.

- None of the studies reported in Dr. Marino's testimony include information about power densities or SARs. Other references in which these studies are discussed in more detail more completely summarize those studies. Many of the studies cited by Dr. Marino involve ELF and microwave frequencies, rather than RF frequencies relevant to the BACTC site. Most involve power densities and SARs several orders of magnitude higher

than the power densities and SARs relevant to the BACTC facility. Many do not include sufficient controls to be replicated reliably. Many report the existence of numerous confounding factors, such as working conditions that are adverse for reasons wholly unrelated to EMF exposure.[9]

The foregoing factors substantially undermine the probative value of the studies cited as the basis of Dr. Marino's inferences. Other evidence in the record does so too.

An independent biostatistical study of 32 recent publications on effects of EMFs, including some of those studies cited by Dr. Marino, found that there was "no conclusive evidence of harmful effects except for laboratory studies where RFEM radiation produced substantial heating." Reference 15, p. 536.

A review of epidemiological studies of ELF EMF exposure and cancer, including residential exposure, concluded "it is extremely difficult to interpret the results of recent epidemiological studies that have found an apparent correlation between exposure to ELF fields and cancer incidence. The levels of current density in tissue by occupational or residential exposure are, in nearly all circumstances, significantly lower than the levels found in laboratory studies to produce measurable perturbations in biological functions." Reference 23, p. 309.

Another recent review of 8 epidemiological studies of exposure to ELF fields, including studies cited by Dr. Marino, concluded that they "suffer from design and methodological problems, which in their entirety preclude any definitive statement regarding carcinogenicity of RF radiation... Based on the findings of these RF radiation studies, there appears to be little evidence to conclude or deny that a cancer risk exists from exposure to RF radiation." Reference 24, chapter 3.

Another peer review of the literature concludes "there is no convincing evidence in the published literature to support the contention that exposures to extremely low frequency electric and magnetic fields ... are demonstrable health hazards. Epidemiological findings

9 For instance, a study of leukemia among electrical workers showed risk factors of 1.1 to 1.8, leading the authors to conclude there is a weak correlation between employment in electrical occupations and leukemia risk. (Leukemia is a family of neoplastic diseases of the hematopoietic system in which a clone of cells proliferates abnormally, placing normal marrow, infiltrating other hematopoietic tissues, and leading to death.) But they pointed out that none of the epidemiological surveys on which their conclusion were based established that exposure to ELF EMFs is the causal factor leading to an elevated cancer risk among workers. Reference 23, pp. 109, 306-307.

of an association between electric and magnetic fields and childhood leukemia or other childhood or adult cancers are inconsistent and inconclusive. No plausible biological mechanism is presented that would explain causality. Neither is there conclusive evidence that these fields initiate cancer, promote cancer, or influence tumor progression." Reference 12, pp. 16-17.

In testimony before the Illinois Commerce Commission, another researcher reviews several of the 70-plus epidemiological studies of ELF EMF emissions and cancer, concluding that there is no causal association. Reference 17, particularly pp. 10-13.

A 1996 peer review by an epidemiologist at the American Cancer Society of more than 50 studies concludes that epidemiological data linking cancer and EMFs is weak, inconsistent and inconclusive leaving the researcher "uncertain and rather doubtful that any real biological link exists between EMF exposure and carcinogenicity." Reference 18, p. 42.

A peer review of 129 studies regarding the potential relationship of cancer and EMFs, including studies completed between 1991 and 1996, includes the following findings:

- Most of the studies involve ELF and power density and SARs much higher than relevant in the BACTC case. Even so, the risk ratios relating cancer to exposure of all forms of EMF is <1 to 3.[10] If EMFs were a significant risk factor for cancer, risk ratios would be much higher. For instance, the risk of developing lung cancer from exposure to certain kinds of asbestos is 5 to 20. The risk ratio of liver cancer from exposure to chlorinate solvents is as high as 200. Some known carcinogenic viruses have risk ratios in excess of 200. Because of the low (and some negative)[11] risk ratios involving EMFs and cancer, it cannot be inferred that exposure to EMFs is causally related to cancer.

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10 "Risk ratio" is a generic term commonly used in epidemiology to describe a number of specific measures of the extent to which individuals in one population are more or less likely to develop a condition that individuals in another population. It is difficult to identify a specific threshold where a risk ratio indicates a causal relationship between a given agent and condition. The risk ratio required to identify such a threshold varies based on the quality of the study, the level of exposure in the environment, the size of the population and other factors. Particularly where laboratory data do not provide strong evidence for carcinogenicity, the presence of negative data (e.g., risk ratios less than 1.0) requires larger risk ratios to justify a finding that a given agent (e.g., EMFs) may be causally associated with a given condition (e.g., cancer incidence or promotion). Consistently higher risk ratios are needed to warrant an inference of a causal relationship. Dr. Buffler posits that risk ratios must consistently approximate or exceed 2.0 - 3.0 in order to state that there is an association between EMF exposure and cancer. Also see Reference 12, p. 6

11 In contrast there are no risk ratios identified in the scientific literature on the link between smoking and cancer that are less than 1.0 except for one methodologically flawed study.

- If EMF exposure was carcinogenic, then the populations with the greatest exposure to EMFs would have the highest risk of cancer. This type of "dose/response" relationship is characteristic of environmental carcinogens. But, in the case of EMFs, there are numerous studies where the highest exposure group did not demonstrate the highest cancer rates or a significant increase. A study completed in 1996 involving a very large well-documented military population failed to indicate an association of tumors in the central nervous system with high power EMF exposure. These results suggest that the actual agent responsible for increased cancer rates has not been identified, but that EMF exposure is not among them, particularly at the low levels relevant to the BACTC case.[12]

- Many of the studies of ELF radiation that show large risk ratios use surrogate measures (e.g., job title and wiring patterns) in lieu of actual measurement of exposure conditions. This may be necessary in early studies, but detracts from the probative value of the research unless confirmed by later studies. This is what happened with asbestos exposure and smoking. But early suggestive causal relationships were confirmed over time by better experiments. In contrast, studies of EMF exposure and cancer follow no reliable pattern. Most recent experiments result in risk ratios of less than 1.0 (negative association) or between 1.0 and 3.0. This inconsistency disproves a causal relationship exists.

- Studies using direct measures of exposure to ELF EMF do not show a stronger association between exposure and cancer than studies using indirect measures such as job titles. For instance, in studies of childhood cancer, risk ratios are lower with direct measures of ELF exposure. This suggests the association between ELF EMFs and cancer is the result of a variable other than exposure to EMFs. See also Reference 12, pp. 8-9.

- Some studies that purport to contain evidence supporting the claim that ELF exposure is a risk factor for cancer have serious methodological flaws. This can result in selectivity. See also Reference 12, p. 10.[13]

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12 Dr. Marino agrees that there is no dose/response relationship for EMF exposure and its effects. Reference 19, p. 106; Reference 20, pp. 986-988. From that, he infers frequency and power density do not determine effects or their significance; consequently there is no threshold of effects, and even the lowest levels of exposure are significant. Such an inference involves a leap of intuition not supported by facts, however sincere and well-intentioned the motivation for that leap.

13 If a person shoots 100 bullets randomly at the side of a barn, some of the bullets will land in a cluster simply by chance. If someone purported to rely on the clusters as evidence of shooting skill, ignoring all of the scattered and errant shots, it would be logically fallacious. This has occurred with studies of childhood cancer and ELF exposure where the original research reported several hundred risk ratios, while the final report relied on only some results to prove the association and ignored the lower risk ratios from other parts of the study (like the bullets that missed or were scattered all over the barn). Dr. Marino's testimony

Dr. Marino offered a number in units of "μW hr/cm^2 . yr" as the annual dose of EMFs to which people in the vicinity of the BACTC facility would be exposed. No other reference in the record uses μW . hr/cm^2 . yr as a measure of exposure. Such an approach is not consistent with any scientifically accepted dosimetric model or other evidence in the record. The accepted method of describing EMF exposure is in terms of power density which is expressed as a unit of energy per unit area (e.g., watts/square meter or, at the levels relevant to the BACTC facility, in terms of microwatts per square centimeter or μW/cm^2). There is no evidence RF EMF exposures can be added and multiplied meaningfully in the manner in which Dr. Marino has or that such a calculation is relevant to the likelihood of effects from EMF exposure or to the significance of those effects. The use of such a measurement detracts from the probative value of his testimony and contributes to the consultant's conclusion that it is not substantial evidence.

Based on the foregoing, there is no support for the testimony by Dr. Marino that persons exposed to EMFs from the BACTC facility "would be exposed to a significant source of serious disease." Moreover that statement is not supported by Dr. Marino's second declaration wherein he says, "it is not possible to determine whether the BACTC site constitutes a hazard." His inconsistent statements further detract from the probative value and credibility of his testimony and contribute to the consultant's conclusion that it is not substantial evidence that the BACTC facility may have a significant nonthermal effect.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on carcinogenesis are not supported by facts; therefore such inferences are not reasonable.

5. Effects on reproduction, growth and development

Any environmental agent introduced during pregnancy that interferes with development of the fetus is termed a teratogen. Reference 10, p. 49.

RF EMF radiation can produce teratogenic effects. Whether this teratogenic influence is derived primarily from thermal stress or from some frequency- or field-specific action of

exhibits this selectivity. He relies on parts of some studies to prove the existence of a high risk factor while ignoring other parts of the same studies that would show a lower risk ratio. He fails to include studies that fail to support his thesis, including many more recent studies with better research designs. This decreases the probative value of Dr. Marino's conclusions.

the RF EMF radiation, or from a combination of the two, has not been determined. The question of possible teratogenic effects from low-level, long-term exposures has been addressed in only a few studies and the results are not conclusive. At frequencies that are highly penetrating in human tissue and at levels that appear nonthermal, there are very few studies reported. Reference 10, pp. 66-67. For instance:

- Exposure of *Drosophila* at 2450 MHz continuous wave for 10 minutes at an SAR of 0.64 W/g did not affect survival rates. Reference 10, p. 50.

- Exposure of mice at 148 MHz for 1 hour daily from day 2 through day 19 of gestation in a rectangular coaxial exposure system at 0.5 mW/cm² (SAR 0.013 W/kg) showed no statistically significant difference on fetuses. Reference 10, p. 63.

Reports of effects on reproduction from ELF EMFs "are not supported by the totality of basic science and human studies that pertain to reproduction... [T]here is no convincing evidence to support suggestions that electric and magnetic fields result in birth defects or other reproductive problems." Reference 12, pp. 13, 17.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on reproduction, growth or development are not supported by facts; therefore such inferences are not reasonable.

6. Effects on hematopoietic and immune systems

A large number of studies of effects of microwave and RF radiation on hematopoietic tissues and immune function have been carried out, but the results are not always clear and often are conflicting. However changes that have been reported are usually transient and result from acute, thermally significant exposures. Chronic exposure of rats for most of their lifetime at SARs up to 0.4 W/kg had no effect on any hematopoietic parameter or on immunological responses. Reference 11, p. 46-47.

Similar results are reported by other researchers. See, e.g., Reference 20, pp. 861-866, wherein the author describes one effect of EMF exposure, inhibition of cAMP independent protein kinases (messenger enzymes important for protein synthesis in cells), was strongly dependent on amplitude modulation (which does not occur at the BACTC facility) and time dependent. The effect occurred only in the first 15-30 minutes of exposure and then

disappeared despite continued exposure. He concluded available literature on immunological responses to microwave EMF radiation shows effects are inconsistent and, when they occur, are transient. He further notes that studies performed under well controlled conditions of exposure provide evidence that no detectable changes in lymphocyte activity occurs following EMF exposure *in vitro* when proper control of temperature is achieved. Thus the effects observed in earlier studies cannot be related to specific non-thermal effects. Reference 20, p. 873.

In another experiment, rabbits were exposed to 2.45 GHz continuous or pulsed fields at a maximum power density of 1.5 mW/cm² for 2 hours daily for 3 months. The mean SAR was 0.5 W/kg. An additional group of 6 rabbits was sham-exposed. No significant differences between groups were seen in hematologic profiles obtained monthly. Reference 10, p. 77.

Irradiation at non-thermagenic levels, i.e., at SARs below 1 W/kg and at frequencies between 300 kHz and 200 GHz, results in few, if any, unequivocal effects on the hematopoietic or immune systems of experimental animals. Even if effects are found under idealized experimental designs and are confirmed in several laboratories, it will be extremely difficult to extrapolate and interpret these effects into potential detrimental effects in man without a better understanding of the cellular mechanism involved. Reference 10, pp. 86-87. Also see Reference 25, pp. 69-70.

In general, Eastern European scientists have reported hematologic effects at power densities much lower than those found to yield positive effects by Westerners. However many of their studies failed to include appropriate sham-control groups, absorbed energy measurements were nonexistent or inadequate, exposed animals were group-housed, and/or the data were presented in a manner such that statistical evaluations were impossible. Reference 10 pp. 68-69. Long term exposure experiments in which altered immune function have been reported at relatively low power densities seem to be due to stress from handling and poorly controlled irradiation conditions. Reference 20, p. 883.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on hematopoietic and immunologic systems are not supported by facts; therefore such inferences are not reasonable.

