

**MARIN COUNTY PLANNING COMMISSION HEARING MINUTES**

**August 9, 2004**

**Marin County Civic Center, Room #328 - San Rafael, California**

*Commissioners Present:* Allan Berland, Chairman  
Steve Thompson, Vice Chairman  
Hank Barner  
Don Dickenson  
Randy Greenberg  
Jo Julin

*Commissioners Absent:* Wade Holland

*Staff Present:* Alex Hinds, Director, Community Development Agency  
Tom Lai, Principal Planner  
Ben Berto, Principal Planner  
Tim Haddad, Environmental Planning Coordinator  
Eric Steger, Public Works Department  
Curtis Havel, Planner  
Jeremy Tejirian, Planner  
Jessica Woods, Recording Secretary

*Minutes Approved on:* **August 30, 2004**

Convened at 1:08 p.m.  
Adjourned at 6:15 p.m.

1. ROUTINE TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

*M/s/Julin/Barner, and passed unanimously of those present, to incorporate the staff reports into the Minutes. Motion passed 6/0 (Commissioner Holland absent).*

- b. Continuances - Murray Design Review Project – September 27<sup>th</sup>, 2004.

*M/s, Dickenson/Greenberg, to continue the Murray application to the September 27<sup>th</sup>, 2004 Planning Commission meeting. Motion passed 6/0 (Commissioner Holland absent).*

- c. Approval of Minutes –. March 22, 2004 and July 26, 2004

*M/s, Barner/Julin, to continue the March 22, 2004 Minutes to the August 16<sup>th</sup>, 2004 Planning Commission meeting in order for staff to review. Motion passed 6/0 (Commissioner Holland absent).*

*M/s, Greenberg/Dickenson, to approve the July 26, 2004 Minutes as amended. Motion passed 6/0 (Commissioner Holland absent, Commissioner Thompson and Commissioner Barner abstained from Item 5, but agreed with the rest of the items).*

2. COMMUNICATIONS

The Commission acknowledged several pieces of correspondence for their review.

3. DIRECTOR'S ORAL REPORT

- a. Update on Board of Supervisors Actions  
b. Report on On-Going/Pending Development Projects

Agency Director Hinds recommended shortening the presentation on pending and on-going projects in the future. Commissioner Greenberg recommended that staff provide the Commission with a print out of new projects for their review.

4. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER)

Pricilla Bull, Kentfield resident, commented on members of the public being able to attend site visits with the Commission and recommended that the Commission develop a policy to be used on a trial basis in order to understand how it would work because members of the public become very frustrated in that regard.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Update on Planning Commission Actions

Update on Planning Commission Actions

August 16, 2004 – Countywide Plan Meeting

August 23, 2004 – San Rafael Rock Quarry Rezoning/Master Plan Waiver  
Moritz Coastal Permit Design/Review Floating  
Pelligra Floating Home Appeal (Sausalito)  
Massabeh Master Plan Amendment (Mill Valley)

August 30, 2004 – Countywide Plan Update (continued hearing)

Field Trips

Moritz (Bolin) - August 17, 2004 – Two group visits.

**San Rafael Rock Quarry**

Gary Giacomini, representing San Rafael Rock Quarry, provided the Commission with a letter welcoming the Commission to the Quarry. He also provided the Commission with photographs of the subject office buildings for their review. He further explained that due to safety considerations, it is impossible to accommodate members of the public on the Planning Commission's field trip.

Chairman Berland noted that this project is of great public interest and the public should be allowed to attend the site visit to the Quarry.

Mr. Giacomini recommended having the attorney for the neighborhood coalition as well as a member of the press attend the site visit rather than members of the public. He believed there would also be liability issues if there were a large public turn out. He further believed that a site visit would help the Commission understand the Quarry's proposal.

Commissioner Dickenson recommended conducting the site visit as an entire Commission with selected representative members of the public. He added that the manner in which site visits were conducted in the past might not be legal based on recent opinions issued by the State's Attorney General. He noted that he would write a letter to the Attorney General in order to address his concern, but he felt attending the field trip in groups of three is in violation of State law and noted that he would not participate if that were the case.

Commissioner Julin accepted Mr. Giacomini's offer to attend the site visit in groups with selected representatives, which she believed is very reasonable, rational and intelligent.

Commissioner Barner noted that he already visited the site, so a site visit for him is not necessary. He further believed there is a bigger issue that must be addressed in relation to Commissioner Dickenson's concern.

Commissioner Julin believed the ground rules should not be changed on this applicant or any applicant until Commissioner Dickenson's issue is further studied.

Commissioner Greenberg agreed that under very carefully controlled conditions the Commission would not violate the Brown Act. She also believed further discussion is needed in regard to members of the public attending site visits, but, at this time, she is in favor of attending the site visit in groups of three.

Commissioner Thompson believed the responsibility of clarifying Commissioner Dickenson's concern should rest with County Counsel.

Chairman Berland announced that the majority of the Commission agreed to attend the site visit as offered by Mr. Giacomini. He also directed staff to request that County Counsel reexamine the requirements of The Brown Act and the requirements to allow members of the public to attend site visits with the Commission, and whether the public had a right to visit a site with or without the Commission, in order to be allowed meaningfully participate in a public hearing concerning that site.

Agency Director Hinds concurred that a carefully controlled site visit in groups would not be in violation of the Brown Act. Staff added that County Counsel also discussed the issue and currently they do not have the authority to require the applicant to invite the public. However, they all agree that it would be better to invite the public, so an amendment to the County's permit processing procedure would be proposed so that projects of a certain type would allow for public participation in a Planning Commission's site visit, which would be brought back to the Commission at a later date.

Commissioner Dickenson desired an opportunity to review the items in the Brown Act handbook and to receive a response to the issues raised from the Attorney General. In the interim, he did not feel comfortable basing his decision on any material that is not available to the public, so he would rely on the staff report and the photographs rather than attending the site visit.

The project is a proposal to construct a two-story, 1,899 square foot single-family residence and a 480 square foot detached garage on an approximately 19,400 square foot, vacant parcel in Woodacre. As proposed, the dwelling would have a maximum height of 33 feet and the detached garage would have a maximum height of 15 feet. The dwelling would maintain the following minimum setbacks from corresponding property lines: 39 feet from the northeasterly front property line (along Redwood Drive); 31 feet from the northwesterly side property line; 42 feet from the southeasterly side property line; and 62 feet from the southwesterly property line. The detached garage would maintain setbacks of 3 feet from the northeasterly front property line, 46 feet from the northwesterly property line, 58 feet from the southeast property line, 11 feet from the east elevation of the proposed dwelling, and 62 feet from the top of bank of a tributary creek across Redwood Drive. Proposed building materials include dark gray/green composition shingle roofing and natural weathering wood shingle siding. Also proposed is construction of a new on-site sewage disposal system to serve the new residence. The subject property is located at **192 Redwood Drive, Woodacre**, and is further identified as **Assessor's Parcel 172-151-39**.

M/s, Dickenson/Julin, and passed unanimously of those present, to continue this matter to the hearing of September 27, 2004. Motion passed 6/0 (Commissioner Buddie not present).

The project is a proposal to construct a 1,777 square foot, two-story, single-family residence with an attached 291 square foot garage on a 7,823 square foot lot. Including the 26 square foot window seat, and the 106 square foot vaulted ceiling space in the living room, the “visually apparent” floor area would be 1,897 square feet. The subject property is located at the corner of Hawthorne Road and Ocean Parkway, the first public road on the bluff adjacent to the Pacific Ocean. The residence would result in the redevelopment of the residential property that previously was improved with a single-family residence and a second unit that were destroyed by fire in December 2002. An existing septic system that exists on the property would be utilized for the proposed residence. The project would result in a Floor Area Ratio of 23% and a “visually apparent” FAR of 25%. The single-family residence would have a maximum height of 24.75 feet above grade. The proposal includes the following additional structures/improvements: (1) a lap pool; (2) a 6-foot wood fence; and (3) a tool storage area within a 6-foot tall, 120 square foot, wood fence enclosure. The 10-foot by 40-foot lap pool would be located in the southern corner of the property with the 40-foot length of the pool along the Hawthorne Road frontage. The pool would have property line setbacks of 0.5 feet from Ocean Parkway and Hawthorne Road. The 6-foot tall wood fence would be located around the pool, along Hawthorne Road, along the rear property line, and partially along the northeast side property line, and then would connect to the side of the residence to enclose the side and rear yard areas. The subject property is located at **216 Ocean Parkway, Bolinas**, and is further identified as **Assessor's Parcel 191-191-08**.

**(This item was continued from the hearing of July 26, 2004.)**

Ben Berto, Principal Planner, summarized the staff report and provided the Commission with the draft Resolution for their review and adoption.

Chairman Berland expressed concern with the language included in the Resolution under LU-1.3, which does not contain language stating, “*with certainty*.” He believed the Commission should not impose legal requirements that did not exist in this plan and suggested using language from LU-1.3 indicating that there must be a sufficient showing that these conditions exist rather than conclusive evidence.

Commissioner Dickenson recommended that the Planning Commission take action in the resolution denying the application. Principal Planner Berto responded that the action could be incorporated into the final approved Resolution. Staff further added that his understanding is that denial without prejudice provides the applicant with an easier resubmittal.

Commissioner Barner believed the Resolution did not reflect the opinion of the Commission, which was that the 10% expansion rule had already been exercised and there should be no right for further exercise of that rule. He felt that that notion is only referred in the Resolution in regard to Finding V under LU-1.1 He suggested including language indicating that the applicant has already exercised that 10% rule in 1994 when the second unit was legalized. Therefore, LU-1.1 expansion allowance would no longer apply because it was already exercised, which should be included in the Resolution.

Commissioner Greenberg discussed the Kimball letter dated August 6<sup>th</sup> that suggested a 32% expansion was being proposed and she asked staff to investigate the percentage for accuracy. Staff agreed.

