

Town of Tiburon

STAFF REPORT



AGENDA ITEM _____

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TO: **PLANNING COMMISSION**

FROM: **DANIEL M. WATROUS, PLANNING MANAGER**

SUBJECT: **POTENTIAL AMENDMENT TO INTERIM STANDARDS AND CRITERIA FOR WIRELESS COMMUNICATIONS FACILITIES**

MEETING DATE: **FEBRUARY 25, 2004** REVIEWED BY: SA

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BACKGROUND

In the mid-1990's, the increasing use of wireless communications technology led to a demand for the installation of facilities that provide services to wireless telephones and other electronic devices. These service providers began to install networks of facilities throughout Marin County, including requests to construct such facilities in Tiburon.

The Tiburon Zoning Ordinance requires that a conditional use permit be obtained in order to install a wireless communications facility (WCF). However, the policies and principles used for the review of use permit applications do not address many of the details associated with such facilities. In 1996, in response to the growing number of WCF applications, Marin County adopted a set of Interim Standards and Criteria for Wireless Communications Facilities to provide guidance in the review of applications for these facilities. On January 2, 1997, the Town Council adopted a slightly modified form of the County Interim Standards and Criteria to be used in the review of applications for these facilities in Tiburon.

After using these Interim Standards and Criteria to review four separate WCF applications, the Planning Commission recommended that certain modifications should be made to the Standards and Criteria to more accurately reflect the range of concerns which need to be addressed by the Town in the review of applications for such facilities in Tiburon. The Town Council approved these revised Interim Standards and Criteria on June 13, 1997.

Since that time, the Planning Commission has reviewed several applications to establish WCFs in Tiburon, as well as time extensions to continue the operations of these facilities. An inventory of WCF approvals is attached as Exhibit 4. During the review of several of these time extensions, it has become clear that portions of the Interim Standards and Criteria required updating. This presents the opportunity to review these Standards and Criteria to determine the extent of necessary changes to this document, and to remove the word "Interim" from its title.

ANALYSIS

Permit Duration

To date, the only section of the Interim Standards and Criteria that has been identified as absolutely requiring amendment is the section on "Permit Duration," that currently reads as follows:



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“Permit applications for wireless communications facilities shall be valid for a period of one (1) year from the date of final discretionary approval and may be renewed prior to expiration. Subsequent action by the Town to approve, approve with modifications, or disapprove applications for renewal shall be based upon the permanent policies, standards, and requirements adopted by the Town (pending), and other applicable Town regulations in effect at the time of application renewal. Applications for renewal shall be submitted to the Planning Department no later than thirty (30) days prior to expiration of the initial one-year permit approval. The initial one-year approval period may be extended by the Town if applications for renewal have been properly filed and are pending. The initial one-year approval period may also be extended for up to five additional years if the Town determines that the project is in complete compliance with adopted standards and regulations, and that new or modified conditions of permit approval are not required. In addition, a permit application may not be renewed if the facility is not upgraded to minimize its impacts, including land use compatibility, visual resources, public safety or other factors addressed by CEQA, to the greatest extent permitted by technology which exists at the time of renewal.”

As noted above, this section provides only for a one-year time limit on the original approval of a wireless communications facility, with a single five year time extension permitted. However, several such facilities in Tiburon have now been operating for more than six years, with the service providers intending to continue operating for the foreseeable future. In the recent review of applications for further time extensions for these facilities, the Planning Commission has chosen to grant an additional five year time extension for facilities that appear to otherwise be in compliance with the Interim Standards and Criteria.

In order to allow the Planning Commission the flexibility to allow additional time extensions for wireless communications facilities, when deemed appropriate, it is recommended that this section be amended to include the following language:

“The initial one-year approval period may also be extended for additional periods of up to five additional years if the Town determines that the project is in complete compliance with adopted standards and regulations, and that new or modified conditions of permit approval are not required.”

In recognition of making these Standards and Criteria more permanent, it is also recommended that the term “(pending)” be deleted from the second sentence of this section.

Other Potential Changes

Staff has reviewed the remainder of the current Standards and Criteria and has been unable to identify any other sections that require substantial modification. These standards have allowed the Planning Commission to effectively evaluate numerous WCF applications since 1997 by requiring adequate information from the applicants and establishing criteria with which to assess the appropriateness of these facilities at their requested locations.



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Other jurisdictions have not made significant changes to similar WCF criteria since 1997. Marin County last amended its current WCF standards and criteria in 1999 as part of the Marin County Telecommunications Facilities Policy Plan, and adopted a brief section in its Development Code making reference to these standards. The City of Sausalito adopted WCF standards and criteria in 2002, choosing to incorporate many similar standards within its zoning ordinance.

Staff would recommend following the Marin County example by creating a brief section within the Tiburon Zoning Ordinance that specifically requires that a conditional use permit be obtained for all wireless communications facilities. This code section could then reference that the adopted Town Standards and Criteria for WCFs would be used in the review of such applications. In this manner, future amendments to the Standards and Criteria could be performed as necessary without requiring the more cumbersome process of adopting a new ordinance each time a change is desired.

In addition, the Planning Commission may have suggestions on other amendments that would improve the effectiveness of the Standards and Criteria. Staff is soliciting suggestions on other such changes that would better the Town's ability to review applications for wireless communications facilities.

RECOMMENDATION

It is recommended that the Planning Commission discuss any desired changes or refinements to the Standards and Criteria for Wireless Communications Facilities, and direct Staff to return with a resolution recommending to the Town Council approval of such changes.

EXHIBITS

1. Interim Standards and Criteria for Wireless Communications Facilities, adopted by the Tiburon Town Council on July 2, 1997
2. Portion of Marin County Development Code and associated materials
3. City of Sausalito Standards and Criteria for Wireless Communications Facilities
4. Inventory of approved wireless communications facilities in Tiburon

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