7. Effects on endocrine system

To maintain homeostasis, a mammal possesses two control mechanisms that react to changes in internal and external environments. These two control mechanisms are the neural and endocrine systems. The endocrine system consists of a number of glands that secrete hormones into the bloodstream. This system is described in several of the references in the record, including Reference 19, pp. 112-113, Reference 16, pp. 88-91, and Reference 23, pp. 160-167 (pineal gland).

Acting alone or in concert, the various components of the neuroendocrine system play a central role in maintaining homeostasis. The level of each hormone is regulated by a complex monitoring and feedback mechanism. The sensitivity of this system to perturbation is greatest at its highest level, the hypothalamus, where small chemical or electrical stimuli can produce significant alterations in the amount of hormones secreted by an endocrine gland. Thus, the neuroendocrine system provides a sensitive series of indicators for analyzing responses to the influence of environmental changes.

But neuroendocrine alterations are not necessarily pathologic, because the function of the neuroendocrine system is to maintain homeostasis, and hormone levels will fluctuate to maintain such organismic stability. Reference 10, pp. 88-91. The NCRP concludes there is no reliable evidence that endocrine disturbance of a pathological nature occurs in rats at SARs less than 4 W/kg. Assuming a similar sensitivity of the human being, endocrine disturbances should not occur below an average SAR of 0.4 W/kg. Reference 10, p. 110.

In research regarding exposure to ELF EMFs, it has been suggested that EMFs constitute a stress to the endocrine system (among others). The most credible evidence suggests that there may be a mild stress response when animals are initially exposed to the fields, but there seems to be no long-term stress response that are the result of such exposures. Experiments reporting greater effects were prone to methodological flaws and were not easily replicable if at all, in part, because of species-specific differences. Reference 26, pp. 60-65. Thus, functional changes of the hormone-producing glands, with the exception of the pineal, as a result of electric or magnetic field exposure are either minimal or nonexistent. Reference 12, p. 16.

Another study reports that ELF EMF exposure affects circadian rhythms of animals, but "much work remains to be accomplished before the observed effects and their biological

consequences are clearly understood." The report concludes that "ELF exposure alters internal rhythms, increases arousal in animals and is transient in its effect." Reference 25, pp. 59-62.

Research regarding exposure to ELFs and its relation to changes in pineal gland function reported that exposure resulted in a slight increase in melatonin metabolite excretion that moderated and stopped as the exposure continued over time and the body adapted to the exposure. "Whether or not this adaptive response constitutes any significant challenge in homeostasis for humans in unclear." The author of that research concludes "[i]t remains to be determined whether ELF field effects on pineal gland function represent a health risk to humans." Reference 23, pp. 177-178.

Even Dr. Marino concludes "[m]ost of the endocrine system effects seem to be compensatory rather than pathological." Reference 19, p. 120. Although he goes on to argue that an exposed animal is not the same after such compensation as before it, and is, therefore, more likely to be susceptible to subsequent stresses, this requires a leap of intuition not necessarily drawn from the evidence. He concedes that even his own research fails to show consistent results, suggesting uncontrolled variables are present that mediate the effects and their potential significance. Without further research, conclusions about the significance of endocrine effects are premature.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on the endocrine system are not supported by facts; therefore such inferences are not reasonable.

8. Effects on cardiovascular function

There are relatively few studies about cardiovascular effects of RF EMF exposure. Several investigators have reported changes in cardiovascular function of experimental preparations *in vitro* exposed to EMF. Others have explored changes in the heart after irradiation of whole animals. Reference 19, pp. 111-116.

The *in vitro* effects appear to be the result of neurotransmitter release at the cut nerve endings and is not an effect on the myocardium or pacemaker cells *per se*. No effects were seen during irradiation of hearts *in situ*. The NCRP concludes that "[b]ased on available data, exposure to fields at low levels (<10 mW/cm2 or <2 W/kg) for short periods of time

does not appear to produce cardiovascular effects. Data on long-term exposure are scanty and contradictory." Reference 10, p. 117.

Another study describes the research to date and concludes EMF exposure even at rates much higher than those relevant to the BACTC site do not cause more than transient effects. Serum chemistry also appears to be unaffected by exposure to ELF EMFs. Reference 25, pp. 68-69.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on the cardiovascular system are not supported by facts; therefore such inferences are not reasonable.

9. Effects on the blood-brain barrier

The blood-brain barrier is a system of specialized blood vessels that invest most areas of the brain. The current anatomical conception of the barrier is that of a highly differentiated organelle, a specialized capillary. The cells of these capillaries form tight junctions. In contrast to most capillaries that lie outside the brain and spinal cord, most capillaries within the cranial vault are generally lacking the intracellular fenestrae and intercellular clefts that would allow ready passage of small molecules from blood to interstitial fluid.

Functionally the blood-brain barrier is a selectively permeable hydrophobic membrane. Small lipid-soluble molecules readily cross the membrane. Certain lipid insoluble molecules such as glucose also readily cross the membrane via carrier proteins that have a high affinity with specific molecules. These carriers increase the intracellular flux of transported molecules well above the rate afforded by simple diffusion. It serves not only to restrict entry of toxic polar molecules into the brain but also as a regulatory system that stabilizes and optimizes the fluid environment of the brain's intercellular compartment. Reference 10, pp. 118-121.

The research to date shows the blood-brain barrier is not adversely affected by weak RF EMFs. Although levels as low as 30 μW/cm2 have been reported to have an effect (see, e.g., the work of Frey and Preston summarized in Reference 19, p. 100 and Preston's book (Reference 21)), none of the investigations that has revealed altered measures of the barrier by brief exposures to weak-to-moderate fields has generated evidence of irreversible physical insult. Reference 10, pp. 142-144.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on the blood brain barrier are not supported by facts; therefore such inferences are not reasonable.

10. Effects on the nervous system

Quoting from Dr. Marino, "[t]he nervous system consists of the peripheral nerves, the spinal cord and the brain. It is the means by which the organism receives information from the environment, and by which it controls its internal processes... An EMF effect on [the body] could be expressed in two ways, an alteration in the properties or function of the nervous system itself ... or an alteration in the body's system or organs that are controlled by the nervous system, such as the endocrine or cardiovascular systems..." Reference 19. p. 96.

Environmental ELF fields between 10^{-7} and 10^{-8} V/cm have been reported to contribute to certain biological functions, including navigation and prey detection by sharks and rays, bird navigation, altered biological rhythms in man and birds, and subjective estimates of time by monkeys. Reference 10, p. 147; Reference 19, pp. 66-74.

Acute or chronic EMF exposure at SARs greater than 2 W/kg can produce morphological alterations in the central nervous system (CNS), with effects increasing as SARs increase. But these effects are thermal. Reference 31, p. 5-43. Some other effects, thought to be nonthermal, also appear to be thermally related, such as increased permeability of the blood brain barrier. See above.

Effects from lower levels of exposure that have been reported in the literature are difficult to interpret. Exposure to low levels of pulsed or continuous wave microwave or RF radiation at SARs as low as 0.46 W/kg have been reported to affect neurotransmitter metabolism and the concentration of receptors involved in stress and anxiety responses in different parts of the rat brain. Exposure to very low levels of amplitude modulated RF or microwave radiation, too low to involve heating, has been reported by several groups to alter brain activity in cats and rabbits and to affect calcium ion mobility in the cat cortex and in chick brain tissue *in vivo*. Effective SARs were less than 0.01 W/kg. The changes in calcium ion mobility have not been easy to corroborate; two groups failed to observe these effects in similar studies. Reference 11, pp. 45-46. Prolonged exposure to low levels of RF EMFs

also has been reported to affect activity levels in animals, first showing increased activity and later showing decreased activity. Reference 19, pp. 102-103. But, as with much of the research results, the significance of these effects has not been determined.

In this regard, Dr. Marino advances a hypothesis in his testimony and his two books (Reference 19, p. 107 and Reference 20, pp. 992-1019) that EMFs are a form of environmental stressor that elicits CNS effects. Clinical observations have implicated acute and chronic stressors as a risk factor for many diseases including cardiovascular disease, diabetes, depression, allergies and cancer. If EMFs are a form of chronic stressor, then increasing EMFs by any amount that causes a compensatory or adaptive adrenal-cortical response increases the level of stress and, consequently, the likelihood that an individual will be unable to accommodate subsequent stresses and/or will develop some form of disease. Dr. Marino concedes the relationship of exposure and disease is complex, and that all chronically-applied stressors have a near-zero probability of affecting an individual's risk of disease; nevertheless, he argues that, because EMF is a stressor, all human diseases are likely to be exacerbated by chronic exposure to them.

Once again, the consultant concludes that Dr. Marino's hypothesis, while as provocative and worthy of continuing research as is the significance of all of the other effects reported and theorized in the literature, is just an hypothesis and relies on an intuitive leap from the evidence rather than on the evidence itself or reasonable inferences from the evidence. The discussion above regarding risk factors and the relationship of EMFs to cancer applies equally to the relation of EMFs and nervous system effects; that is, the epidemiological evidence does not support the relationship. Because the suggestion that any increase in EMFs that produces any change in adrenal-cortical response is significant, Dr. Marino's hypothesis is far-reaching in its implications. If that hypothesis is proved, it would be an indictment of power and telecommunications systems on which modern society depends. Because of these consequences, such an hypothesis cannot be accepted without substantially more evidence to support it than is available today.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on the nervous system are not supported by facts; therefore such inferences are not reasonable.

11. Effects on behavior

Some of the more challenging questions regarding biological effects of exposure to RF EMFs have stemmed from reports of altered behavior. In 1973, for example, at a symposium entitled *Biological Effects and Health Hazards of Microwave Radiation*, several Eastern European investigators reported that behavior and neurological anomalies were observed in workers exposed to RF EMFs in industrial settings. With few exceptions, the Western scientific community responded skeptically to the Eastern reports. This skepticism apparently stems from the lack of such positive findings by Western investigators. Attempts by Western investigators employing improved methodologies have not confirmed the Eastern reports of effects from long term exposure to low levels of RF EMFs. (Reference 10, pp. 169, 135-187)

Several conclusions regarding the behavioral response to RF EMF irradiation can be drawn that enjoy a substantial consensus among scientists of many disciplines. "Behavior not only provides a highly sensitive index of field-body interactions, but a broad spectrum of end points. A single pulse of RF EM energy can be heard by human beings and experimental animals, the threshold of perception requiring but a few millijoules per kilogram of body mass. The threshold of convulsive activity, which anchors the near-lethal side of the behavioral spectrum, requires absorption of energy six orders of magnitude greater. It is within this intermediate range of end points that consensus is lost and controversy begins. At least for acute exposures, the problem lies in the interpretation of the implications of altered behavior... That is a question that cannot be answered solely in the behavioral laboratory." (Reference 10, pp. 189-190)

In experimental studies that have been conducted to determine whether ELF EMFs cause behavioral alterations, no effects have been observed at very low field strengths (7 to 100 V/m). At higher field strengths, "remarkably few robust effects have been demonstrated... Effects that have been observed, usually arousal or activity responses, are probably due to the animal's detection and possible perception of the electric field." (i.e., due to heating or shock). Reference 25, p. 56-58.

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on behavior are not supported by facts; therefore such inferences are not reasonable.

12. Cataractogenesis

The absorption of RF EMF energy at microwave frequencies has been shown experimentally to result in damage to ocular tissues. But it takes much higher energy levels than relevant to the Mount Barnabe case. The limited data on RF EMF-induced cataracts in human beings following acute, high-intensity exposure indicates the involvement of thermal damage to lens tissue. The results of epidemiological studies of the relation between occupational RFEM exposure and ocular changes do not provide evidence of deleterious effects. 10 mW/cm² is a practical limit for ocular damage from intermittent exposure to microwave fields. (Reference 10. pp. 191-206).

Based on the foregoing, the consultant concludes inferences that RF EMFs have significant effects on cataractogenesis are not supported by facts; therefore such inferences are not reasonable.

Conclusion

The research clearly shows that EMFs can result in certain biological effects. However it also shows that most reported effects are due to thermalizing levels of EMFs. Nonthermal effects occur, but, because the human body is remarkably adaptive in that it compensates for exposure to relatively low thermal and nonthermal EMFs most if not all of these effects are transient and insignificant. Generaly a body exposed to nonthermal levels of EMFs will return to a normative baseline condition even with continued exposure. Dr. Marino says as much in his 1988 text. Reference 20. p. 979. Many of the studies that purport to observe effects from exposure to EMFs are *in vitro*. Dr. Marino concedes that, "beyond the phenomenon of detection, the significance of *in vitro* studies with respect to intact organisms remains dubious." Reference 20. p. 984. Yet *in vitro* studies constitute the majority of the evidence that nonthermal levels of EMFs cause effects, significant or otherwise. Given the state of the research, it is premature to infer that low levels of RF EMFs may cause significant nonthermal health effects.

A RECOMMENDED EMF EXPOSURE STANDARD

As noted at pp. 4-13 through 4-17 of the Marin County Telecommunications Facilities Policy Plan, thresholds for exposure to EMF use safety factors, because of limited knowledge about potential health effects of such exposure and the variety of conditions under which exposure might occur. The International Radiation Protection Association (IRPA) lists the following reasons for such a safety factor:

1. Absorption of electromagnetic energy by humans of various sizes, with particular reference to whole or partial body resonant absorption of energy.