Agency Director Hinds noted that, based on the Commission’s direction, staff would provide the suggested language at the next meeting for their review.

Commissioner Thompson requested that Finding IV (12) discuss the fact that there was a commitment to update the potential for erosion of the bluff on a five-year basis.

Chairman Berland noted that he could not make the finding with respect to the geology in terms of the erosion, but also expressed concern for earthquakes and asked staff to review. Staff agreed.

Agency Director Hinds explained that the term “*without prejudice*” allows individuals to re-apply within a certain timeframe in order not to be charged an additional fee.

Commissioner Greenberg believed the applicant was misled by what was acceptable by County staff, so for that reason she felt the Commission should be generous and keep the “*without prejudice*” language.

Mr. Giacomini requested that the Commission use the language “*without prejudice*” in order for his client to come back with a project consistent with the Commission’s concerns. He further explained that his client desired to submit a plan as soon as possible and without prejudice might make the application move forward in a reasonable timeframe.

Commissioner Dickenson believed a continuance would be better than a denial in order for the application to be pending. Mr. Giacomini had no objection to a continuance or denial without prejudice.

Commissioner Thompson believed it is up to the applicant, because the applicant was given an opportunity for a continuance, which was declined. Mr. Giacomini recommended continuing the formal action of the Resolution and in the meantime the applicant would submit material for their review. Agency Director Hinds recommended deferring the action to October 25<sup>th</sup>, 2004.

Chairman Berland asked for a motion.

***M/s, Dickenson/Thompson, recommended rescinding the previous action and agree to the applicant’s request for a continuance to the October 25<sup>th</sup>, 2004 Planning Commission meeting in order to keep the application pending.***

Commissioner Julin objected to rescinding the decision that was made at the last meeting and noted that she would not be in favor of the motion.

Commissioner Greenberg noted that the applicant was offered the opportunity to continue and the applicant declined, so she believed denying without prejudice is a decision that would allow the applicant to move forward.

***Motion passed 5:1 (Commissioner Julin opposed and Commissioner Holland absent).***

The project is a proposal to construct an extension to Eucalyptus Way for access to four lots, provide potential access to the Salvato lot, and construct one single-family residence. The project would also include off-site improvements to widen Eucalyptus Way to a 16-foot minimum width, construct a 3-foot tall, 54-foot-long retaining wall along the widened portion of Eucalyptus Way, construct drainage improvements along Eucalyptus Way and Glenwood Avenue right-of-ways, and install new landscaping along the widened portion of Eucalyptus Way. The current project is a proposal to construct a 580-foot long, 16-foot wide paved “common driveway” extension of Eucalyptus Way that would bisect three landslides. Grading work would consist of 2,770 cubic yards of excavation and 2,580 cubic yards of fill to repair the landslide areas, construction of drainage improvements, and retaining walls. The common driveway would extend to the northeast from the end of the existing paved “Eucalyptus Way” with a short 21% sloped section as it turns upslope, a 15.6% slope, and ultimately to a 2.5% slope. One 190-foot-long concrete retaining wall, with heights of 2-feet to 7-feet, would be constructed on the upslope side of the curve at the beginning of the common driveway. Another 85-foot-long concrete retaining wall, stepped back 4-feet from the first wall, with heights of 1-foot to 6.5-feet, would be constructed upslope of the first wall. Two other stepped retaining walls with heights of 3-feet to 6.5-feet would be constructed to provide a turnaround area. Prior to taking action on the Engel Design Review application, the Planning Commission will consider adopting a mitigated negative declaration for the project pursuant to the California Environmental Quality Act (CEQA). The subject Engel properties would have site addresses of **625, 629, 633, and 637 Eucalyptus Way, Mill Valley**, and are also identified as **Assessor’s Parcels 049-051-29, -30, -31 and -32**. The Salvato property is located **southwest of the turnaround area at the end of the proposed common driveway adjacent to 604 Eucalyptus Way and 641 Eastwood Way**. The site address would be **640 Eucalyptus Way** and is also identified as **Assessor’s Parcel 049-052-19**.

**(This item was continued from the hearing of July 26, 2004.)**

Ben Berto, Principal Planner, summarized the staff report and provided the Commission with the draft Resolution for their review and adoption.

Commissioner Dickenson expressed concern for Findings VIII and IX being repetitive and believed the heading language for Finding IX could remain, but be inserted into Finding VIII after, *“in particular, additional information from the public as follows”* rather than repeating information. The Commission and staff agreed.

Chairman Berland suggested adding the following language: *“and new information”* to Section II of the Resolution under the second paragraph.

Chairman Berland asked for a motion.

***M/s, Dickenson/Thompson, and passed unanimously of those present, to adopt the Resolution as amended. Motion passed 6/0 (Commissioner Holland absent).***



MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-007

A RESOLUTION DETERMINING

THAT A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT IS NOT APPROPRIATE FOR THE ENGEL DESIGN REVIEW (DR98-120) AND THAT A FOCUSED ENVIRONMENTAL IMPACT REPORT IS REQUIRED

625, 629, 633, 637, AND 640 EUCALYPTUS WAY, MILL VALLEY

ASSESSOR'S PARCELS 049-051-29 through -32, and 049-052-19

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**SECTION 1: FINDINGS**

- I. WHEREAS Daniel Kelly submitted the Engel Design Review application to develop a paper street that would access a potential maximum of five single-family residences on five existing vacant lots in the Little City Farms Subdivision, and to construct one single-family residence on Lot 1 (AP 049-051-29). The Design Review project is a proposal to improve the Eucalyptus Way road right-of way as a common driveway for access to the lots, and to construct a single-family residence on Lot 1. The improvement of Eucalyptus Way to Lot 1 and widening of existing portions of Eucalyptus Way would allow for future development of access driveways and residential development on Lots 2, 3, 4, and the adjacent Salvato property identified as Assessor's Parcel 049-052-19. The proposed single-family residence on Lot 1 would have 3,301 square feet of floor area, a maximum height of 31 feet, and the following property line setbacks: 28 feet front (south), 100 feet side (west), 58 feet side (east), and 51 feet rear (north). The subject Engel properties are located at 625, 629, 633, and 637 Eucalyptus Way, Mill Valley, and are further identified as Assessor's Parcels 049-051-29 through -32. The Salvato property is located at 640 Eucalyptus Way, and is also identified as Assessor's Parcel 049-052-19.
- II. WHEREAS the Marin County Community Development Agency prepared a Subsequent Initial Study for the project that determined that no significant effects would occur with the implementation of mitigation measures and there was no evidence that the project may have a significant effect on the environment.
- III. WHEREAS the Marin County Environmental Coordinator determined that, based on the Subsequent Initial Study and Amendment, a Negative Declaration of Environmental Impact is required for the project pursuant to the California Environmental Quality Act (CEQA).
- IV. WHEREAS on October 14, 1999, a Subsequent Initial Study and proposed Negative Declaration of Environmental Impact were completed and distributed to agencies and interested parties to commence a 20-day public review period for review and comment on the Negative Declaration, and a Notice of the public review period and Marin County Planning Commission hearing date to consider granting final approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.
- V. WHEREAS, after the close of the 20-day public review period on November 4, 1999, the Marin County Planning Commission reviewed and considered the information contained in the Negative Declaration and Initial Study and comments and responses thereto. The Planning Commission conducted public hearings on

the project and proposed Negative Declaration on February 7, 2000, March 27, 2000, April 10, 2000, June 5, 2000, and June 19, 2000. At their June 5, 2000 hearing, the Planning Commission denied the project without prejudice and directed the applicant to revise the project to improve aesthetics and community compatibility, and to provide new geotechnical reports, hydrologic and hydraulic information to verify that the drainage system can adequately handle a 100-year storm event, clarification of the specific standards used to design the retaining walls and repair the slide areas, and clarification of construction procedures to ensure stability during construction.

- VI. WHEREAS on October 19, 2000, the applicant submitted revised plans and a portion of the items requested by the Planning Commission. Instead of providing a new geotechnical report, the applicant hired Albert L. Buchignani, Geotechnical Engineer of ALB Associates, Inc. to review all the previous geotechnical reports, studies, and comment letters. Mr. Buchignani determined the previous studies adequate and provided recommendations with specific engineering standards for safe construction of the project. However, because this response differs from what the Planning Commission requested, the County hired Miller Pacific Engineering Group to conduct a peer review of Buchignani's report and all the other geotechnical reports for the slide repair, retaining wall, and drainage facilities. On October 8, 2002, Miller Pacific Engineering Group completed an initial peer review report. In response to this report, Buchignani and Larsen Engineering Services submitted additional engineering details and plan revisions. Due to health problems, Mr. Buchignani resigned and the applicant hired Craig Herzog, Geotechnical Engineer of Herzog Geotechnical Consulting Engineers, to be the project geotechnical engineer of record. Mr. Herzog's letter of October 6, 2003, summarizes his work and includes three specific recommendations to improve the integrity of the project design and provide greater safety.
- VII. WHEREAS the current project has been evaluated with an Amendment to the Subsequent Negative Declaration based on the revised plans and supplementary information submitted in October 2000 in response to the Planning Commission's denial without prejudice in June 2000.
- VIII. WHEREAS, on July 26, 2004, the Marin County Planning Commission convened a public hearing and reviewed the information contained in the Negative Declaration and Initial Study, comments and responses thereto, public testimony and in particular, additional information from the public as follows: potential impacts to the rural character of the neighborhood, aesthetics, noise impacts, loss of trees, an inadequate landscape plan, piecemeal development of one lot at time lengthening the overall time of disruptive construction activities, landslides, fire safety, safe access, protection of adjacent creek resources, and enforcement of specific conditions of approval for protection of adjacent properties from destabilization, for protecting tree roots, and for providing a long-term landscape screen. Additional information from the public was received as follows:
- A. Frank J. Kennedy, Consulting Civil Engineer, summarized his letter of July 22, 2004, stating that no adequate discussion of the drainage impacts exist in the Negative Declaration. Mr. Kennedy submitted substantial evidence in conflict with the findings in the Negative Declaration including calculations that indicate a 5% increase in runoff as opposed to a 1% increase in runoff, incomplete implementation of the National Pollution Discharge Elimination System General Permit CAS000004 to protect the beneficial uses of the public water to the maximum extent practicable, Order 2003-005-DWQ, Page 5, Section D.2.e, "Post Construction Storm Water Management In New Development and Redevelopment", and the Marin County Stormwater Management Plan, in Chapter Four that invokes the Regional Water Quality Control Board's wording which states in part, "Counties should revise their planning procedures to develop or revise comprehensive master plans to assure that increased pollutant loading associated with newly developed and significantly redeveloped areas are, to maximum extent practicable, limited." Mr. Kennedy also believes the following: substantial issues need to be addressed to provide assurance of no adverse impact on the receiving water downslope of the project site; requirement of the General Permit should applied and the standards of the Bay Area Stormwater Management Agencies Association (BASMAA) should be followed for erosion control; BASMAA