2. Incomplete understanding of the relationship between peak SAR and effects.

3. Adverse environmental conditions, such as high ambient temperature and humidity and low air movement.

4. Reflection, focusing and scattering of the incident fields in such a way that enhanced absorption occurs.

5. Possible altered response of humans taking medicines.

6. Possible combined effects of RF EMF with chemical or other physical agents in the environment.

7. The possible effect of modulated microwave fields on the CNS and the possible existence of "power" and "frequency" windows for such effects.

8. Possible nonthermal effects.[14]

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14 Therefore Dr. Marino's testimony that the IEEE standard does not include "a safety standard for EMFs with regard to the occurrence of health risks" (Reference 27, p. 879) is not supported by the facts. The facts show the IEEE standard is substantially the same as the IRPA standard in that it uses the same safety factors. The IRPA standard says clearly the safety factor for uncontrolled exposure conditions includes consideration of possible nonthermal effects. The IEEE standard rationale includes recognition that non-thermal effects are mentioned as potential health hazards, and that the much larger safety factor for uncontrolled exposure is warranted to protect against such potential hazard. However IEEE concludes "[r]esearch on the effects of chronic exposure and speculations on the biological significance of nothermal interactions have not yet resulted in any meaningful basis for alteration of the standard." Reference 3, p. 23-24. The fact that IEEE did not recommend a standard based on nonthermal effects does not mean such effects were not considered. The record shows nontherm. l effects were considered in setting the standard and the safety factors for the standard. See, e.g., studies listed in Reference 14, p. 17

However the IRPA notes that, "at present, data on 5, 6, 7 and particularly 8, are insufficient to make either a health risk assessment or even to determine if these effects present a potential health concern." Reference 5, pp. 81-82.

Exposure of the general population to frequencies above 10 MHz should not exceed an SAR of 0.08 W/kg when averaged over the whole body and over any 6-minute period based on worst case conditions. The standard also should protect against high partial body exposures and shock due to induced currents. The IEEE C95.1-1991 standard does so. Therefore the consultant recommends the County adopt that standard to replace the standard it now uses. The existing standard is based on ANSI C95.1-1982. See Reference 13 for a discussion of the differences between the 1982 and 1991 standards, particularly pp. 64-67.

IEEE C95.1-1991 is based on assumptions that the threshold of adverse effects from radiofrequency EMF exposure is not more than 4 W/kg and a safety factor of 10 for a controlled exposure environment (i.e., where there is exposure of persons who are aware of the potential for exposure as a concomitant of employment or other voluntary circumstance) and a safety factor of 50 for an uncontrolled exposure environment, (i.e., where there is exposure of persons who have no knowledge of control of their exposure). Thus even if the "possible" effects do occur in fact, the foregoing standard protects the general public against such effects by allowing them to be exposed to only 1/50 the amount of the EMF energy known to cause effects. This adequately protects healthy adults and children, the affirmed and EMF-sensitive, embryos/fetuses, and people who are immunologically compromised.

When one considers that typical exposures from the proposed cellular facility will be only 3% of the recommended standard (assuming the transmitters operate at 40% of their maximum power rather than worst case conditions), the actual exposure from the BACTC facility will be well below the recommended standard. Moreover, if as urged by Dr. Marino, the significance of effects increases with exposure time, then the BACTC site is even safer, because people will be exposed to the highest levels of EMFs from that site only when they are on the Lookout balcony. The nearest dwelling is so far away from the transmitting antenna that EMF levels drop to ambient amounts at that dwelling. They pose no meaningful change to the EMF environment at that dwelling, particularly when the effects of in-house electric power systems and applicances are considered.

The consultant is guided in this recommendation by the rationale promulgated by the Institute of Electrical and Electronics Engineers (IEEE) (see Reference 3), American National Standards Institute (ANSI), National Council on Radiation Protection and Measurements (NCRP) (see Reference 10, pp. 271-290), National Radiation Protection Board (UK) (NRPB) (see Reference 28, pp. 38-43) and International Radiation Protection Association, (IRPA) (see Reference 5, pp. 72-82), all of whom have adopted or recommended adoption or consideration of a standard similar to IEEE C95.1-1991 (533 to 600 $\mu W/cm^2$ in the 800 - 900 MHz frequencies relevant to cellular telephones) based on more information than that on which the EMF Report was based. The NRPB standard is higher (2624-3321 $\mu W/cm^2$ in the relevant frequencies). The IRPA standard is a little lower (400-450 $\mu W/cm^2$ in the relevant frequencies). Reference 14, p. 10. But, as it relates to nonthermal effects at the levels at which Dr. Marino argues significant effects occur, the difference between the IEEE and IRPA standards is not significant. If the County wants to adopt a standard with an even larger safety factor than that used by IEEE and NCRP, it could adopt the standard promulgated by IRPA. In either event, the Mount Barnabe facility will comply with those standards with the addition of the BACTC facility.

Substantial evidence in the record does not warrant a more stringent standard than the one articulated in IEEE C95.1-1991. Dr. Marino argues that EMFs at or below the IEEE standard "may alter the shape of a protein in the membranes of a cell thereby allowing ions to enter the cell, triggering alterations in the cell function. EMFs may alter the activity of enzymes that catalyze biochemical reactions thereby making some reactions more or less likely to occur... There are many other possibilities that may, in principle, mediate an effects of an external EMF on the function of the cells of the body." Reference 27, p. 871. But such possibilities do not amount to substantial evidence. They are theoretical. Even if such effects occur, there is no evidence that, at the power levels and frequencies relevant in this case, such effects are significant. On the contrary, the substantial weight of evidence is that such effects, if they occur, are transitory and do not result in lasting consequences. Therefore they are not significant.

The IEEE standard concludes "[n]o reliable scientific data exist indicating that: ... Nonthermal (other than shock) or modulation-specific sequelae of exposure may be meaningfully related to human health." (Reference 3, p. 23). The IEEE standard and the substantially similar NCRP and IRPA standards all consider nonthermal effects. They simply conclude the evidence does not support a conclusion that such effects occur or that, if they occur, they are hazardous. The IEEE standard was based in part on a review of the

literature, including studies of nonthermal effects of EMF. See, e.g., the studies listed in Reference 14 at p. 17. Dr. Marino's testimony that the IEEE standard ignores nonthermal effects is not supported by the facts.

No reputable standard-setting agency has accepted Dr. Marino's thesis that nonthermal effects of radiofrequency EMFs are an environmental stressor of such significance that nonthermal effects should be regulated more stringently than proposed for thermal effects of radiofrequency EMFs including relevant safety factors. The consultant came to the same conclusion after a review of the literature on which the EMF Report is based.

The IEEE standard includes a large safety factor, in part, to protect against such potential nonthermal effects. No greater effort is warranted based on the available information.

Ongoing research will generate additional information. That information may alter the conclusions in this report. Therefore the consultant also recommends the County monitor that research and take appropriate action to amend its standards for RF facilities if and when warranted by such new information. Assuming the County adopts an ordinance to incorporate IEEE C95.1-1991 into its code, the consultant recommends that ordinance require a review of the standard at least every five years based on the results of subsequent research. In the absence of an other authoritative, independent resource, such as the US EPA, the County could appoint its chief medical official or an independent expert(s) in epidemiology and/or related disciplines to undertake a review of new literature before the County reviews the standard. The consultant also recommends the County condition granting of leases and permits on compliance with subsequently enacted EMF standards so that existing facilities can be required to be brought into compliance or removed if subsequent research shows that the levels of EMFs existing at some future date exceed the levels permitted by subsequently enacted County standards.

DATED this 22nd day of March, 1995.

Respectfully submitted,
LARRY EPSTEIN, PC

Larry Epstein, AICP

APPENDIX A
LIST OF CASES INVOLVING THE "FAIR ARGUMENT" STANDARD

Ass'n for Protection of Environmental Values in Ukiah v. City of Ukiah, 2 Cal.App.4th 720 (1991).

Cathay Mortuary, Inc. v. San Francisco Planning Commission, 207 Cal.App.3d 275 (1989).

Citizens' Committee to Save Our Village v. City of Claremont, 37 Cal.App.4th 1157 (1995).

Citizen Action to Serve All Students v. Thornley, 222 Cal.App.3d 748 (1990).

City of Antioch v. City Council of the City of Pittsburg, 187 Cal.App.3d 1325 (1986).

City of Carmel-By-The-Sea v. Board of Supervisors, 183 Cal.App.3d 229 (1986).

City of Livermore v. Local Agency Formation Commission, 184 Cal.App.3d 531 (1986).

Friends of "B" Street v. City of Hayward, 106 Cal.App.3d 988 (1980).

Gentry v. City of Murrieta, 36 Cal.App.4th 1359 (1995).

Heninger v. Board of Supervisors, 186 Cal.App.3d 601 (1986).

Leonoff v. Monterey County Board of Supervisors, 222 Cal.App.3d 1337 (1990).

Meridian Ocean Systems, Inc. v. Cal. State Lands Commission, 222 Cal.App.3d 153 (1990).

NRDC v. Fish & Game Commission, 28 Cal.App.4th 1104 (1994).

Newberry Springs Water Ass'n v. County of San Bernardino, 150 Cal.App.3d 740 (1984).

No Oil, Inc. v. City of Los Angeles, 13 Cal.App.3d 68 (1974).

Oro Fino Gold Mining Corp. v. County of El Dorado, 225 Cal.App.3d 872 (1990).

Perley v Board of Supervisors, 137 Cal.App.3d 424 (1982).

Pistoresi v. City of Madera, 138 Cal.App.3d 284 (1982).

Quail Botanical Gardens Foundation, Inc. v. City of Encinitas, 29 Cal.App.4th 1597 (1994).

Schaeffer Land Trust v. San Jose City Council, 215 Cal.App.3d 612 (1989).

Sierra Club v. County of Sonoma, 6 Cal.App.4th 1307 (1992).

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APPENDIX B
REFERENCES USED TO PREPARE THE EMF REPORT

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4. O.P. Gandhi (ed.), BIOLOGICAL EFFECTS AND MEDICAL APPLICATIONS OF ELECTROMAGNETIC ENERGY. Englewood Cliffs, NJ: Prentice Hall (1990).[1]

5. A.S. Duchene, J.R.A. Lakey, M.H. Repacholi, (eds.). International Radiation Protection Association, Non-Ionizing Radiation Committee, IRPA GUIDELINES ON PROTECTION AGAINST NON-IONIZING RADIATION. New York: Pergamon Press. 1991.[1]

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APPENDIX C
BASIC FACTS ABOUT EMF AND ITS INTERACTION WITH BIOLOGICAL SYSTEMS

EMF Fields

All radiofrequency transmitters emit non-ionizing energy in the form of electric and magnetic fields.[1] The following text describes some of the salient features of such fields and quotes extensively from Reference 24, pp. 2-2 through 2-8. See also Reference 23, pp. 19-24 and Reference 31, chapter 3.

Electric fields occur when electric charges are present. The difference between charges is measured in volts (V). The electric field is a description of the force that a unit charge will experience at any point in space. Electric charges attract more strongly as they are moved closer together. The strength of the electric field (E) between conductors is given by:

$$E = V/d \quad \text{(where d is the distance between the conductors)}$$

The unit for electric fields is volts/meter (V/m). Electric fields have a magnitude and a direction for each point in space. The direction of an electric field at a given point is defined as the direction in which a small positive charge will move if placed at that point. In general the direction of the electric field can vary for each point in space.

If a conducting path is provided between areas of separated charge, the charges will flow between the two area. This flow of charge is called electric current and is measured in units of amperes (A).

Magnetic fields occur when charges are in motion, as in the case of electric current. The strength of a magnetic field (H) at a distance, d, from a conductor carrying a current, I, is:

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1 All hot bodies emit EMF. For instance it is estimated that the sun and stars produce weak fields with a mean power density ranging from 10^{-5} to 10^{-7} $\mu W/cm^2$. The black-body radiation from the earth is estimated to be 0.3 to 0.0003 $\mu W/cm^2$ at frequencies of 30 to 300 GHz. The mean level of EMF from broadcast radiofrequency sources is estimated to be 10^{-3} $\mu W/cm^2$. The US Environmental Protection Agency described population-weighted average EMF exposure levels from RF sources in urban areas calculated from measurements in 15 large cities. The estimated residential median exposure for people in these areas was 0.005 $\mu W/cm^2$ at FM, radio and television broadcast frequencies and 0.019 $\mu W/cm^2$ at AM broadcast frequencies (30 Hz - 806 MHz). The report concluded there is negligible background exposure above 806 MHz. Reference 11, p. 27; Reference 5, pp. 3-4; Reference 15, pp. 543-544; Reference 224, p 2-20.

$H = I/(2\pi d)$ measured in units of amperes per meter (A/m)

The field is directed in a circle around a conductor such that the field vector at any point is tangent to the circle. The direction of a magnetic field also can vary for each point in space.

Electric and magnetic fields which vary in time are described by a frequency, the number of times that the field oscillates per second. The unit for frequency is cycles per second or Hertz (Hz). The dielectric properties or permittivity of biological substances vary with the frequency of electric field exposure.

A changing electric field creates a magnetic field and vice versa. The magnitude of the field produced by a change in the other field is proportional to the time-rate-of-change. In a rapidly changing electric field, some energy propagates away as electromagnetic radiation which travels in a vacuum at the speed of light (3×10^8 meters/second). This radiation may be described by the wavelength in meters. Power density is a vector quantity describing the rate at which energy is transmitted through a unit area expressed in watts per square meter (W/m^2), or, at the power levels relevant to the BACTC facility, in microwatts per square centimeter ($\mu W/cm^2$).

In the near field of an antenna, which generally extends from the antenna to a distance of a wavelength or two, the relationship between field strength and power density is complex, and power density is not a reliable measure of effect. A more meaningful quantity in such cases is the specific absorption rate (SAR). This quantity is the measure of the power absorbed per unit mass of the biological specimen under study in watts per kilogram (W/kg).

Beyond the near field, the radius of the EM wave is so large that it is flat compared to an object on the field. At this point the electric and magnetic fields form "plane waves" over which their intensity is constant. This makes it easier to measure and calculate intensities and power densities. At the frequencies relevant to the EMF Report, the waves in question are plane waves, because the near field extends a very short distance from the radiating antenna (i.e., the wavelength at 856 MHz is less than one-tenth of a meter).

Interaction of EMF with people and animals

Electromagnetic waves either reflect and scatter or are absorbed when they strike an object in their path. Nonconducting materials absorb little and reflect or transmit most EM energy they receive. Animal tissue has both properties. It reflects and absorbs depending on several factors. When studying possible health effects of EMF, only absorption matters. Four factors affect the amount of electromagnetic energy absorbed by animal tissue:

1. The capacity of an object to conduct electromagnetic energy or to permit it into the tissue. Different tissues absorb and conduct energy in different ways and amounts, depending mostly on the water content of the tissue. Tissue with high water content, such as the blood, skin, muscle and the brain, conduct and permit more electromagnetic energy than tissue with lower water content, such as bones and fat. Most EMF energy passes through the fatty surface layers of a body and are absorbed by deeper tissues.

The ability of tissue to conduct or reflect EMF, called "dielectric" properties, varies with frequency. At frequencies above 5 GHz (wavelength length than 6 cm), typical microwave frequencies, the ability of the tissue to conduct energy is so great that very little EMF energy penetrates deeply into the body, and it is deposited near a body's surface instead.

2. The size of the object compared to the wavelength of the EMF source. The ratio of energy absorbed by a given object is called an "absorption coefficient." This coefficient varies with the wavelength of the EMF.

When a wave strikes an object that is much smaller than the wavelength, little energy is deposited in the object, and that which is absorbed is distributed uniformly through the object. Such an object has an absorption coefficient of 0 to 0.5.

When a wavelength is a little smaller than the object it strikes, the object may absorb a small amount of energy, and that which is absorbed tends to be deposited near the surface. Such an object has an absorption coefficient of 0.5 or more.

When an object and wavelength are about the same size, "resonance" occurs. Substantially more energy may be absorbed by the object, (absorption coefficient of 1.5 to 4). The energy generally penetrates into the object and is deposited in differing amounts in various parts of the interior, with "hot spots" of highest energy absorption near the object's center.

The resonant frequency of a typical ungrounded adult (long axis 1.74 meters) is about 70 MHz. At 2450 MHz, a typical adult will absorb only about 50% of the incident EM energy. The resonant frequency of a small adult or child is about 100 MHz. The resonant frequency for a rat is about 700 MHz. Reference 5, p. 80. These principles provide some insight into the question of frequency scaling in animal exposure systems. In general, a given electric field will produce a different SAR in a human than in a rat. One way to equalize absorbed power in humans and animals is to conduct the animal experiments at a higher frequency so that the SARs are the same. While this approach addresses the problem of total absorbed power, issues of body geometry and local current densities are not as easily resolved.

3. The shape and geometry of an object and its orientation to the EMF. The edge of an EMF wave is perpendicular to the direction in which the wave is traveling, called a "vector." At resonant and sub-resonant frequencies, an EMF wave will have the most effect on an object whose major axis is parallel to that vector. For instance if an electric field vector is parallel to the major axis of an object, that object will receive 10 times more energy at resonance than of the EMF vector is oriented to the minor axis.

Differences in geometry between a rat and a human also dictate that different current densities will be produced in a given tissue type (e.g., the liver) in the two species. Further, tissue electrical properties will differ at the two frequencies. For thermal effects experiments, it may be sufficient to equalize SARs, but nonthermal experimental results in animals or tissue cultures cannot be accurately applied to humans until the qualities necessary for the interaction are identified. Otherwise, one does not know whether to adjust for frequency, SAR, current density or internal field strength. This point emphasizes the need for interaction mechanism theories that will afford some criteria for sorting through the practically infinite range of possible EM-exposure conditions.

4. The complexity of the EMF. Descriptions of EMF studied experimentally typically assume an ideal environment, one in which a single plane wave is transmitted from a single distant source and strikes and object suspended in space. However, in practice, an EMF environment is seldom so simple. For instance, people are not suspended in space. They commonly are positioned near other objects, such as the ground, buildings and other people, that reflect EMF energy. This reflection can increase or decrease the amount of energy to which an object at a given point is exposed.

APPENDIX D

MODELS OF BIOLOGICAL INTERACTION WITH EMF

The following text describes four models that attempt to explain how EMF interacts with biological systems and quotes extensively from Reference 24, pp. 2-20 through 2-29, among other cited references. Also see Reference 11, pp. 35-36.

Such models are needed to explain why certain effects occur. They are critical to substantiating inferences that effects of EMF relate to certain health consequences and that effects observed under certain exposure conditions will occur under other exposure conditions, (e.g., that effects observed *in vitro* can be related by inference to effects *in vivo*, that effects observed at one frequency and power density or SAR can be related by inference to effects at other frequencies, power densities or SARs, and that effects observed in one species can be related by inference to effects in other species).

For instance, identification of a physical or chemical agent as a suspected or known carcinogen is a multi-factored process. Epidemiological evidence alone is rarely sufficient to make the determination. Laboratory animal confirmation in multiple species and evidence of a plausible dose/response relationship is also needed. Finally there needs to be evidence of a plausible biological mechanism. The weaker the epidemiological evidence, the more critical the mechanism become. The biological explanation need not be comprehensive but must be sufficient to explain the manner in which exposure to the agent in question might translate into higher rates of cancer. Reference 14, p. 9. Particularly where evidence that ELF EMFs may have an effect is urged as the reason why RF EMFs will have the same effect, the lack of a model to explain the association between the two forms of EMFs renders the evidence of little probative value. It surely is not significant evidence that exposure to RF EMFs will have the same result as exposure to ELF EMFs.

Present biological models do not explain observed effects of exposure to low level EMF radiation. No single theory has provided a broad predictive ability. See Reference 23, chapter 12 for a discussion of interaction mechanisms generally.

Unfortunately "the basic physical process involved has been all but ignored in the attempt to pinpoint biological effects. It is abundantly clear, however, that without a firm understanding of the initial interaction there can be very little progress for the life scientists studying this problem." Reference 23, p. 285.

A number of investigators have developed interaction mechanism theories based on electric field driven alterations in ion transport across cell membranes. These theories attempt to explain experimental findings such as calcium efflux and other effects which might be linked to changes in ion concentrations or gradients. The difficulty encountered by such an approach is that details of cell microstructure are only now being elucidated. Theoretical models must therefore either make assumptions about these cell features, or use experimental results to infer their operation. See Reference 23, chapter 10.

Another prominent interaction theory is centered around a phenomena known as cyclotron resonance. This well-known physical principle describes the motion of a charged particle in a static magnetic field absorbing energy from a time-varying electric or magnetic field. Although cyclotron resonance of charged particles is a well-known physical principle, it is not clear what role this phenomenon may play in biological systems. At this point, it is possible only to search for bioeffects which occur at the predicted combinations of static and alternating fields corresponding to the cyclotron resonance frequencies for biologically important ionic species. See Reference 23, chapter 11 for a discussion of ion cyclotron resonance effects of ELF fields in biological systems.

Another approach to explaining the mechanisms behind nonthermal effects is based on classical linear physics theory that the energy deposited in a biological system by nonthermal EMF exposure is insufficient to produce significant direct interactions with biological molecules. Proponents of this theory have attempted to identify higher states of order or coherence in biological systems which may be sensitive to weak interactions based on concepts of theoretical physics rather than molecular or cellular biology.

Yet another model relies on solitons or solitary waves that can carry weak signals along intramembranous protein particles that pass through cell membranes. See Reference 23, p. 226.

None of these models has gained widespread acceptance in the scientific community. The primary obstacle for any such theory is to explain how weak fields, which deposit tiny amounts of energy into living systems that are awash with much greater levels of random thermal energy, can be detected by these systems.

APPENDIX E

DISTINCTIONS BETWEEN ELF AND RF FIELDS

Much of the research in the record involves exposure to EMFs at extra low frequencies (ELF) associated with electric power lines and appliances (e.g., 60 Hz) rather than radiofrequencies (RF) at which BACTC will transmit (856 MHz). The following text describes differences between EMF at extra low frequencies and radiofrequencies and quotes extensively from Reference 24, pp. 2-5 through 2-20.

Extremely low frequency (ELF) fields range from 3 Hz to 300 Hz (wavelengths of 10^3 to 10^4 kilometers). The radiofrequency (RF) range is generally defined as 10,000 Hz to 300 gigahertz (GHz) (1 GHz = one billion Hz) (wavelengths of 1 millimeter to 100 meters). ELF and RF fields interact differently with the body.

ELF fields vary so slowly that they can be considered quasi-static when interacting with a human body, because the dimensions of the body are very small with respect to the wavelength of the field.

Radiofrequency fields oscillate thousands to billions times more rapidly than ELF fields, and their interactions with the body are more complex. The body can absorb significant amounts of energy from RF fields, because the body is a lousy antenna; that is, it absorbs energy from the electromagnetic field, re-radiates or reflects a portion of the energy, and dissipates the rest through resistive and dielectric losses.

In real objects, like the human body, both the dielectric constant and conductivity vary with frequency. When the body is exposed to an external RF electric field, an internal electric field is produced which in turn drives internal currents. The distribution of current inside the body may be even more complex than for the case of ELF exposures. Internal electric field strength varies in a fashion similar to the SAR curve. At whole-body resonance the internal electric field strength is comparable in magnitude to the external electric field strength. This result is in sharp contrast to the case of ELF exposures where internal electric field strengths are orders of magnitude lower than external fields. Reference 24, pp. 2-5 through 2-10; Reference 15, pp. 538-542.

ELF and RF radiation differ in the amount of energy contained in the radiation by over 1 million times. Consequently it would be inappropriate to directly extrapolate effects of exposure to RF EMFs from studies of the effects of ELF EMFs, at least in the absence of a reliable biological mechanism to explain the manner in which EMFs cause cancer. Reference 14, p. 5.

Based on the foregoing differences between ELF and RF EMFs and their interaction with biological systems, inferences about the effect of RF EMFs based on evidence about ELF EMFs are not reasonable when not supported by a plausible model or laboratory evidence linking the two.

MBHA disputes the foregoing conclusion. Dr. Marino argues that EMF-induced effects are largely independent of the type of field to which a subject is exposed. He reasons this from observations that common physiological responses are produced by spectrally different EMFs. Reference 20, pp. 985-990. However his conclusion is contrary to many observations that show different effects result from exposure to different kinds of EMFs. His conclusions also conflict with basic concepts about energy. His conclusions also are based in part on experiments that suffer from methodological flaws and poor controls, particularly experiments in Eastern Europe that are consistently disapproved by Western scientists for their lack of rigor and lack of replicability. It is unclear whether Dr. Marino believes ELF and RF fields have the same effect. The weight of authority is that they do not. At best, a given form of EMFs may be suggestive of effects of another form. For that reason, and because so much of the literature about EMF effects involves ELFs, research about ELFs is cited in this report where sufficiently qualified. But, in general, the consultant believes the substantial weight of authority is that the case for nonthermal effects of RF EMFs needs to be made based on that form of EMFs.

Superintendent of streets of a city was liable for any damages resulting from his negligence in repairing a sewer, notwithstanding his official capacity. Butler v. Ashworth (1894) 102 Cal. 663, 36 P. 922.

17. Utilities

Action against city for fire damage wherein it was alleged that city employees while acting in scope of their employment closed water valve and left it closed without notifying either city fire department or plaintiff so that water was not available at hydrants to extinguish fires in vicinity of plaintiff's premises was barred by governmental immunity. Heleck and Moran v. City of Modesto (1966) 49 Cal.Rptr. 377, 64 Cal.2d 229, 411 P.2d 105.

18. Pleadings

Prison supervisory personnel with personal involvement was not alleged could not be held responsible for act of their subordinates under California law. Milton v. Nelson, C.A.9 (Cal.)1975, 527 F.2d 1158.

Allegations that county medical center was requested to perform blood test for acquired immunodeficiency syndrome (AIDS) after police officer was possibly exposed to AIDS virus, but that medical center tested blood for hepatitis instead of AIDS and discarded remaining unused blood sample, were sufficient to form basis for negligence action in absence of some immunity applicable to county medical center's employees. Smith v. County of Kern (App. 5 Dist. 1993) 25 Cal.Rptr.2d 716, 20 Cal.App.4th 1826, review denied.

Under Public Officers Liability Act (repealed), allegations of complaint and proof in addition to those required to state cause of action against city under Public Liability Act were required as against city councilmen and officers. Barsoom v. City of Reedley (App. 4 Dist. 1940) 38 Cal. App.2d 413, 101 P.2d 743.