guidance is well beyond what is presented in the calculations; “Site Design Measures” should minimize runoff through reduction of direct connection to the storm drain system, minimizing impervious surfaces, “Source Control Measure” to ensure pollutants, including sediment from erosion do not enter the drainage system, and site “Treatment Controls” to ensure that what leaves the site is clean water discharged at non-erosive velocities; evidence that County standards invoke design methodologies in accord with current Regional Board thinking; evidence that the spirit and intent of the General Permit, as invoked in the County’s Stormwater Management Plan, protects the beneficial uses of the public water downslope of the project site.

- B. Lawrence B. Karp, Geotechnical Engineer, summarized his letter of July 22, 2004, stating that engineering omissions, errors, and other deficiencies exist in the design of the project and in the Negative Declaration. Mr. Karp submitted a list of 30 items that are deficient: 7 items in the (ILS Associates) civil engineering plans; 6 items on the (Larsen engineering Services) calculations; 5 items in the (Larsen Engineering Services) structural drawing; 3 items in the (Miller Pacific Engineering Group) peer review; and 9 items in the (Herzog Geotechnical) geotechnical engineering letter report. The comments provide substantial evidence of a potential conflict or unresolved issues with the geotechnical findings in the Negative Declaration pertaining to geotechnical hazards.

## **SECTION 2: ACTION**

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Planning Commission hereby makes the following findings:

1. Notice of the initial public review period and hearing on the Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
2. All individuals, groups and agencies desiring to comment on the Negative Declaration were given the opportunity to address the Marin County Planning Commission.
3. The Negative Declaration of Environmental Impact for the project consists of the Negative Declaration, Subsequent Initial Study, and Amendment, and all supporting information incorporated by reference therein.
4. The Negative Declaration of Environmental Impact was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County’s CEQA process.

LET IT BE FURTHER RESOLVED that the Marin County Planning Commission hereby determines, pursuant to substantial evidence regarding conflicting information and new information in the record including but not necessarily limited to the project plans, technical reports, public testimony, geotechnical and drainage reports submitted by the public, and relevant observations at the project site, the Negative Declaration of Environmental Impact for the Engel Design Review application is not appropriate, and a Focused Environmental Impact Report shall be prepared prior to further consideration of the Engel Design Review application. The scope of the Focused Environmental Impact Report would include the following: alternatives; a study of all landslides; accurate, scaled photo-simulations of the retaining walls and residences prepared by a qualified third-party consultant; an evaluation of the recent fire upslope on drainage and runoff increases; Regional Water Quality Control Board erosion control measures; safety of the common driveway width and slope on the straight section and hairpin turn; the need for turnouts; traffic flows at build-out; guest parking areas; evaluation of the safety of a 21% slope common driveway; evaluation of the slope of individual residential driveways; evaluation of the size of neighboring residences; and review the geotechnical reports, civil and structural engineering, and Miller Pacific Engineering Group peer review

reports and recommendations, and the Kennedy and Karp reports referred to in Findings VIII (A) and VIII (B), respectively.

**SECTION 3: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Board of Supervisors. A Petition for Appeal and a \$700.00 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., August 19, 2004.

**SECTION 4: VOTE**

PASSED AND ADOPTED at a meeting of the Planning Commission of the County of Marin, State of California, on the 9th day of August, 2004.

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

The project is a proposal to reconfigure four of the five existing contiguous lots, which comprise the Lands of Antonioli, in order to create two building sites adjacent to Crest Road in Novato. The property is currently developed with a single-family residence and accessory structures that would remain on a fifth lot. The plans show building envelopes for each lot, but detailed information is only provided for Lots 4 and 7 because these are contemplated for development in the near future. The reconfiguration would result in lots that range in size from 1.01 acres to 10.32 acres. The residence proposed for Lot 4 would take access from the driveway leading from Crest Road to the existing residence, and the residence proposed for Lot 7 would take access directly from Crest Road. The building envelopes for the proposed residences are approximately five thousand square feet each, and both residences would be developed with on-site septic systems outside the building envelopes. The proposed project would include offering a 5-foot wide strip of land adjacent to Crest Road for dedication to the County, and encumbering 6 acres of land with open space easements that would protect these areas from future development in perpetuity. The existing and proposed lot areas are summarized in the table below, along with the coverage percentage of the proposed building envelopes in comparison to the areas of their lots. (The lot numbers in this description conform to the lot numbers that appear in the Title Report for the subject property.) The Antonioli Lot Line Adjustment and Precise Development Plan site is located at **235 Crest Road in Novato**, and is further identified as **Assessor's Parcels 143-370-02, -03, -06, -07, -38, and 143-183-01**.

Prior to taking action for approval of the Antonioli Project the Marin County Planning Commission will consider the adoption of a Negative Declaration of Environmental Impact for the project.

Jeremy Tejirian, Planner, summarized the staff report and recommended that the Commission adopt a Negative Declaration and approve the project with conditions of approval.

In response to Commissioner Thompson's question about a lot slope measurement, Planner Tejirian responded that a graphic map was provided showing a lot of steep area and the applicant provided a constraints map in that regard.

In response to Commissioner Dickenson's question regarding the lot line adjustment, Planner Tejirian responded that this was created as a remainder lot for a subdivision that occurred through a deed, but would agree to conduct more analysis to respond further.

In response to Commissioner Dickenson's question regarding the roadway across Parcel 5, Planner Tejirian responded that the roadway to his knowledge would not be abandoned and the lots farther down the slope would be accessed through the lower of those two roadways.

In response to Commissioner Dickenson's question regarding the setback, Planner Tejirian responded that it is designed in such a way so that the five-foot wide dedication that is being offered on Crest Road could be used. Commissioner Dickenson clarified with staff that the building envelope is 25 feet from the existing right-of-way with the five-foot dedication, which in his view is the length of a vehicle. Planner Tejirian responded in the affirmative.

Commissioner Barner discussed the Resolution on page 5 and suggested adding the following: "*Black Point Community Plan*" rather than referencing the "*Coastal Zone*." Planner Tejirian responded in the affirmative.

In response to Commissioner Barner's question regarding the blue oak tree, Planner Tejirian responded that currently there are blue oak trees located in this area and the idea was to maintain the blue oak woodland. Staff added that included in the conditions in terms of tree replacement there is a requirement that an arborist must locate the trees, but there is no condition specifying an inspection by an arborist. Staff further believed that would be better handled at the design review phase of this application. Commissioner Barner expressed concern for the

nature of the blue oak trees because the blue oak is immune from sudden oak death, so this is a unique opportunity and felt it might be appropriate to monitor the blue oak trees.

In response to Commissioner Greenberg's question regarding potential future development in the surrounding area, Planner Tejirian responded that additional time is needed to respond to that question, but in his experience the land use designations shown for this area seem to indicate that this area could support higher density, but he highly doubted that perception. Staff believed there is a great difference between the technical maximum density and what the Planning Commission would approve.

Planner Tejirian responded that he did not know enough about the regulations and laws about requiring CC&R's over a property, but in this case only two homes would be built.

Commissioner Greenberg expressed concern for the conservation easement area, which is better served and protected when owned in common by houses in a subdivision rather than by one homeowner. In general, CC&R's would achieve that aspect by making it the responsibility of the homeowners as well as various other issues such as maintenance of the roadway and driveway. Planner Tejirian responded that he did not know enough about the regulations and laws about requiring CC&R's over a property, but in this case only two homes would be built.

In response to Commissioner Greenberg's concern, Planner Tejirian responded that the deed restriction indicates to owners that there are restrictions on these areas as shown on the parcel map. Staff further noted that this is another means to inform owners of what is allowed and not allowed.

Commissioner Greenberg asked staff the average size home and lot in the area. Planner Tejirian responded that the average lot area is 84,489 square feet; median living area is 3,355 square feet of house; and the average size garage is 698 square feet.

In response to Commissioner Julin's concern regarding the letter from the Open Space District, Planner Tejirian responded that the specifics of the trail have not been developed. He pointed out that this road is a fairly wide right-of-way, so his understanding from the Department of Public Works staff is that it is considered appropriate to have maximum build out of a 35-foot wide developed portion of the travel way, which would provide some shoulder area on either side or a trail.

In response to Chairman Berland's question regarding the letter from Fish & Game dated June 30<sup>th</sup>, 2004, Tim Haddad, Environmental Planning Coordinator, responded that it is a form letter that acknowledges that the biological considerations regarding the property would prevent a process that Fish & Game has that allows the County to receive a *deminimis* exception to the payment of fees that were established years ago. He noted that State law indicates that Fish & Game could impose a fee of \$1,200 for any Negative Declaration and \$850.00 for every EIR, presumably to pay the cost of their staff having to review the environmental document. He also pointed out that there is an exception to the imposition of the fees called the "*deminimis exception*," which is when the County could present information that there are no effects on the resources. He further added that Fish & Game is putting the County on notice that they desired their money.