Plaintiff suing public officers for alleged negligence was required to bring complaint within Stats.1919, p. 756, § 1 imposing liability on officers. Shannon v. Fleishhacker (App. 1931) 116 Cal.App. 258, 2 P.2d 835, hearing denied 116 Cal.App. 258, 3 P.2d 1020.

19. Evidence

In action against officers of irrigation district for damages for death of plaintiffs' minor daughter alleged to have been caused by dangerous condition of structure across canal, evidence was insufficient to prove notice by officers of the dangerous condition as required by Stats.1919, p. 756, as basis of recovery. Osborne v. Imperial Irr. Dist. (App. 1935) 8 Cal App.2d 622, 47 P.2d 798.

Evidence, in action for damages against directors of irrigation district for alleged negligence and misconduct in failing, refusing, and neglecting to supply plaintiff with necessary water, sustained finding that damage accruing to plaintiff's rice crop was not caused by any willful violation of duty by said directors or through any negligence or misconduct on their part. Nissen v. Coult (App. 3 Dist. 1929) 96 Cal.App. 611, 274 P. 602.

20. Damages, generally

Award of $12,000 compensatory damages to plaintiff who proved that, without any justification associated with a legitimate police function, police officer severely beat him while holding him in a helpless position on the ground, was supported by evidence. Scruggs v. Haynes (App. 1 Dist. 1967) 60 Cal.Rptr. 355, 252 Cal. App.2d 256.

21. Punitive damages

County officials were liable to same extent as private individuals for their alleged intentional infliction of emotional distress so that allegations in employees' complaint relating to punitive damages should not have been stricken. Runyon v. Superior Court (Franco) (App. 4 Dist 1986) 232 Cal.Rptr. 101, 187 Cal.App.3d 878.

Award of $5,000 punitive damages against defendant policeman would not be set aside as improper where plaintiff proved that, without any justification associated with a legitimate police function, the officer severely beat him while holding him in a helpless position on the ground. Scruggs v. Haynes (App. 1 Dist. 1967) 60 Cal.Rptr. 355, 252 Cal.App.2d 256.

§ 820.2. Discretionary acts

Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.

(Added by Stats.1963, c. 1681, p. 3269, § 1.)

Legislative Committee Comments—Senate

This section restates the pre-existing California law. Lipman v. Brisbane Elem. School Dist., 55 Cal.2d 224, 11 Cal.Rptr. 97, 359 P.2d 465 (1961); Hardy

Consulting Group, Inc.
TELECOMMUNICATIONS

RECEIVED
APR 9 P 2:30

NOTICE OF TRANSMITTAL

DATE: April 9, 1996

DELIVERED BY:

HAND XX
MAIL
PICK-UP
OVERNIGHT

TO: Marin County Planning Department
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

FROM: James Calkins

RE: Pacific Bell Mobile Services' Personal Communications Services (PCS) Site SF306 located at 242 / 260 Redwood Highway in Mill Valley

THE FOLLOWING DOCUMENTS ARE ENCLOSED:

One	(1)	Zoning/Development Application
One	(1)	Environmental Review Submission
One	(1)	Application Check in the amount of $3,895
One	(1)	Owner Authorization
One	(1)	Noise Information
One	(1)	Photograph Simulation
One	(1)	Evaluation of Radio Frequency Exposure Conditions
One	(1)	11"x17" set of drawings
Eight	(8)	24"x36" sets of drawings

PURPOSE/COMMENTS:

Please find enclosed the above referenced materials for our proposed Personal Communications Services (PCS) installation at 242 / 260 Redwood Highway in Mill Valley. The materials enclosed are in response to the preliminary review by your staff.

Please let me know at your earliest convenience if the application is complete or if you need additional information.

Thank you for your assistance.

844 Dubuque Avenue • South San Francisco, CA 94080 • Telephone: (415) 737-5338 • Fax: (415) 737-5301

JM

Consulting Group, Inc.

TELECOMMUNICATIONS SERVICES

OWNER/AGENT AUTHORIZATION

I do hereby authorize PACIFIC BELL MOBILE SERVICES and its authorized agent, JM CONSULTING GROUP, INC., to act as "Applicant" in the processing of all applicable applications, permits, and other related activities, including applying for, receiving, and copying as-built drawings and microfilm from City or County Archives, associated with the permitting/entitlement of a Personal Communications System (PCS) facility in the City of Mill Valley and in the County of Marin, on the property described below:

PBMS Project Number: SF-306 Name: Richardson Bay

APN: 052 247 01

Property Address: 242 Shoreline Hwy.

Owner/Owner's Representative: Ste. O. Pr
Signature

Date: 8-28-95

Please print name and title: Steve Price Pending Owner

844 Dubuque Avenue • South San Francisco, California 94080 • Telephone: (415) 737-5338 • Fax: (415) 737-5301

Consulting Group, Inc.
TELECOMMUNICATIONS

RECEIVED BY
... 3:31

NOTICE OF TRANSMITTAL

DATE: April 8, 1996

DELIVERED BY:

HAND
MAIL
PICK-UP
OVERNIGHT

TO: Marin County Planning Department
3501 Civic Center Drive, Room 308
San Rafael, CA 94903

FROM: James Calkins

RE: Noise Information

THE FOLLOWING DOCUMENTS ARE ENCLOSED:

One (1) Noise Dispersion Figure
One (1) Sound Intensity Levels Chart

PURPOSE/COMMENTS:

Pursuant to your request, I am providing information on the noise levels emitted from Personal Communications Services (PCS) installations. The above referenced materials should answer your questions with regard to the noise levels of our proposed PCS installations.

You will find that emissions from PCS installations are well below ambient sound levels. The noise from Base Transceiver Stations (BTS) can most closely be compared to noise generated in a typical conversation.

Please do not hesitate to call me at (415) 737-5407 if you have further questions.

Thank you for your assistance.

844 Dubuque Avenue • South San Francisco, CA 94080 • Telephone: (415) 737-5338 • Fax: (415) 737-5301

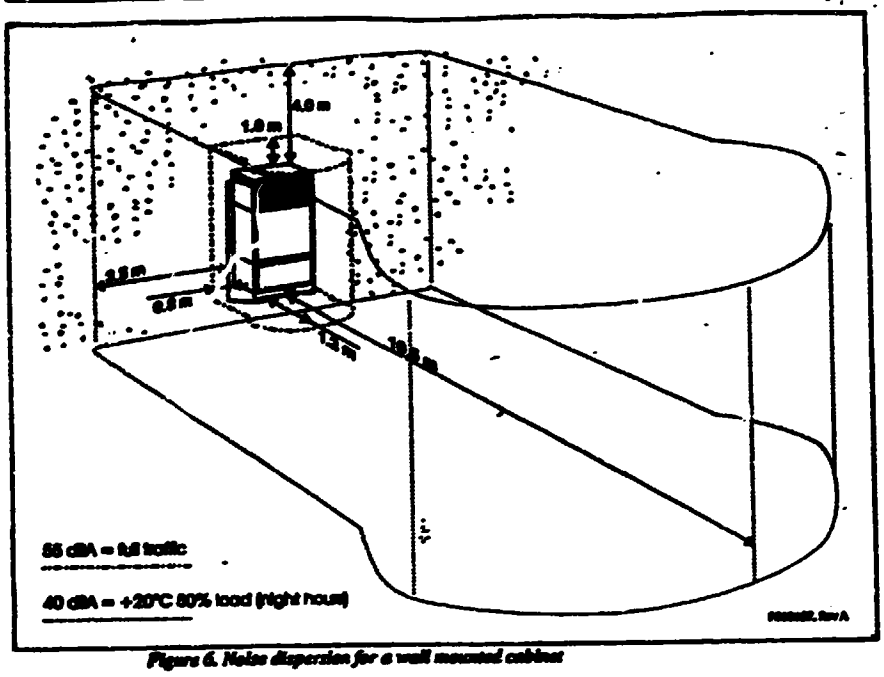


Figure 6. Noise dispersion for a wall mounted cabinet

SOUND INTENSITY LEVELS

SOUND SOURCE (DISTANCE FROM OBSERVER)	LEVEL (dB)
THRESHOLD OF PAIN	120+
AIRCRAFT ENGINE (20')	120+
AMPLIFIED ROCK MUSIC	110
THUNDER	110
PIEZOELETRIC BUZZER (12")	108
AIR FORCE T-38 (2,500' OVERHEAD)	90
CO2 PELLET GUN (12")	90
DIGITAL ALARM CLOCK (12")	85
ELECTRIC TYPEWRITER (18")	80
AIR FORCE T-38 (1 MILE)	70
SOFT BACKGROUND MUSIC	30
QUIET WHISPER	20
THRESHOLD OF HEARING	0

THE ABOVE SHADED REGION REPRESENTS THE dB LEVEL EMITTED FROM BASE TRANSCEIVER STATIONS (BTS). THE MAXIMUM POSSIBLE NOISE INTENSITY LEVEL EMITTED IS 65 dB.

Marin County
Community Development Agency

RECEIVED BY

96 MAR -9 P 3:31

Mark J. Riesenfeld, AICP, Director

COMMUNITY DEVELOPMENT

ENVIRONMENTAL REVIEW SUBMISSION

THIS APPLICATION MUST BE SUBMITTED WITH THE COMPLETED ZONING/DEVELOPMENT AND/OR SUBDIVISION APPLICATION

TO BE FILLED BY APPLICANT (Please type or print legibly)

1. Assessor's Parcel No(s): 052-247-01 Zoning: BFC - RCR
2. Project Address: 242 Redwood Hwy City/Zip: Mill Valley, CA 94941
3. Property Owner: Steve Price Phone: (415) 388-7661
4. Owner's Address: 242 Redwood Hwy City/Zip: Mill Valley, CA 94941
5. Applicant: JM Consulting Group for Pacific Bell Mobile Services Phone: (415) 737-5407
   (if different from owner)
6. Applicant's Address: 844 Dubuque Ave. City/Zip: S. San Francisco,CA 94080

The California Environmental Quality Act (CEQA) requires an analysis of whether a proposed project will have a significant adverse impact on the environment, either individually or cumulatively with other projects. To assist the Planning Department in its review of your project, please answer the following questions to the best of your ability.

1. Will the project involve any excavation, grading or filling? Yes _____ No X
   If yes, describe _____

2. What is the present use of the site: Heliport

   If agriculture, would the project result in the reduction in acreage of any agricultural crop or agricultural activity? Yes _____ No _____
   If yes, explain _____

3. Does the project involve a change in the course or direction of water movements or configuration of either marine or fresh water? Yes _____ No X
   If yes, explain _____

4. Will the project or its related activities result in the generation of hydrocarbons, odors, dust, smoke, radiation, etc.? Yes _____ No X Not Sure _____
   If yes or not sure, explain _____

3501 Civic Center Drive, #308 - San Rafael, CA 94903-4157 - Telephone (415) 499-6269 - Fax (415) 499-7880

5. Will the development of the project affect buildings of historic importance? Yes _____ No X (Not Sure _____)

If yes or not sure, explain _____

6. Will the development of the project affect lands preserved under an agricultural, scenic or open space contract or easement? Yes _____ No X Not Sure _____

If yes or not sure, explain _____

7. Will the development of the project result in the displacement of people or business activity?
Yes _____ No X

If yes, explain _____

8. Will the project involve the provision of new off-street parking spaces?
Yes _____ No X Not Applicable _____

If yes or no, explain _____

9. Will the project or its related activities have an effect on or result in a need for new systems or substantial alterations to the following utilities

	Yes	No	Not Sure
• Sewer or septic systems?	( )	(x)	( )
• Water for domestic use and fire protection?	( )	(x)	( )
• Natural gas or electricity?	( )	(x)	( )
• Storm water drainage?	( )	(x)	( ))
• Solid waste disposal?	( )	(x)	( )
• Communication systems?	( )	(x)	( )
• Plant facilities for any of the above (sewer plants, microwave station, water tanks, etc.)?	( )	(x)	( )

If you answered yes or not sure to any of the above, explain: _____

SIGNATURE

I hereby certify that I have read this application form and that to the best of my knowledge, the information in this application and all the exhibits are full, complete, and correct. I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for denying the application, for suspending or revoking a permit issued on the basis of these subsequent representations, or the seeking of such other and further relief as may seem proper to the County of Marin.

Please see attached Owner Authorization

Signature of Owner(s) Signature of Applicant

Date Date

Marin County
Community Development Agency

RECEIVED BY

Mark J. Riesenfeld, AICP, Director

ZONING/DEVELOPMENT APPLICATION

TYPE OF APPLICATION:

( )	COASTAL PERMIT	( )	PRECISE DEVELOPMENT PLAN
(X)	DESIGN REVIEW	( )	REZONING
( )	MINOR DESIGN REVIEW	( )	SECOND UNIT USE PERMIT
(X)	DESIGN REVIEW EXEMPTION	( )	SIGN PERMIT/REVIEW*
( )	FLOATING HOME EXCEPTION*	(X)	USE PERMIT
( )	GENERAL PLAN/COMMUNITY PLAN AMENDMENT	( )	VARIANCE*
( )	MASTER PLAN	( )	TIDELANDS PERMIT

*Requires Supplemental Application/Information

TO BE COMPLETED BY PLANNING DEPARTMENT STAFF:

Date Received: 4-16-96
Receipt No: 25764
Received by: CP
Planner Assigned: CDS
Concurrent Application:
Reviewing Authority:

FEES:
Permit: DX 125.00
Permit: UP 2615.00
Cat. Exempt: 150.00
Initial Study: 2890.00
Other: PreApp -300.00
Total: 2,590.00
(Make checks payable to: Marin County Planning Department)

Hearing: ( ) Non-Hearing: ( )
Assessor's Parcel No.
Application No.(s): DX 96-405 UP 96-406

TO BE COMPLETED BY APPLICANT: (Please type or print legibly)

1. Assessor's Parcel No(s): 052-247-01 Zoning: BFC - RCR
2. Project Address: 242 Redwood Hwy City/Zip: Mill Valley, CA 94941
3. Property Owner: Steve Price Phone: (415) 388-7661
4. Owner's Address: 242 Redwood Hwy City/Zip: Mill Valley, CA 94941
5. Applicant: JM Consulting Group for Pacific Bell Mobile Services Phone: (415) 737-5811 Jim Caulkins
(if different from owner)
6. Applicant's Address: 844 Dubuque Ave. City/Zip: S. San Fracisco, CA 94080
7. All correspondence will be sent to the applicant. Please indicate any others to receive correspondence.
Name Address:
8. Description of Application: (specifically describe what you wish to accomplish)
Installation of Personal Communications Services (PCS) wireless communications facility for Pacific Bell Mobile Services (PBMS).

TO BE COMPLETED BY APPLICANT: (continued)

9. State of California Hazardous Waste and Substances Sites List (C.G.C. § 65962.5)

Pursuant to California Government Code Section 65962.5(e), before a local agency accepts as complete an application for any development project, the applicant shall consult the latest State of California Hazardous Waste and Substances Sites List on file with the Planning Department and submit a signed statement indicating whether the project is located on a site which is included on the List.

Statement: I have consulted the latest State of California Hazardous Waste and Substances List on file with the Planning Department, and I have determined that the project site is (is not circle one) included on the List.

Date of List consulted: 3/25/96

Source of the listing: _____ (To be completed only if the site is included on the List)

SIGNATURE:

I hereby certify that I have read this application form and that to the best of my knowledge, the information in this application form and all the exhibits are complete and accurate. I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for rejecting the application, deeming the application incomplete, denying the application, suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the County of Marin.

Please see attached Owner Authorization _____

Signature of Property Owner(s) Signature of Applicant

I hereby authorize employees of the County of Marin to enter upon the subject property, as necessary to inspect the premises and process this application.

Please see attached Owner Authorizati

Signature of Property Owner

I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. Multiple signatures are required when plans are prepared by multiple professionals.

Please see attached Owner Authorization _____

Signature of Property Owner Signature of Plan Preparer

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs) which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the County of Marin. Consequently, development standards specified in such deed restrictions are NOT considered by the County when granting permits.

You are advised to determine if the property is subject to deed restrictions and if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Please see attached Owner Authorization

Signature of Property Owner

901-100-03
ADAMS TERESA B
240 REDWOOD HWY BERTH 3
MILL VALLEY CA 94941

901-100-10
CROWLEY-BERKOWITZ ASSOC
1709 BRIDGEWAY
SAUSALITO CA 94965

043-401-15
GOLDEN GATE BAPTIST THEO SEM
SEMINARY DR
MILL VALLEY CA 94941

043-401-16
GOLDEN GATE BAPTIST THEO SEM
SEMINARY DR
MILL VALLEY CA 94941

901-100-11
GRILLER JOHN
GRILLER MARY ANN
208 SANTA ROSA AVE
SAUSALITO CA 94965

901-100-[illegible]
HARRIMAN BARBARA TR
3170 VALLEY GREEN LN
NAPA CA 94558

901-100-07
HOTT PHILIP R
240 REDWOOD HWY 7C
MILL VALLEY CA 94941

901-100-[illegible]
KEYS MO[illegible]M
1781 REA ST
SAN MATEO CA 94403

901-100-04
LEVIN LYDIA
% JANE CHAMBERLAIN
PO BOX 252
SAUSALITO CA 94966

901-100-06
LINDGREN ORLEY
240 REDWOOD HWY 6
MILL VALLEY CA 94941

059-310-10
MARIN COUNTY OF
SAN RAFAEL CA 94901

059-310-11
MARIN COUNTY OF
SAN RAFAEL CA 94901

901-100-05
PURDY ED
PO BOX 1085
TIBURON CA 94920

901-100-08
SIMON MARCIA
PO BOX 1004
SAUSALITO CA 94966

901-100-09
TAT WONG KUNG FU ACADEMY
1854 19TH AVE
SAN FRANCISCO CA 94122

TOTAL LABEL COUNT 15-2 (13)

---------- END OF REPORT FOR PROGRAM T61513P ----------

09/27/1996 09:05
TS6.MLBLRREQ
PL.CARPER

MARIN INFORMATION SERVICES
PRINTOUT OF PANEL

T61511

TS6 MLBLRREQ REQUEST MAILING ADDRESS LABELS T61511 05

Requestor: PL CARPER Time: 09/27/1996 09:05
Priority: I I = Immediate Batch Copies: 2 Output: S S = System Printer
Sort by: O O=Owner Name, P=Property, S=Owner Name within Census Tract, Z=Owner Name within Zip Code
Select by: P A=All Properties, C=City, M=Mapbook, P=Property, S=Census Tract, T=Tax Rate Area Job Id: T615111

Start Selection		End Selection	Use Code (AT = all taxable codes)
90110001	TOP	90110011	TOP
	MORE		MORE

Include Living Units: A A=All, S=1 or 2, M=3 or Greater
Report Heading: GIMMLER - PRICE 052-247-01

TS6 CMD: _____ KEY: _____

1- 2- 3- 4- 5- 6- 7-

----------END OF REPORT FOR PROGRAM:T61511 ----------

Please note-
There are 2 sets of mailing labels for this project - 1 from APN Book 52 and 1 from APN Book 901

Planner: GIMMLER Project: [illegible]E/PAC BELL 04/29/96 Labels: 11

05224703
COUNTY OF MARIN

P O BOX 4186
SAN RAFAEL, CA 94913

05224707
COUNTY OF MARIN

P O BOX 4186
SAN RAFAEL, CA 94913

05224708
COYNE CHARLES B

1000 FRONT STREET
SACRAMENTO, CA 95814

05222704
DIVERSIFIED REALTY SVCS INC

P.O. BOX 3016
SAN RAFAEL, CA 94912

05222709
LITTORAL DEVELOPMENT CO

260 REDWOOD HWY
MILL VALLEY, CA 94941

05222601
LITTORAL DEVELOPMENT CO

260 REDWOOD HWY
MILL VALLEY, CA. 94941

05224401
LITTORAL DEVELOPMENT CO

260 REDWOOD HWY
MILL VALLEY, CA. 94941

05222714
MARIN COUNTY OF

SAN RAFAEL, CA

05224701
MITCHELL CLAYTON E T TR ETAL
KEEGIN SUSAN TR ETAL
300 MONTGOMERY ST STE 1050
SAN FRANCISCO CA 94104

05224702
MITCHELL CLAYTON E T TR ETAL
KEEGIN SUSAN TR ETAL
300 MONTGOMERY ST STE 1050
SAN FRANCISCO CA 94104

05224501
STECKLER DOROTHY J ETAL
ESTATE OF GEORGE KAPPAS ETAL
C/O STECKLER-PACIFIC CO INC
100 GATE SIX ROAD
SAUSALITO, CA 94965

Price 052-247-01 CAG

1. Steve Price - 242 Redwood Hwy.
   Mill Valley 94941

2. JM Consulting Group for Pacific Bell Mobile Services
   844 Dubuque Ave.
   So. San Francisco 94080

3. Tam Valley & Richardson Bay clubs
4. Env Sec
5. DP list

* BOS Appeal Notices
PC Staff reports to:

→ ✓ Joyce Lum POB 724 MV 94941 2
→ ✓ Richard [illegible] 240 Redwood #3 MV 94941
→ ✓ [illegible] 240 RW Hwy #1 MV 94941
✓ [illegible] POB 1004 Stins 94046
on labels

Send BOS letters to:

6. KENNETH STOCKERO (OK)
COMMUNICATION SYSTEMS DEVELOPMENT, INC.
24001 WATKINS ST.
HAYWARD, CA 94544

→ *Christine Craft
5320 Joline
Sacramento, CA 95841
also Jack Krystal
1299 4th St. Suite 202
SR CA 94901

7. Bill Jarvis
Communications Development, Inc.
(same as)

8. Jim Proeme
P.O. Box 701
Occidental, CA 95465
} wants copy of minutes

COMMUNITY DEVELOPMENT AGENCY

COUNTY OF MARIN

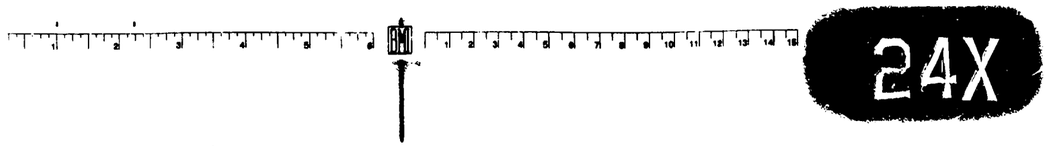
PLANNING DIVISION

PROJECT TYPE & YEAR: DX/UP 1996

A.P.N.: 052-247-01

NAME

PRICE, STEVE / PAC BELL



GENERAL NOTES

1. DRAWINGS ARE NOT TO BE SCALED. WRITTEN DIMENSIONS TAKE PRECEDENCE, AND THE SET OF PLANS IS INTENDED TO BE USED AS A DIAGRAMMATIC GUIDE ONLY. UNLESS NOTED OTHERWISE, THE GENERAL CONTRACTOR'S SCOPE OF WORK SHALL INCLUDE FURNISHING ALL MATERIALS, EQUIPMENT, LABOR, AND ANYTHING ELSE REQUIRED NECESSARY TO COMPLETE INSTALLATIONS AS DESCRIBED HEREIN.

2. PRIOR TO THE SUBMISSION OF BIDS, THE CONTRACTORS INVOLVED SHALL VISIT THE JOB SITE AND FAMILIARIZE THEMSELVES WITH ALL CONDITIONS AFFECTING THE PROPOSED PROJECT, WITH THE CONSTRUCTION AND DEMOLITION DOCUMENTS, FIELD CONDITIONS AND CONFIRM THAT THE PROJECT MAY BE ACCOMPLISHED AS SHOWN PRIOR TO PROCEEDING WITH CONSTRUCTION. ANY ERRORS, OVERSIGHTS, OR DISCREPANCIES ARE TO BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER.

3. THE GENERAL CONTRACTOR SHALL RECEIVE WRITTEN AUTHORIZATION TO PROCEED WITH CONSTRUCTION PRIOR TO STARTING WORK ON ANY ITEM NOT CLEARLY DEFINED BY THE CONSTRUCTION DRAWINGS/ CONTRACT DOCUMENTS.

4. THE CONTRACTOR SHALL SUPERVISE AND DIRECT THE PROJECT DESCRIBED HEREIN. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES AND FOR COORDINATING ALL PORTIONS OF THE WORK UNDER THE CONTRACT.

5. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS ACCORDING TO MANUFACTURERS' / VENDOR'S SPECIFICATIONS UNLESS NOTED OTHERWISE OR WHERE LOCAL CODES OR ORDINANCES TAKE PRECEDENCE.

6. ALL WORK PERFORMED ON PROJECT AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS, AND ORDINANCES. CONTRACTOR SHALL GIVE ALL NOTICES AND COMPLY WITH ALL LAWS, ORDINANCES, RULES, REGULATIONS AND LAWFUL ORDERS OF ANY PUBLIC AUTHORITY, MUNICIPAL AND UTILITY COMPANY SPECIFICATIONS, AND LOCAL AND STATE JURISDICTIONAL CODES BEARING ON THE PERFORMANCE OF THE WORK.

7. GENERAL CONTRACTOR SHALL PROVIDE AT THE PROJECT SITE A FULL SET OF CONSTRUCTION DOCUMENTS UPDATED WITH THE LATEST REVISIONS AND ADDENDUMS OR CLARIFICATIONS FOR THE USE BY ALL PERSONNEL INVOLVED WITH THE PROJECT.

8. THE STRUCTURAL COMPONENTS OF THIS PROJECT SITE/ FACILITY ARE NOT TO BE ALTERED BY THIS CONSTRUCTION PROJECT UNLESS NOTED OTHERWISE.

9. DETAILS INCLUDED HEREIN ARE INTENDED TO SHOW END RESULT OF DESIGN. MINOR MODIFICATIONS MAY BE REQUIRED TO SUIT JOB CONDITIONS OR SITUATIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE SCOPE OF WORK.

10. SEAL PENETRATIONS THROUGH FIRE-RATED ASSIES WITH U.L. LISTED OR FIRE MARSHALL APPROVED MATERIALS IF APPLICABLE TO THIS FACILITY AND OR PROJECT SITE.

11. PROVIDE A PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A OR 2-A:10BC WITHIN 75 FEET TRAVEL DISTANCE TO ALL PORTIONS OF THE PROJECT AREA DURING CONSTRUCTION.