In response to Chairman Berland's question regarding the letter from U. S. Corps of Engineers, Environmental Coordinator Haddad responded that the Army Corp of Engineers letter is an acknowledgement that there are resources that are within their regulatory jurisdiction that must be subjected to their process, which might mean a nationwide permit, which he did not believe there is a significant issue with respect to their notification of having regulatory authority.

The hearing was opened to the public.

Georgia McDaniel, representing applicant/environmental planner, felt they have addressed every issue and concern from all organizations and conditions of approval have been attached to make sure that they are addressed. She

discussed the Army Corp of Engineers letter and noted that she contacted Jane Hicks and that is a form letter that is sent out and the project was discussed in great length and none of the work would be within their jurisdiction and she did not anticipate any problems.

Commissioner Dickenson asked Ms. McDaniel to discuss the history of Parcel 7 in regard to creation. Ms. McDaniel responded that there are different parcel maps that were submitted to the County showing the record of all of the lots, but she could not recollect the creation. She further added that all the lots are legal lots through different maps that were prepared.

The public hearing was closed.

Commissioner Dickenson expressed concern for considering this to be a lot line adjustment and believed the proposal is not consistent with the character of the community. He added that he is not comfortable with the fifth home site and recommended exploring other options in regard to the location of the home. He further expressed concern for two one-acre home sites being clustered near the street.

Commissioner Julin had no objection to the proposal before the Commission and supported staff's recommendation.

Commissioner Greenberg desired clarification on the creation of Lot 7. She also expressed concern for the access easement through the existing lot to access the two new additional lots. She is very concerned about the access in regard to the two lots proposed and requested reassurance that it is practical. She also is interested as to whether common ownership could be required in regard to the easements for better protection. She objected to perimeter fencing and recommended adding a condition of approval in that regard. She desired to specify the trim, roof and house colors and believed drought tolerant plantings should be required as well. She further stated that if the V-ditches are visually prominent they should be a dark color in order to blend in with the natural setting.

Commissioner Thompson believed the height limit of 18 feet should be applied to Crest Road and should be consistent throughout all four lots created. He pointed out that the wildlife corridor must be protected and it should be respected in some manner as well as fencing should be addressed in that regard. He further expressed concern for the access easements, which should be clarified and included on the map.

Chairman Berland concurred with staff's recommendation. He believed the reduction of the buildable site on this two-acre parcel would benefit the neighborhood as would the conservation easement. He assumed that the conditions of approval would provide a reasonable assurance for the maintenance of this conservation easement. He also concurred that access to lower parcels should be defined now rather than later. He further agreed to add specific language to address the potential hazard of the steep slope.

Commissioner Barner concurred with the condition protecting the wildlife corridor as well as having fencing limitations.

Commissioner Dickenson believed the question regarding the access easement across Parcel 1 to Parcel 2 is clarified on Sheet C-4, which are maps from the initial study. Commissioner Thompson noted that Sheet C-4 satisfied his concern. Staff depicted the existing easement for the Commission's consideration on the map.

Commissioner Barner requested a continuance of both items in order to receive additional information, answers to their questions, and to have further time to review the conditions of approval and then action could be taken at a later date.

Commissioner Thompson summarized the following information desired by the Commission:

- Investigate whether there should be joint ownership of the common area;

- The height limitation should be examined in more detail; and
- Fence control and what kind of mechanism would be created.

Planner Tejirian summarized the following concerns of the Commission:

- Fencing related to habitat quality in the corridor;
- Driveway access from Crest Road;
- Access easement that traverses the house;
- 18-foot height limit on the houses near Crest Road and on top of the ridge;
- The conclusion that Lot 7 is a legal lot of record;
- Placing color restrictions on future development; and
- Common ownership of the areas to be preserved as conservation areas.

Commissioner Dickenson recommended investigating the potential development of new Lot 7 and whether a driveway down onto the site is feasible rather than having vehicles backing out on the street.

In response to comments, Planner Tejirian recommended discussing a maximum elevation. The Commission agreed.

Principal Planner Lai recommended continuing this matter to the September 13<sup>th</sup>, 2004 Planning Commission meeting.

Chairman Berland asked for a motion.

**M/s, Barner/Thompson, and passed unanimously of those present, to continue the Antonioli Lot Line Adjustment and Precise Development Plan to the September 13<sup>th</sup>, 2004 Planning Commission meeting. Motion passed 6/0 (Commissioner Holland absent).**

Chairman Berland announced at 4:33 p.m. that the Commission would take a short recess and then reconvene with the next agenda item.



- 10A. DRAFT NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT: STEVE D'AMBRA & MOZHGAN MIZBAN
- 10B. COASTAL PERMIT, VARIANCE, AND DESIGN REVIEW: STEVE D'AMBRA & MOZHGAN MIZBANJT

The project is a proposal to construct a 2,800 square foot residence and a 675 square foot detached garage on a vacant 48,600 square foot lot in Stinson Beach. The single-family residence would reach a maximum height of 17 feet above natural grade and 23 feet above finished grade. The proposed development would have the following minimum setbacks: 29.5 feet from the eastern front property line; 15 feet from the northern side property line; 26 feet from the southern side property line; and more than 100 feet from the western rear property line. In addition, the applicant proposes to legalize the removal of 4 mature cypress trees and other saplings that were removed without prior authorization. Coastal Permit approval is required for new residences in the Coastal Zone and for the removal of significant vegetation, Variance approval is required because the residence would exceed a height of 17 feet above finished grade, and Design Review approval is required because a portion of the development would occur within the stream protection area surrounding a watercourse adjacent to the property. The subject property is located at 60 Puente Rizal, Stinson Beach, and is further identified as Assessor's Parcel 195-152-06.

Prior to taking action for approval of the Antonioli Project the Marin County Planning Commission will consider the adoption of a Negative Declaration of Environmental Impact for the project.

Jeremy Tejirian, Planner, summarized the staff report and recommended that the Commission review the administrative draft; conduct a public hearing; and adopt the attached Resolution approving the Negative Declaration of Environmental Impact for the D'Ambra Coastal Permit, Variance, and Design Review; and approve with conditions the D'Ambra Coastal Permit, Variance, and Design Review based on the findings and subject to the conditions in the attached Resolution.

In response to Chairman Berland's question regarding the exception to the SCA, Planner Tejirian responded that there is no other place on this site to place the home and moving it outside of the SCA would be more damaging to the environment.

In response to Chairman Berland's question about the neighborhood square footage survey, Planner Tejirian responded that he did not have enough time to review the data. Chairman Berland believed there are some fairly large homes in the area. Staff concurred.

In response to Commissioner Dickenson's question about other vacant lots, Planner Tejirian responded that there is not much more development potential in this area.

In response to Commissioner Greenberg's question in regard to the split rail fence, Planner Tejirian responded that it could be either a split rail or stakes with the purpose to mark the important habitat areas.

The hearing was opened to the public.

Hank Taylor, Architect representing the owners, provided the Commission with an architectural design of the home and garage and pointed out that it is a very tight site. He then approached the map and depicted the area of the garage to be near the side of the hill for the Commission's consideration. He discussed the color board, which was provided to the Commission for their review and noted that the roofs that are seen would be a brownish red color; the stucco color is a deep green; the windows are a greenish white; and the fascia color would run along the edge. He further discussed the two cypress trees that they desired to maintain.

Commissioner Barner expressed concern for the flat roofs leaking. Mr. Taylor noted that the flat roofs do slope which provided light in the middle of the house and he guaranteed that they would not leak.

In response to Commissioner Greenberg's question regarding the kalwal, Mr. Taylor responded that it is very diffused and did view it as an issue.

Gary Crawford, concerned resident, discussed Monarchs and, in his opinion, this whole area is a Monarch area. He expressed concern for additional trees being planted in the area because he desired his view protected. He also believed a fence is not necessary. He then provided some history in regard to the 17-foot restriction, which was established to protect the views of the surrounding neighbors.

Commissioner Barner expressed concern for enforcement of a prohibition of wood burning stoves and the impacts to the preserve itself from wood burning stoves. Staff responded that the entire area of Stinson Beach is an environmentally sensitive habitat area for Monarch Butterflies and he did not know how important this issue of pellet burning stoves is, but he did not believe it is very enforceable.

Jim Martin, Biologist, pointed out that there are State recommendations on how to deal with Monarch Butterfly preserves and one included limiting smoke influence, which could have a large influence on insect behavior. Given that this is an item that came from the Monarch Butterfly project, he believed it would be easy to recommend given the remote potential for influence. He felt the location of the home and change to the east edge of the property opened up a window for wind to blow down into the reserve, which they are trying to recreate with the mitigation plan. He believed it is important to keep that recommendation in the Plan. He added that the California Buckeye is located in that area and even at the matured height it would not affect views. He also indicated that the cypress plantings on the east edge of the preserve are within areas of existing cypress, so the recommended plantings for cypress or larger trees should not affect any views in the future. He further noted that Marin County is the northern edge of the migration activity and behavior of the butterflies.

Chairman Berland asked staff if this structure is visible from Highway 1. Staff responded that it is not visible from Highway 1. Commissioner Dickenson pointed out that the structure is visible from the beach.

Commissioner Julin discussed the color samples and asked Mr. Taylor to discuss the color that would be used on the decks and other architectural features. Mr. Taylor responded that the deck would be a composite deck that runs in the grays and browns and the railing would be a natural mahogany type material, which would go well with the stucco.

Commissioner Julin recommended stipulating the colors that would be used, in particular the use of the white color. Mr. Taylor explained that the creamy white color would be used on the windows and doors. He added that the fascia color is an accent color and what would be seen is a dark green. He further noted that the decks would be pretty subdued next to the dark green.