12. THE CONTRACTOR SHALL MAKE NECESSARY PROVISIONS TO PROTECT EXISTING IMPROVEMENTS, LANDSCAPING, PAVING, CURBING, ETC. DURING CONSTRUCTION. UPON COMPLETION OF WORK, CONTRACTOR SHALL REPAIR ANY DAMAGE THAT MAY HAVE OCCURRED DUE TO CONSTRUCTION ON OR ABOUT THE PROPERTY.

13. CONTRACTOR SHALL SEE TO IT THAT GENERAL WORK AREA IS KEPT CLEAN AND RUBBISH FREE DURING CONSTRUCTION AND REMOVAL OF ALL DEBRIS, TRASH, EXCESS MATERIAL, EQUIPMENT NOT SPECIFIED AS REMAINING ON THE PROPERTY. PREMISES SHALL BE LEFT IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, DUST, OR SMUDGES OF ANY NATURE.

14. THE ARCHITECT/ENGINEER HAS MADE EVERY EFFORT TO SET FORTH IN THE CONSTRUCTION AND CONTRACT DOCUMENTS THE COMPLETE SCOPE OF WORK. CONTRACTORS BIDDING ON THE JOB ARE RESPONSIBLE FOR VISITING THE JOB SITE AND FAMILIARIZING THEMSELVES WITH THE CONDITIONS UNDER WHICH THE WORK IS TO BE PERFORMED. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT/ENGINEER. THE CONTRACTOR SHALL NOT EXCUSE HIMSELF FROM COMPLETING THE PROJECT AND SATISFACTORILY IN ACCORDANCE WITH THE INTENT OF THESE DOCUMENTS, THE CONTRACTOR SHALL BEAR THE RESPONSIBILITY OF NOTIFYING AND OBTAINING THE ARCHITECT/ENGINEER OF ANY CONFLICTS, ERRORS, OR OMISSIONS IN THE DRAWINGS PRIOR TO THE SUBMITTAL OF CONTRACTOR'S PROPOSAL. IN THE EVENT OF DISCREPANCIES THE CONTRACTOR SHALL PRICE THE MORE COSTLY OR EXTENSIVE WORK, UNLESS DIRECTED OTHERWISE.

PACIFIC BELL®
Mobile Services

260 REDWOOD HIGHWAY
MILL VALLEY, CA
SF306

LEGEND

——— A ———	ANTENNA CABLE (ABOVE GROUND)
——— T ———	TELEPHONE SERVICE (ABOVE GROUND)
——— E ———	POWER SERVICE (ABOVE GROUND)
——— G ———	GROUND RING (ABOVE GROUND)
— — A — —	ANTENNA CABLE (BURIED)
— — T — —	TELEPHONE SERVICE (BURIED)
— — E — —	POWER SERVICE (BURIED)
— — G — —	GROUND RING (BURIED)
(E)	EXISTING
(N)	NEW
T.O.R.	TOP OF ROOF
T.O.P.	TOP OF PARAPET
T.O.A.	TOP OF ANTENNA

PROJECT SUMMARY

APPLICANT / LESSEE:
PACIFIC BELL MOBILE SERVICES
844 DUBUQUE AVE
SOUTH SAN FRANCISCO, CA 94080

PROPERTY OWNER:
MITCHELL CLAYTON E TED; KEEGIN SUSAN TRUST
300 MONTGOMERY STREET #1050
SAN FRANCISCO, CA 94104

PROJECT DESCRIPTION:
INSTALL NEW PCS ANTENNA ARRAY AND RADIO EQUIPMENT MODULE ON EXISTING ROOF

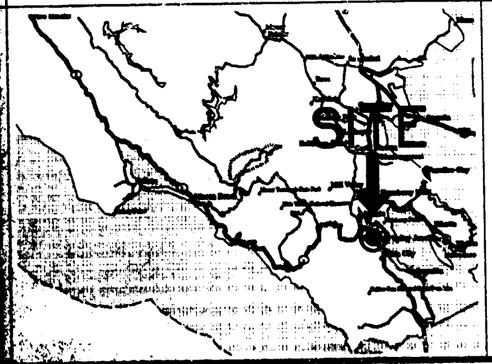
EXISTING PROPERTY INFORMATION:
ASSESSOR'S PARCEL NO.: 052-247-01

SHEET INDEX

T-1	PROJECT INFORMATION
A-1	PLANS / ELEVATIONS
C-1	ROOF SURVEY

VICINITY MAP

GENERAL LOCATION MAP



CONTACTS

PACIFIC BELL MOBILE SERVICES:
844 DUBUQUE AVE
SOUTH SAN FRANCISCO, CA 94080

INDEPENDENT CONTRACTOR & APPLICATION CONTACT:
AM. CONSULTING GROUP, INC.
844 DUBUQUE AVE
SOUTH SAN FRANCISCO, CA 94080
DAVID PRICE (415) 737-5319

ARCHITECT:
ON DESIGN ARCHITECTS
844 DUBUQUE AVE
SOUTH SAN FRANCISCO, CA 94080

ELECTRICAL ENGINEER:

CIVIL ENGINEER

STRUCTURAL ENGINEER

CONSTRUCTION CONTRACTOR

If this image appears cut-off or is not as legible as this overlay, it's due to the poor quality of the original document.

EXHIBIT "A"

APPROVAL SIGN OFF OF WORKING DRAWINGS

	DATE	PRINT NAME	SIGNATURE
RF ENGINEERING	11/6/95		
RF MANAGER	11/6/95		
SITE DEVELOPMENT MANAGER	11/6/95		
INDEPENDENT CONTRACTOR - SAR	11/6/95		
INDEPENDENT CONTRACTOR - LUP	11/9/95		
INDEPENDENT CONTRACTOR - PE	11/6/95		

DATE: 11/06/95
ENGINEER: WMW
DRAWN BY: SD

REVISIONS

DATE	DESCRIPTION	INITIAL

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Mobile Services
4420 ROSEWOOD DR. BLDG. 2, 4TH FLOOR
PLEASANTON, CALIFORNIA 94588

RECEIVED
APR 09 1996
COUNTY OF MARIN
COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

260 Redwood HWY
Mill Valley, CA
94941

SF306

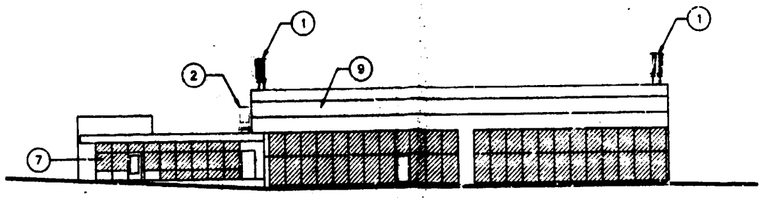
PROJECT INFORMATION

T-1

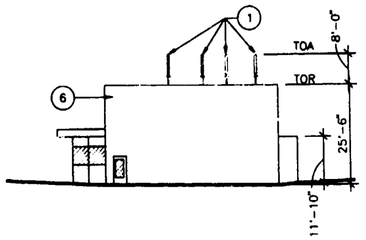
052-247-01

FILE COPY

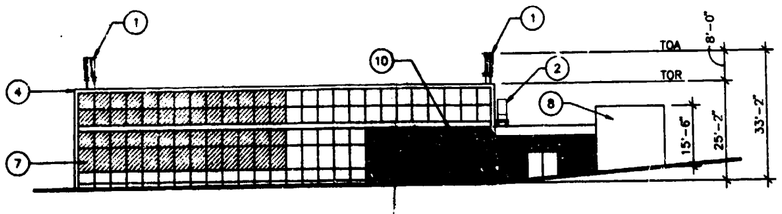
24X



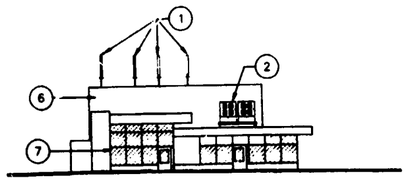
EAST ELEVATION
Scale: 1/16"=1'-0"



NORTH ELEVATION
Scale: 1/16"=1'-0"



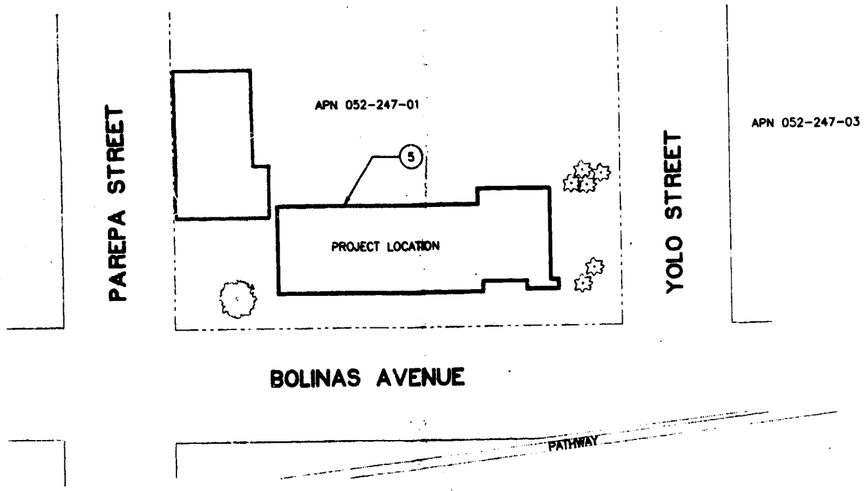
WEST ELEVATION
Scale: 1/16"=1'-0"



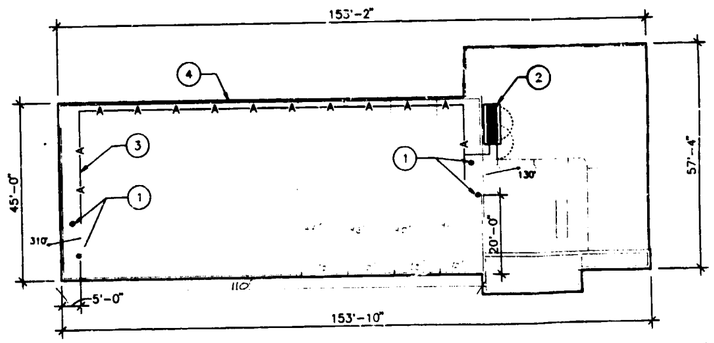
SOUTH ELEVATION
Scale: 1/16"=1'-0"

KEY NOTES:
(This sheet only)

1. PROPOSED ANTENNA(S)
2. PROPOSED BTS (2 UNITS)
3. CONDUIT & CABLE TRAY RUNS.
4. ROOF LINE
5. BUILDING LINE
6. STUCCO
7. GLAZING
8. BLUE TILE MURAL
9. PLYWOOD PANELS
10. WOODEN SCREEN



SITE PLAN
Scale: 1/32"=1'-0"
0 20'
NORTH



ROOF PLAN
Scale: 1/16"=1'-0"
0 20'

DATE: 09/29/95
ENGINEER: WMW
DRAWN BY: SD

REVISIONS

DATE	DESCRIPTION	INITIAL

PACIFIC BELL®
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PLEASANTON, CALIFORNIA 94588

260 Redwood HWY
Mill Valley, CA
94941

SF306

PLANS / ELEVATIONS

A-1

052-247-01

24X

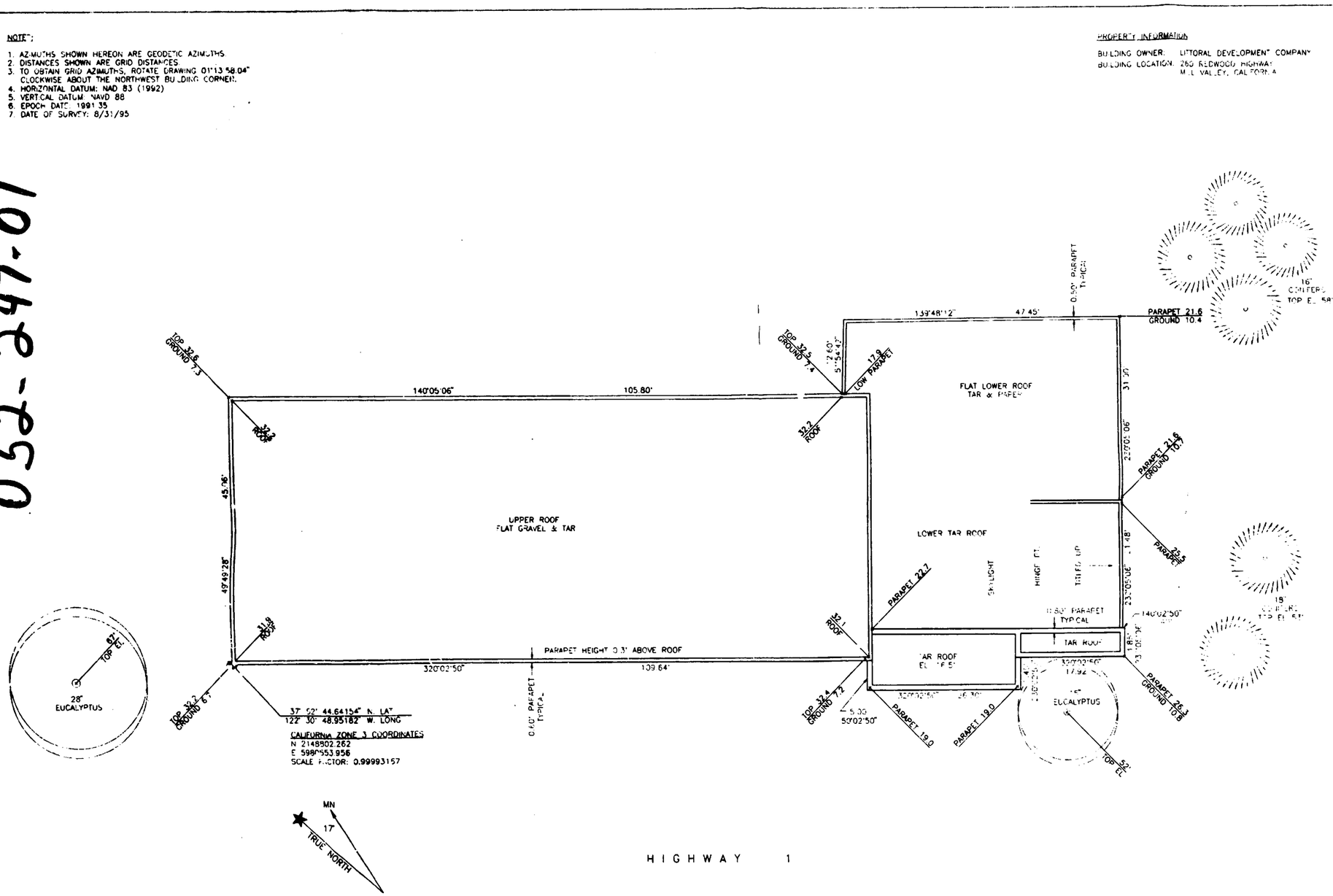
052-247-01

NOTE":