Commissioner Dickenson believed it is a very sensitively designed house given all the constraints. Initially he expressed concern for the SCA, but now his concerns have been satisfied and was very impressed with the low profile of the house. In terms of the scale of the house, he did not believe it is out of character with the other houses in the neighborhood and did not believe there is a need to reduce the house size. He further noted that he is prepared to support the project as proposed by staff.

Commissioner Thompson supports the project as proposed, but hoped the garage change could become positive to the project. He recommended minimal use of the white trim color. He then excused himself at 5:50 p.m. due to a prior engagement.

Commissioner Julin supported staff's recommendation and appreciated the presentation.

Commissioner Greenberg supported the Negative Declaration, but expressed concern for the design. She recommended using colors more similar to the surrounding natural environment and objected to the white trim color and suggested using more natural colors. She also expressed concern for the garage and believed the garage

should be relocated. She then recommended exploring other options to soften the roofline, so that visually the garage is complementary. She further expressed concern for the kalwal in terms of pollution at night.

Commissioner Barner believed it is a beautiful home and shared the concerns of the white trim color and the garage location. He also recommended a change to page 11 of the Resolution in regard to Attachment 2 of No. 13. Staff agreed to correct the Resolution because the language is not clear when items are actually required to happen and construction would definitely occur in summer months rather than winter months, but some exceptions could be made if there are biological observations submitted permitting the construction.

Chairman Berland supported the project and agreed with the concerns of the garage and the white trim color.

Commissioner Dickenson stated that the difference in character would be resolved by reducing the scale of the garage by one-third. He did not object to the off white window trim because in his view a contrast to the stucco color would be nice. He also had no objection to the kalwal skylight.

Commissioner Greenberg believed the term “*preferably be performed*” seemed weak. She discussed page 11 regarding condition 12 (g) and (i) and asked staff to explain the language used. Staff responded that it provided flexibility to make a decision in the field by an arborist. Commissioner Greenberg agreed that a professional should make the decision.

Commissioner Greenberg commented on page 13 under Finding VIII(F)(3) that the use of the word, “*subsequently*” could lead individuals to believe that it could occur after occupancy, which is not the intention and asked staff to modify the language. Staff agreed.

Chairman Berland asked for a motion.

***M/s, Dickenson/Greenberg, and passed unanimously of those present, to adopt the Negative Declaration for the subject application, subject to the findings contained in the staff report. Motion passed 5/0. (Commissioner Thompson and Commissioner Holland absent).***

***M/s, Greenberg/Barner, and passed unanimously of those present, to approve the Coastal Permit Variance with the following modifications: colors and materials be specified; that the window and door trim be a more medium earth tone; and changes to the size of the garage and design to make it more consistent with the design of the house to be approved by staff prior to issuance of the building permit.***

Commissioner Dickenson encouraged the applicant to review the matter rather than having a condition of approval in regard to the trim color.

***Motion passed 5/0 (Commissioner Thompson and Commissioner Holland absent).***

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC-04-007

A RESOLUTION ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE D'AMBRA COASTAL PERMIT, VARIANCE, AND DESIGN REVIEW  
ASSESSOR'S PARCEL NO. 195-152-06  
60 PUENTA RIZAL, STINSON BEACH

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**SECTION I: FINDINGS**

- I. WHEREAS the sponsor is requesting Coastal Permit, Variance, and Design Review approval to construct a 2,800 square foot residence and a 675 square foot detached garage on a vacant 48,600 square foot lot in Stinson Beach. The single-family residence would reach a maximum height of 17 feet above natural grade and 23 feet above finished grade. The proposed development would have the following minimum setbacks: 29.5 feet from the eastern front property line; 15 feet from the northern side property line; 26 feet from the southern side property line; and more than 100 feet from the western rear property line. In addition, the applicant proposes to legalize the removal of 4 mature cypress trees and other saplings that were removed without prior authorization. Coastal Permit approval is required for new residences in the Coastal Zone and for the removal of significant vegetation, Variance approval is required because the residence would exceed a height of 17 feet above finished grade, and Design Review approval is required because a portion of the development would occur within the stream protection area surrounding a watercourse adjacent to the property. The subject property is located at 60 Puente Rizal, Stinson Beach, and is further identified as Assessor's Parcel 195-152-06.
- II. WHEREAS the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project which determined that potential impacts relating to Land Use and Planning, Biological Resources, and Cultural Resources are avoided or mitigated to a point where no significant effects would occur because revisions in the project have been made by or agreed to by the applicant and there is no evidence that the project as revised may have a significant effect on the environment.
- III. WHEREAS the Marin County Environmental Coordinator determined that, based on the Initial Study, a Negative Declaration of Environmental Impact is recommended for the project pursuant to the California Environmental Quality Act (CEQA). All potentially significant adverse effects related to the project and appropriate mitigation measures have been discussed in the Initial Study. All required mitigation measures have been incorporated into conditions of project approval contained in the recommended Resolution.
- IV. WHEREAS on July 9, 2004, a Negative Declaration was completed and distributed to agencies and interested parties to commence a 20 day public review period for review and comment on the Negative Declaration, and a Notice of the public review period and hearing date to consider approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.
- V. WHEREAS after the close of the public review period on July 29, 2004, the Marin County Planning Commission conducted a public hearing on August 9, 2004, to receive public testimony on the adequacy of the Negative Declaration for approval.
- VI. WHEREAS, the Marin County Planning Commission has reviewed and considered the information contained in the Initial Study, Negative Declaration and comments and responses thereto and finds that:

- A. Notice of the public review period and hearing on the Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
- B. All individuals, groups and agencies desiring to comment on the Negative Declaration were given the opportunity to address the Marin County Planning Commission.
- C. The Negative Declaration for the project consists of the Initial Study, Negative Declaration document, and supporting information incorporated by reference therein.
- D. The Negative Declaration was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County CEQA process.

**SECTION II: ADOPTION**

**NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Planning Commission hereby approves and adopts the Negative Declaration of Environmental Review for the D'Ambra Coastal Permit, Variance, and Design Review, as adequate and complete for purposes of approving the project and declares that the Negative Declaration has been completed and considered in conjunction with the comments thereto, in compliance with CEQA Guidelines and the County CEQA process.**

**SECTION III: VOTE**

PASSED AND ADOPTED at the regular meeting of the Planning Commission of the County of Marin, State of California, on the 9<sup>th</sup> day of August, 2004, by the following vote to-wit:

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC 04-008

A RESOLUTION APPROVING WITH CONDITIONS  
THE D'AMBRA COASTAL PERMIT, VARIANCE AND DESIGN REVIEW  
ASSESSOR'S PARCEL NO. 195-152-06  
60 PUENTA RIZAL, STINSON BEACH

\*\*\*\*\*

**SECTION I: FINDINGS**

- I. WHEREAS the sponsor is requesting Coastal Permit, Variance, and Design Review approval to construct a 2,800 square foot residence and a 675 square foot detached garage on a vacant 48,600 square foot lot in Stinson Beach. The single-family residence would reach a maximum height of 17 feet above natural grade and 23 feet above finished grade. The proposed development would have the following minimum setbacks: 29.5 feet from the eastern front property line; 15 feet from the northern side property line; 26 feet from the southern side property line; and more than 100 feet from the western rear property line. In addition, the applicant proposes to legalize the removal of 4 mature cypress trees and other saplings that were removed without prior authorization. Coastal Permit approval is required for new residences in the Coastal Zone and for the removal of significant vegetation, Variance approval is required because the residence would exceed a height of 17 feet above finished grade, and Design Review approval is required because a portion of the development would occur within the stream protection area surrounding a watercourse adjacent to the property. The subject property is located at 60 Puentea Rizal, Stinson Beach, and is further identified as Assessor's Parcel 195-152-06.
  
- II. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on August 9, 2004, to consider the merits of the project, and hear testimony regarding the project.
  
- III. WHEREAS the Marin County Planning Commission has reviewed and considered testimony in favor of and against a proposed Negative Declaration and finds, subject to the recommended mitigation and monitoring measures and the conditions of project approval contained herein, that this project will not result in any potentially significant environmental impacts, and qualifies for a Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County CEQA process.
  
- IV. WHEREAS the Marin County Planning Commission finds that the proposed project would be consistent with the Marin Countywide Plan because:
  - 1. The proposed project would be consistent with the governing Countywide Plan Coastal, Single-Family Residential land use designation (C-SF4);
  - 2. The proposed project would provide housing opportunities on an infill site which is served by existing roadways, and necessary public and community facilities within the Coastal Recreational Corridor;
  - 3. The proposed project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard;
  - 4. The proposed project would comply with the governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works;

5. The proposed project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services;
6. As discussed in the Initial Study, the proposed project would conform with the Streamside Conservation policies contained in the Countywide Plan, including policies EQ-2.8, EQ-2.9, EQ-2.24, and EQ-2.33;
7. As discussed in the Initial Study, the proposed project would protect special status species, wildlife and edge habitats, in conformance with Marin Countywide Plan Policies EQ-2.36, EQ-2.87, EQ-2.87e;
8. As discussed in the Initial Study, the proposed project would be in scale with the environmental constraints of the site and would protect the visual resources of the area, in conformance with Marin Countywide Plan Policies EQ-3.25 and 3.11.

V. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the Stinson Beach Community Plan because:

- A. The proposed project would not adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, and building design, mass and bulk.
- B. The subject property maintains adequate off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
- C. The subject property would have adequate water supply and sewage disposal, as confirmed by the Stinson Beach County Water District.
- D. As discussed in the Initial Study the proposed project would not adversely impact the surrounding natural environment relative to vegetation, species habitats or on-site drainage.

VI. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings for Coastal Permit approval pursuant to the requirements and objectives of the Local Coastal Program, Unit I (§22.56.130 of the Marin County Interim Coastal Zoning Code) as described below.

A. Water Supply:

The Stinson Beach County Water District has indicated they will provide water service to the subject property and has reviewed and recommended approval of the proposed project.

B. Septic System Standards:

The Stinson Beach County Water District has indicated that a septic system which conforms with their standards has been approved for the proposed project. As required by the conditions of approval and the mitigation measures for the project, the septic system design shall be modified to reduce its footprint and eliminate any adverse environmental impacts that would otherwise result from the development of the leachfield. The revised septic system design shall be required to conform with the Water District's requirements.

C. Grading and Excavation:

The proposed development of the residence and garage would result in approximately 240 cubic yards of excavated material, which would be distributed on the site. The subject property has not been developed in the past, and therefore retains the natural topography on the site with the exception of a small amount of fill adjacent to the pavement of Puente Rizal left from the construction of the road. The proposed residence would be sunken several feet into the hillside to reduce its mass and bulk, but the buildings would otherwise be designed to generally follow the contours of the topography. Further, the other proposed improvements would not substantially reform the natural topography of the site by extensive terracing or retaining walls outside of the footprints for the buildings. Although the modifications to the project required to mitigate environmental impacts would alter the grading plan, the amount of material is not likely to be substantially different than currently proposed. All grading and excavation work would be subject to the review and approval of the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements.

D. Archaeological Resources:

The site is vacant and a review of cultural resource maps maintained by the Marin County Community Development Agency indicates that the subject property is located in an area of archaeological sensitivity but not in close proximity to a known archaeological site. However, the proposed project exhibits a low potential of disturbing archeological resources because it would not result in substantial amounts of grading or other ground disturbance outside of the building footprint. A mitigation measure and condition of project approval requires that in the event that cultural resources are discovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate protection measures.

E. Coastal Access:

The project is not located adjacent to the shoreline and is on the opposite side of State Highway 1 from the coast. Therefore, coastal access would not be adversely affect coastal access.

F. Housing:

The proposed project does not involve the demolition or conversion of housing affordable to households of lower or moderate income.

G. Stream Conservation Protection:

Within the Coastal Recreation Corridor, CWP policies call for a 100-foot wide Stream Conservation Area (SCA) buffer zone to be established between the top of stream banks and proposed development or a 50-foot buffer from the edge of existing riparian vegetation, whichever is more restrictive. The LCP also contains stream protection policies, which are similar to the CWP policies. A 100-foot buffer between stream corridors and development is encouraged, but the LCP lacks specific definitions of these areas. In the instance of the subject property, the riparian protection area and stream buffer would extend the same distance onto the site as the SCA area under the CWP policies.

As discussed in the Initial Study, there is no evidence in the record which indicates that the encroachment into the stream protection area would result in adverse affects to any natural resources. The development would be carefully sited to minimize impacts to the Monarch grove and the riparian area. The implementation of the Detailed Mitigation Plan and the future protection



of the Riparian Management Zone would eliminate any inconsistency between the proposal and the stream protection policies contained in the LCP or the Marin Countywide Plan.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

As discussed in the Initial Study, the subject property is within the habitat area of the Monarch butterfly, a special status species. With the exception of the Monarch Butterfly, suitable habitat for special-status animal species is absent from the vicinity of the proposed residence, including California red-legged frog, steelhead, Point Reyes mountain beaver, and northern spotted owl. Implementing the Detailed Mitigation Plan, together with other mitigation measures specified in the Initial Study and conditions of approval would serve to fully mitigate potential significant impacts to wildlife.

J. Protection of Native Plant Communities:

Large areas that are densely covered with purple needle grass are considered significant natural habitats by the California Department of Fish and Game. However, purple needle grass is only found in isolated areas on the site, and is well below the 15 percent threshold normally used to determine whether an area can be considered a grassland of ecological importance. The grassland on the subject property is degraded by a concentration of invasive species and is not characterized by significant vegetation. Riparian plants are absent from the site, but the mitigation measures in the Initial Study and the conditions of approval require that riparian vegetation be planted along the ephemeral creek adjacent to the property.

K. Shoreline Protection:

The project is not adjacent to the shoreline.

L. Geologic Hazards:

The property descends at an approximately 35 percent slope from the end of the Puente Rizal cul-de-sac in a southwesterly direction towards State Highway 1, and is located at a relatively high elevation above sea level. The buildings would be located near the top of the slope and the septic system would descend the slope below the residence. Information contained in the County's Geographic Information System (GIS) indicates that the subject property is not located in an area of significant amplification of shaking caused by an earthquake, indicates that the property is not located within the Alquist-Priolo Zone or immediately adjacent to a known faultline, and is in an area of very low susceptibility to liquefaction during an earthquake.

M. Public Works Projects:

The proposed project does not entail expansion of public roads, flood control projects, or utility services.

N. Land Division Standards:

No land division or lot line adjustment is proposed as part of this project.

O. Visual Resources:

The proposed development would be of a comparable height, size and scale with other structures in the surrounding community. Additionally, the residence would not impact the existing light or privacy of surrounding residences because it would not exceed a height of 17 feet above existing grade and would be stepped back to reflect the on-site topography. Finally, the project would minimize potential adverse visual impacts because it would be constructed of building materials that compliment the surrounding natural and built environment.

P. Recreation/Visitor Facilities:

The proposed project would not provide commercial or recreational facilities, and the project site is not governed by VCR (Village Commercial Residential) zoning regulations, which require a mixture of residential and commercial uses.

Q. Historic Resource Preservation:

The site is vacant and is not used for religious or ceremonial purposes. Further, the subject property is not located within the Historic District of Stinson Beach as designated by the LCP.

VII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings for Variance approval pursuant to the requirements and objectives of the Local Coastal Program, Unit I (§22.86.025[4]of the Marin County Code) as described below.

- A. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity under an identical zoning district.

Development of the subject property with a residence, garage and septic system would be severely constrained by the steepness of the slope and by sensitive edge habitats as the woodland intergrades with the grassland and the riparian area. The area near the road in the center of the subject property is steep and has become overgrown with invasive plants such as cotoneaster and French broom, but otherwise provides a large open area of grassland for development. The proposed development would be located in this area, between the significant habitat areas of the watercourse and the butterfly grove. This area descends at an approximately 35 percent slope, creating a hardship for development of the site. These slope conditions are unique insofar as they do not exist throughout the Stinson Beach Highlands Subdivision. The proposed residence would be sunken into the hillside in order to avoid exceeding a height of 17 feet above natural grade, however, the finished floor of the lower level would be 23 feet below the roof ridge. Due to the steep slope, strict application of the 17-foot maximum height required by the governing zoning district would not allow for a residence that would avoid encroaching into the areas protected for Monarch Butterfly or riparian enhancements.

- B. The granting of a Variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.

The proposed development would not have detrimental effects on public health, safety, or welfare because the improvements would be consistent with the Countywide Plan and Stinson Beach Community Plan, as discussed in the Initial Study. The proposed development is located and designed to ensure the protection of the adjacent properties' views and would be unobtrusively integrated into the surrounding natural environment and the neighborhood.

The proposed development would be of a comparable height, size, and scale with other structures in the surrounding community. Additionally, the residence would not impact the existing light or privacy of surrounding residences because it would be located downslope of the other residences, would not exceed a height of 17 feet above existing grade, and would be stepped back to reflect the on-site topography. Finally, the project would minimize potential adverse visual impacts because it would be constructed of building materials that compliment the surrounding natural and built environment.

- C. The granting of a Variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.

Approval of the project would not constitute a grant of special privilege because other properties in the Highlands subdivision of Stinson Beach under the C-R-1:B-3 zoning district are not faced with the same physical constraints as the subject property. The purpose of the development standards for the C-R-1:B-3 zoning district is to minimize adverse affects to the surrounding area that would otherwise result from inappropriate development. The conditions of approval would ensure that the proposed project would not result in inappropriate development, and therefore the Variance would not constitute a grant of special privilege to the subject property. The project description and project modifications included in the conditions of approval reflect mitigation measures that were incorporated into the design during the course of the environmental review to ensure that the development would be compatible with the natural features in the area. Therefore, pursuant to California Government Code Section 65906, the conditions of approval would assure that the Variance would not permit development that would be inconsistent with the limitations placed on other properties in the surrounding area.

- D. The granting of a Variance for the property does not authorize a use or activity that is not otherwise expressly authorized by the particular zoning district regulations governing such property.

Granting this Variance would not allow a use or activity that is not otherwise expressly authorized by the governing C-R-1:B-3 zoning district regulations because it involves the construction of a single-family residence and attached garage.

VIII. WHEREAS the Marin County Planning Commission finds that the proposed project is consistent with the mandatory findings to approve a Design Review, as established by Section 22.82.040 of Marin County Code, as follows:

- A. It is consistent with the countywide plan and any applicable community plan and local coastal program;

The design of the proposed residence would be consistent with the current goals and policies contained in the Marin Countywide Plan, the Stinson Beach Community Plan, and the development standards in the Marin County Code. As discussed in the Initial Study, the project would minimize alterations to the natural environment by reducing grading activities and replacing any significant trees removed for development. Please see Finding IV above and the attached Initial Study for further discussion.

- B. It will properly and adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale and surroundings;

The project, as modified by the mitigation measures and conditions of approval, would preserve unique natural site amenities including the hillside, the watercourse, stands of significant trees, rock outcroppings and other natural features that are distinguishing characteristics of the

surrounding area. The visibility of new development would be minimized by using existing natural site characteristics for screening such as trees and topographic features.

- C. It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way;

The project would comply with all development standards applicable to the governing zoning district, with the exception of the maximum height above finished grade, and be of a comparable size and scale with other structures in the surrounding community. The development would not result in adverse affects to the air, light, or privacy of surrounding properties because it would be sunken into the hillside ascending in front of the residence and would be screened by existing and proposed vegetation.