1. AZIMUTHS SHOWN HEREON ARE GEODETIC AZIMUTHS.
2. DISTANCES SHOWN ARE GRID DISTANCES.
3. TO OBTAIN GRID AZIMUTHS, ROTATE DRAWING 01°13'58.04" CLOCKWISE ABOUT THE NORTHWEST BUILDING CORNER.
4. HORIZONTAL DATUM: NAD 83 (1992)
5. VERTICAL DATUM: NAVD 88
6. EPOCH DATE: 1991.35
7. DATE OF SURVEY: 8/31/95

PROPERTY INFORMATION

BUILDING OWNER: LITTORAL DEVELOPMENT COMPANY
BUILDING LOCATION: 260 REDWOOD HIGHWAY
MILL VALLEY, CALIFORNIA



SURVEYOR'S STATEMENT:

THE INFORMATION SHOWN HEREON REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE LAND SURVEYOR'S ACT AT THE REQUEST OF JM CONSULTING GROUP, INC. ON AUGUST 23, 1995.

ROGER A. NORTHERN P.L.S. 5954 — DATE

DATE: 8/31/95
ENGINEER:
DRAWN BY: NORTHERN

REVISIONS

DATE	DESCRIPTION	INITIAL

PACIFIC BELL®
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4420 ROSEWOOD DR. BLDG. 2, 4TH FLOOR
PLEASANTON, CALIFORNIA 94588

SEA PLANE TOURS
260 REDWOOD HWY.
MILL VALLEY, CA.

SF-306

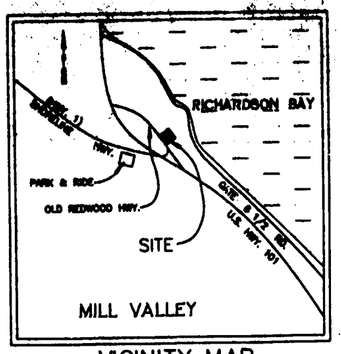
SCALE: 1/8" = 1'

ROOF SURVEY

C-1

24X

052-247-01



VICINITY MAP
NO SCALE

EASEMENT NOTES

① 10' WIDE PG&E EASEMENT PER BOOK 2991 O.R. PAGE 238, MARIN COUNTY RECORDS.

RECORD TITLE INTEREST BASED UPON A PRELIMINARY TITLE REPORT PREPARED BY FIRST AMERICAN TITLE COMPANY OF LOS ANGELES, CA. ORDER NO. 8-1843088, DATED SEPTEMBER 27, 1995. THE PREPARER ASSUMES NO RESPONSIBILITY IN THE TITLE RESEARCH.

NOTE:
THE SHOWN BOUNDARY IS PREDICATED ON AN ANALYSIS OF EXISTING IMPROVEMENTS AND RECORD DATA. IT IS NOT, AND SHOULD NOT BE TAKEN AS A FORMAL BOUNDARY DETERMINATION.

20 0 20 40
scale 1" = 20' feet

SYMBOLS & LEGEND

- EUCALYPTUS TREE
- PINE TREE
- ORNAMENTAL TREE
- AREA LIGHT
- STREET LIGHT
- GUY ANCHOR
- WV WATER VALVE
- FIRE HYDRANT
- TRAFFIC SIGN
- CB CATCH BASIN
- DI DROP INLET
- E ELECTRICAL BOX OR VAULT
- EP EDGE OF PAVEMENT
- G GAS METER
- JP JOINT UTILITY POLE
- NG NATURAL GROUND
- T TRANSFORMER
- TC TOP OF CONCRETE
- TP TOP OF PAVEMENT
- WM WATER METER
- MH MANHOLE

RICHARDSON BAY

GPS POINT 1
N 2148677.151
E 5980737.004
ELEV. 7.36
PK-NAIL

MITCHELL ET AL.
APN 052-247-002

MITCHELL ET AL.
APN 052-247-001

PAREPA STREET

YOLO STREET

BOLINAS STREET

OLD REDWOOD HWY.

FUEL TANK

CONTAINMENT TANK

GRAVEL

HELICOPTER PAD

5' HIGH CYCLONE FENCE

4' HIGH BOARD FENCE

S 38°22'00" E 240.00'

GPS POINT 3
N 2148948.842
E 5980487.109
ELEV. 7.85
PK-NAIL

GPS POINT 2
N 2148827.710
E 5980551.016
ELEV. 7.52
PK-NAIL

OVERHEAD POWER LINES

BACK FLOW PREVENTOR

VAULT WITH A WOOD LID

APN 052-247-008

BASIS OF BEARINGS

CALIFORNIA COORDINATE SYSTEM, ZONE THREE

VERTICAL DATUM
N.A.V.D. 1988

HORIZONTAL DATUM
N.A.D. 83 (1992)

AZIMUTHS SHOWN HEREON ARE GEODETIC.
DISTANCES ARE GRID DISTANCES
CONVERGENCE ANG. = -1°13'56.62" AT GPS POINT 1
SCALE FACTOR = 0.99993185 AT GPS POINT 1
LAT. 37°32'43.444" - AT GPS POINT 1
LONG 122°30'48.836" - AT GPS POINT 1

PRINTED
OCT 19 1995

SURVEYOR'S STATEMENT

THE INFORMATION SHOWN ON THIS SITE MAP IS THE RESULT OF A SURVEY BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE LAND SURVEYOR'S ACT AT THE REQUEST OF JM CONSULTING GROUP, INC. IN AUGUST, 1995.

ROBERT C. HILLIARD
L.S. 5607
EXP. 12/31/96

DATE OF SURVEY: 8/8/95

DATE: 10/19/95
ENGINEER: WMW
DRAWN BY: DNW

REVISIONS

DATE	DESCRIPTION	INITIAL

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4420 ROSEWOOD DR. BLDG. 2, 4TH FLOOR
PLEASANTON, CALIFORNIA 94588

RICHARDSON BAY
260 REDWOOD HWY.
MILL VALLEY, CA.

SF-306-02

SCALE: 1" = 20'

SITE PLAN

C-2

24X

MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

ZONING/DEVELOPMENT APPLICATION

TYPE OF APPLICATION:

- ☐ MASTER PLAN
- ☐ PRECISE DEVELOPMENT PLAN
- ☐ COASTAL PERMIT
- ☐ FLOATING HOME ADJUSTMENT*
- ☐ FLOATING HOME ARCHITECTURAL DEVIATION
- ☐ GENERAL/COMMUNITY PLAN AMENDMENT
- ☐ REZONING
- ☐ TREE REMOVAL PERMIT
- ☐ DESIGN REVIEW
- ☐ MINOR DESIGN REVIEW
- ☐ SECOND UNIT PERMIT
- ☐ SIGN PERMIT/REVIEW*
- ☒ USE PERMIT
- ☐ VARIANCE
- ☐ TIDELANDS PERMIT
- ☐ LARGE FAMILY DAY-CARE PERMIT

***Requires Supplemental Application/Information**

TO BE COMPLETED BY PLANNING DEPARTMENT STAFF:

Date Received: _____
Receipt No: _____
Received By: _____
Planner Assigned: _____
Concurrent Application: _____
Reviewing Authority: _____

FEES:

Permit: _____
Permit: _____
Cat. Exempt: _____
Initial Study: _____
Other: _____
_____
TOTAL: _____

(***Make checks payable to:*** **Marin County Planning Department)**

Hearing: ☐ Non-Hearing: ☐

Note: Fees may not be refunded in full if the application is withdrawn.

Assessor's Parcel No.(s) _____ Application No.(s): _____

TO BE COMPLETED BY APPLICANT: (Please type or print legibly)

1. Assessor's Parcel No(s): 052-247-01,-02 Zoning: _____
2. Project Address: 242 Redwood Highway City/Zip: Mill Valley, CA 94941
3. Property Owner: Steven Price Phone: (415) 850-5200
4. Owner's Address: 242 Redwood Highway City/Zip: Mill Valley, CA 94941
5. Owner's Email: steve@priceandmulvihill.com
6. Applicant: Steven Price Phone: Same
7. Applicant's Address: Same City/Zip: Same
8. Applicant's Email: Same
9. All correspondence will be sent to the applicant. Please indicate any others to receive correspondence:

   Name: _____ Address: _____

3501 Civic Center Drive, Room 308 – San Rafael, CA 94903-4157 – 415-499-6269 – Fax 415-499-7880
http://www.co.marin.ca.us/comdev

TO BE COMPLETED BY APPLICANT: (continued)

10. Description of Application: *(Specifically describe the application and include additional sheets if needed.)*
Use Permit Renewal-No Changes

11. State of California Hazardous Waste and Substances Sites List (C.G.C. § 65962.5)

Pursuant to California Government Code Section 65962.5(e), before a local agency accepts as complete an application for any development project, the applicant shall consult the latest State of California Hazardous Waste and Substances Sites List on file with the Planning Department and submit a signed statement indicating whether the project is located on a site which is included on the List.

Statement: I have consulted the latest State of California Hazardous Waste and Substances List on file with the Planning Department, and I have determined that the project site **is / is not** (circle one) included on the List.

Date of List consulted: 9/19/12
Source of the listing: _____ (To be completed only if the site is included on the List)

SIGNATURE:

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs) which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the County of Marin. Consequently, development standards specified in such deed restrictions are NOT considered by the County when granting permits. I understand that it is my responsibility to determine if the property is subject to deed restrictions and if so, I certify that I have contacted the appropriate homeowners association and adjacent neighbors about the project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

I hereby authorize employees, agents, and/or consultants of the County of Marin to enter upon the subject property upon reasonable notice, as necessary, to inspect the premises and process this application. I understand that in cases where the development site is large or cannot be easily seen or accessed from the nearest public road, the Community Development Director may determine that a publicly noticed site inspection by the decisionmaker is necessary. In this instance, I hereby authorize the conduct of such inspections of the premises upon reasonable notice.

I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. I understand that this may include circulating copies of the reduced plans for public inspection. Multiple signatures are required when plans are prepared by multiple professionals.

I hereby certify that I have read this application form and that to the best of my knowledge, the information in this application form and all the exhibits are complete and accurate. I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for rejecting the application, deeming the application incomplete, denying the application, suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the County of Marin. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this application was signed at Mill Valley, California on 9/19/12.

Signature of Property Owner(s) and Applicant(s)

Signature of Plan Preparer

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DIVISION

3501 Civic Center Drive, Room 308, San Rafael, CA 94903-4157
Telephone (415) 499-6269 Fax (415) 499-7880

Receipt Date: 10/04/2012
Receipt #: 2013-0131
Project Date: 10/04/2012
Project ID: _2012-0302
Project Originated by: ALVES

Applicant: COMMODORE MARINA LLC
240 242 REDWOOD HWY
MILL VALLEY, CA 94941
ATTN: STEVE PRICE

Check Submitted by: COMMODORE MARINA LLC
Assessor's Parcel: 052-247-01

Payments and/or Transfers

Use Permit Renewal	UP-13-5	R SAP Fund/GL: 10000 / 2111325	1,450.00

Payment on :10/04/2012 09:58:08 AM
Check number: 006322
Amount: 1,450.00
Address: COMMODORE MARINA LLC
242 REDWOOD HIGHWAY
MILL VALLEY, CA 94941
Phone: 415 850-5200

(3) FILE COPY

Project Cover Sheet

Project Name	COMMODORE MARINA LLC	Planner	
Parcel	052-247-01		
Applicant	COMMODORE MARINA LLC 240 242 REDWOOD HWY MILL VALLEY, CA 94941 ATTN: STEVE PRICE	Owner	COMMODORE MARINA LLC 240 242 REDWOOD HWY MILL VALLEY, CA 94941

Club List/Design Review Board: **N/A**

Mailing List labels attached

Environmental Secretary

Interested Parties

Name	Company	Address	City, State Zip

NO INTERESTED PARTIES