- D. It will not directly, or in a cumulative fashion, impair, inhibit or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;

The project would not limit or inhibit the use or enjoyment of other properties in the vicinity because the improvements are consistent with the uses permitted by the governing zoning district and would maintain adequate setbacks from all property lines and other buildings on the subject and surrounding properties. The proposed development would not encroach into any rights-of-way, conservation easements or public lands.

- E. It will be properly and adequately landscaped with maximum retention of trees and other natural material;

The mitigation plan incorporated into the project requires that substantial improvement shall be made to the buffer of the Monarch Butterfly grove and the watercourse on the adjacent property. Further, the project includes the protection of existing trees that would reduce and soften visual impacts of the new construction, stabilize and prevent the erosion of graded soils around the structure, and enhance the privacy of the occupants of the subject and surrounding properties.

- F. 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, those produced by the design and location characteristics of:

1. The scale, mass, height, area and materials of buildings and structures,

The project would result in minimal adverse physical and visual impacts because it would be constructed of building materials with colors that compliment the surrounding natural and built environment and would be consistent with the surrounding community character. Additionally, the project would utilize design features that break up the mass of the structure such as articulations in the building facades, decking and fenestration.

2. Drainage systems and appurtenant structures,

The property is steeply sloped but does not currently exhibit gullies or other drainage problems that would indicate excessive surface runoff. The proposed project retains a large portion of the property downslope of the residence as area that is open or developed with septic leachlines, providing adequate area for water to infiltrate into the soil. Further, the plans indicate that there would be a drainage system for the development, which would rely on perforated pipes and

french drains that would dissipate the energy of the stormwater over a broad area to reestablish the natural drainage pattern downslope of the buildings and avoid erosion.

3. Cut and fill or the reforming of the natural terrain, and structures appurtenant thereto such as retaining walls and bulkheads,

In general, the siting and design of the improvements would conform to the natural topography of the development site, rather than altering the natural topography to accommodate new development. Grading would be held to a minimum and reasonable efforts would be made to retain the natural features of the land such as rolling land forms, native vegetation, trees, rock outcroppings, and the watercourse. Where grading is required, it would be done in such a manner as to avoid flat planes and sharp angles of intersection with natural terrain. The development would avoid creating large graded terraces for building pads. Terracing would be minimal and would be performed by creating a series of small incremental steps, rather than a wide bench. Development would also avoid sharp angled cut and fill banks and long linear slopes that do not visually blend with the surrounding natural topography.

4. Areas, paths and rights-of-way for the containment, movement or general circulation of persons, animals, vehicles, conveyances and watercraft,

The Department of Public Works has reviewed the proposed project and determined that it is consistent with the County's access and parking standards. The modifications to the development that are required by the mitigation measures, including relocating the garage, would not compromise the ability of the applicant to conform with the parking and access standards because there is sufficient area in the front of the property to construct a garage in the preferred development area.

5. Other developments or improvements which may result in a diminution or elimination of sun and light exposure, views, vistas and privacy;

The development would not reach a height or be located in a position that would result in impeding the primary views enjoyed from surrounding residences or adversely affecting the sun exposure or privacy enjoyed by surrounding residences.

- G. It may contain roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.

*The proposed residence would minimize potential adverse physical and visual impacts because it would be constructed of building materials with colors that compliment the surrounding natural environment and would be consistent with the surrounding community character.*

## **SECTION II: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the D'Ambra Coastal Permit, Variance and Design Review (CP 03-32, VR 04-48, DR 04-87) subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. Pursuant to the Marin County Interim Coastal Zoning Code, this Coastal Permit, Variance, and Design Review approval authorizes the construction a 2,800 square foot residence and an attached or detached

garage on a vacant 48,600 square foot lot in Stinson Beach. The single-family residence shall reach a maximum height of 17 feet above natural grade and 23 feet above finished grade. The residence and garage shall comply with the required setbacks and be located within the preferred development zone, as shown on the Detailed Mitigation Plan. The height of the structures on the property shall not exceed the height permitted by the zoning code, except that the residence may reach a maximum height of 23 feet above finished grade. In addition, this approval legalizes the removal of 4 mature cypress trees and other saplings from the site. The approved project shall include implementation of the Detailed Mitigation Plan and the other mitigation measures required by the Negative Declaration. The subject property is located at 60 Puenta Rizal, Stinson Beach, otherwise identified as Assessor's Parcel 195-152-06.

2. EXCEPT AS MODIFIED HEREIN, subsequent development, use of, and permits for, the subject property shall be in substantial conformance with application materials on file with the Marin County Community Development Agency Department consisting of materials samples, lighting details, and 12 sheets of plans, including the Detailed Mitigation Plan, labeled "Exhibit A": Mizban-D'Ambra Residence" prepared by Henry Taylor, Questa Engineering, and Wittenkeller Associates.
3. EXCEPT AS MODIFIED HEREIN, the colors and materials of the approved development shall conform with the colors and materials as they are shown on "Exhibit B", consisting of a colors and materials board, except that white shall not be used for the doors, windows or decks. All the colors used for the development shall be dark earthtones to blend in with the surrounding environment. The color board shall be revised to indicate darker colors for the doors, window trim and decks for review and approval by Planning staff.
4. Revisions to "Exhibit A" may be administratively authorized by Planning staff prior to issuance of grading or construction permits in order to implement the mitigation measures. Required modifications to the plans include relocating the garage to within the preferred development zone, as shown on the Detailed Mitigation Plan, and reducing the size of the leachfield. Other minor modifications can be made to the design in conformance with the project description above and these conditions of project approval.
5. All utility connections and extensions serving the project shall be installed underground. Flashing and other metallic finishes shall be non-reflective, and exterior lighting shall be downward directed and hooded.
6. The sponsor shall implement the Detailed Mitigation Plan in conformance with these conditions of approval. Landscape improvements installed as part of the Detailed Mitigation Plan shall be monitored for a minimum of two years to ensure plantings have become successfully established.
7. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Design Review conditions of approval as notes. Further, the general contractor and all subcontractors shall be notified prior to construction of the requirements stipulated in conditions 7, 9, 11, 12, 13, 20, 21, 28, and 29.
8. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the permit application and plans shall stipulate the following provisions:
  - a. If significant archaeological resources are discovered during demolition, all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Community Development Agency of the discovery.
  - b. A qualified archaeologist shall assess the site and shall submit a written report to the CDA staff advancing appropriate measures to protect the resources discovered.
  - c. If it is determined that a prehistoric site exists the following shall be implemented:

- (1) no future development activity shall take place at or in close proximity to the prehistoric site within the development area;
  - (2) the historical site(s) shall be filled to protect the resources there;
  - (3) no additional excavation shall occur at these locations other than to remove surface organic material; and
  - (4) the project sponsor may be required to submit a revised project to protect the resource(s). No further work at the site may recommence without approval of the CDA staff.
9. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the sponsor shall submit revised plans showing the modifications necessary to comply with these conditions of approval. These shall include, but not necessarily be limited to, the architectural and site plans for relocating the garage to within the preferred development area identified in the Detailed Mitigation Plan. Structural details of the garage or modifications to the placement of the residence are not necessarily required for approval of a grading permit, provided sufficient information has been submitted to determine that the development would comply with the project description above and the Detailed Mitigation Plan.
10. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the sponsor shall submit a revised Arboricultural Report that identifies and provides protection measures for all the remaining cypress and eucalyptus trees in the Primary and Secondary Cypress Management Zones in the Detailed Mitigation Plan. Recommendations in the revised Arboricultural Report shall include detailed construction restrictions to ensure adequate avoidance of possible construction-related damage to trunks and root systems in both the Primary and Secondary Zones, and the entire branch system for trees within the Primary Zone to minimize further loss of the wind buffering function they provide for the Monarch overwintering colony at the Chapman Reserve. The sponsor shall comply with all approved tree protection measures.
11. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the sponsor shall provide an engineered survey that maps the trunk location of all trees to be preserved in close proximity to the area of grading or construction, consistent with the findings in the revised Arboricultural Report. The mapped tree trunk locations shall be included on all grading and site plans with specifications on fencing and other avoidance as defined in the revised Arboricultural Report.
12. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, DURING CONSTRUCTION ACTIVITIES AND UNTIL FINAL INSPECTION, the following requirements shall be met by the developer:
- a. All arboricultural and related soil work shall be performed under the supervision of an International Society of Arboriculture (ISA) Certified Arborist, qualified landscape architect or biologist.
  - b. All construction activity (grading, paving, landscaping) shall maintain a Tree Protection Zone (TPZ) around trees to be protected, as shown on the Detailed Mitigation Plan. Exceptions to this standard may occur depending upon the age and condition of individual trees with the approval of a qualified professional arborist.
  - d. Temporary construction fencing at a minimum of four feet in height and clearly marked to prevent inadvertent encroachment by heavy machinery shall be installed either at the edge of the Tree Protection Zone (TPZ), or at the edge of the construction zone if the construction zone protrudes into the TPZ. Location of fencing shall be approved by a qualified professional. All fencing should be in place prior to any site grading or construction.
  - e. The Contractor shall maintain the protection fencing and prohibit all access to fenced areas by construction personnel or equipment until all site work is completed.

- f. All structures including construction trailers, equipment storage areas and any other construction traffic are prohibited within fenced areas. Burning or debris piles are prohibited within fenced areas. No materials, equipment, spoil, waste, or washout water should be deposited or stored within fenced areas. Fences may not be moved without written permission of the qualified professional.
  - g. If temporary access within a fenced area is determined to be necessary, then a six-inch layer of redwood bark fiber should be placed in all areas requiring access. This requirement for mulching should apply to all areas within the fenced area. If equipment access is required, then the mulch should be overlaid with interlocking metal plates of sufficient thickness to adequately distribute bearing load.
  - h. Excavation equipment shall operate from outside the TPZ.
  - i. A trench may be mechanically dug toward a tree until the edge of the TPZ is reached. From the edge of the TPZ, the special trenching procedures shall apply. Underground utilities, drain, and irrigation lines should be routed outside the TPZ. When lines must cross the TPZ, the lines shall be bored or tunneled through the area at a depth approved by the supervising arborist. In these instances, a single shared utility conduit should be used to reduce impacts to trees.
  - j. Any roots one inch in diameter or larger requiring removal should be cut cleanly in sound tissue. The roots and surrounding soil should be moistened and covered with a thick mulch (4") to prevent desiccation. No pruning seals or paints should be used on wounds. Cut and exposed roots should be protected from drying. A water absorbent material (i.e. burlap) should be secured at the top of the trench and should be draped over the exposed roots. This material should be kept moistened and soil should be replaced as soon as practicable.
  - k. All grading shall be designed to provide positive drainage away from the base of the tree trunk, and not create ponding within the TPZ.
  - l. Any tree pruning or other similar activity which may be proposed as part of site construction shall be included on site plans and be reviewed by a qualified professional.
13. Hours of site preparation and actual construction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 9:00 a.m. to 4:00 p.m. on Saturday. No site preparation or construction shall be permitted on Sundays or holidays. The approved hours of construction must be noted on any subsequent development plans. At the applicant's request, the Director may administratively authorize minor modifications to these hours of construction.
14. Construction related activities that could contribute to disturbance of Monarch butterfly overwintering at Chapman Reserve shall be restricted. Vegetation removal and trimming and site grading shall be performed when winter aggregations of Monarch butterfly are not present, and should generally occur during the months of April through September. These vegetation modification and site grading activities shall be restricted during the overwintering period for Monarch butterfly, typically from October 1<sup>st</sup> through March 31<sup>st</sup>. Initiation or continuation of these vegetation modification, site grading and construction activities within the October 1<sup>st</sup> through March 31<sup>st</sup> timeframe shall only be allowed if an inspection by a qualified biologist or naturalist has determined that Monarch butterflies have not yet begun congregating at the Chapman Reserve, and written authorization is received by the Marin County Community Development Agency. These construction activities shall only be permitted on a bi-weekly basis following written authorization by the Marin County Community Development Agency, and further bi-weekly inspections and recommendations by the qualified biologist or naturalist.



15. BEFORE ISSUANCE OF GRADING OR CONSTRUCTION PERMITS, the developer shall provide written verification that the removal of invasive, non-native species required by the Detailed Mitigation Plan and the revised Arboricultural Report has been completed.
16. During construction activities, the developer shall take all appropriate measures, including daily watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
17. All soils disturbed by development of the project shall be reseeded with native grasses or wildflowers to control erosion, in conformance with the Detailed Mitigation Plan.
18. The developer shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on site and off the street so that pedestrians and vehicles can pass safely at all times.
19. The developer shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
20. BEFORE ISSUANCE OF A BUILDING PERMIT, the developer shall revise the plans for the residence to require installation of low smoke emission chimneys and use of pellet burning stoves and fireplaces to minimize the potential adverse effects of smoke on the Monarch butterfly overwintering colony at Chapman Reserve.
21. BEFORE FOUNDATION INSPECTION, the developer shall submit written verification from a qualified biologist or landscape architect that the revegetation required within the Primary Cypress Management Zone has been installed.
22. BEFORE FINAL INSPECTION, the owner shall complete the implementation of the Detailed Mitigation Plan to address past tree removal and provide for re-establishment of effective screening along the western edge of the Chapman Reserve. One revision shall be made to the mitigation plan, to eliminate or relocate all proposed plantings outside of the trail alignment. The note on the plan which indicates a trail easement is incorrect, and should be understood to be referring to the Biological Research easement. The proposed garage and portion of the driveway shall be relocated to outside the Primary and Secondary Zones and into an acceptable Development Zone. Proposed leachfield and septic improvements shall be restricted to outside the Primary and Secondary Zones, although installation of a propane tank, paths, hot tub or ornamental landscaping may be allowed in the Secondary Zone as long as they don't require clearing of saplings and mature trees. The propane tank shall be sited at least 15 feet from the Primary Management Zone to prevent the need for additional tree removal.
23. BEFORE FINAL INSPECTION, the owner shall enter into a performance agreement with the County of Marin, which stipulates that the Detailed Mitigation Plan shall be fully implemented, irrigated, and maintained. The performance agreement shall be secured with a financial security of at least 150 percent of the estimated cost of implementing the plan. A Monitoring Report shall be submitted to the Marin County Community Development Agency at the end of the second year after the final inspection of the residence. The Monitoring Report shall summarize the condition of Detailed Mitigation plantings, compliance with Detailed Mitigation Plan restrictions, estimated growth, coverage, and screening function of new plantings, and any required corrective measures such as replacement plantings. If the final monitoring report is found to be adequate by the County, the security shall be returned to the owner. The performance agreement shall stipulate that if the Detailed Mitigation Plan is not properly implemented, then the County, or its agents, shall have the right to enter the property and use the funds to implement the Detailed Mitigation Plan independently of the owner, or the owner's successors in interest.

24. BEFORE FINAL INSPECTION, the owner shall prepare for the review and approval of the Community Development Agency Planning staff and subsequently record a deed restriction stipulating that the riparian enhancement zone shall be maintained in perpetuity to protect this area as important riparian habitat with significant vegetation that shall not be removed or substantially modified without first obtaining Coastal Permit approval. The deed restriction shall indicate that this Zone is protected as riparian habitat, that vegetation shall be maintained as called for in the Detailed Mitigation Plan, and that structures, leachfields, roadways, and other unrelated improvements shall be prohibited in this area.
25. BEFORE FINAL INSPECTION, the owner shall prepare and record a deed restriction over the Primary Cypress Management Zone to permanently protect this area as important habitat for Monarch butterfly, which shall be maintained in perpetuity to protect this area as important habitat with significant vegetation that shall not be removed or substantially modified without first obtaining Coastal Permit approval. The deed restriction shall indicate that this Zone is established for butterfly habitat conservation purposes, that vegetation shall be maintained as called for in the Detailed Mitigation Plan, and that structures, leachfields, roadways, and other unrelated improvements are prohibited.
26. BEFORE FINAL INSPECTION, the owner shall record an easement encumbering the trail and the Primary Cypress Management Zone shown on the Detailed Mitigation Plan for the purpose of allowing future scientific study of the Monarch butterfly colony located on the subject property and at the Chapman reserve site. The Biological Research easement shall benefit Marin County and shall grant County staff, or the County's designated representatives, the right to enter the Primary Cypress Management Zone and observe Monarch butterflies and their habitat.
27. BEFORE FINAL INSPECTION, the sponsor shall post a Monarch butterfly protection sign that indicates the area is protected as the habitat of Monarch butterflies, in conformance with the requirements of the Detailed Mitigation Plan.
28. BEFORE FINAL INSPECTION, the following items must be submitted to the Community Development Agency, Planning Division:
  - a. Verification from the Stinson Beach County Water District, which confirms that all required legal, financial, and construction agreements have been applied for and completed to install new water distribution facilities for the approved project.
  - b. Verification from the Stinson Beach County Water District, which confirms that all required legal, financial, and construction agreements have been applied for and completed to install a septic system for the approved project.
  - c. Verification from the Stinson Beach Fire Protection District, which confirms that all required legal, financial, and/or construction agreements have been applied for and completed.
29. BEFORE FINAL INSPECTION, written verification from an arborist shall be submitted that all arboricultural and related soil work for the improvements was performed under his or her supervision in conformance with these conditions.
30. BEFORE FINAL INSPECTION, the applicant shall install all required landscaping, as shown in "Exhibit A," including the Detailed Mitigation Plan. All plants shall be clearly labeled with their species and size. The developer shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days before the anticipated completion of the project. All plantings shall be clearly and accurately labeled at the time of inspection. Failure to pass inspection will result in withholding of the occupancy and imposition of hourly fees for subsequent reinspections.

31. BEFORE FINAL INSPECTION, these conditions of approval shall be recorded in the Marin County Recorder's office for the information of future owners of the subject property.
32. The property owner shall be responsible for ensuring on-going maintenance and preservation of the existing and approved trees needed for screening the structure(s) from off-site locations. Only those trees shown on the site plan as approved for removal, if any, may be removed. No other existing trees on the subject property shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent safety hazards to people and property. Removal of significant vegetation on the site shall not commence prior to obtaining Coastal Permit approval.
33. Future removal or modification of the vegetation in the Riparian Enhancement Zone and the Primary Cypress Management zone shall not be commenced prior to obtaining Coastal Permit approval. Substantial removal of the vegetation planted within the Secondary Cypress Management Zone shall not commence prior to receiving Coastal Permit approval.
34. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.

*Department of Public Works-Land Use and Water Resources*

33. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall comply with the following requirements:
  - A. The revised garage and parking plan shall conform to Marin County Code Title 24 parking and access requirements.
  - B. An encroachment permit shall be obtained before initiating construction activities within the road right-of-way.
  - C. A signed application for a recorded encroachment permit shall be submitted to allow any structures within the road right-of-way.
  - D. Final erosion and siltation control plans shall be submitted.
  - E. The plans must be reviewed and approved by a Registered Soils Engineer or a Registered Civil Engineer with soils expertise. Proof of the same may be by the engineer's stamp and signature on the plans or by letter.
  - F. Note on the plans that the design engineer or architect shall certify to the County that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note on plans that driveway, parking and other site improvements shall be inspected by a Department of Public Works engineer.

### **SECTION III: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT RESOLVED that the owner must vest this Coastal Permit, Variance, and Design Review approval by no later than August 9, 2006, or all rights granted in this approval shall lapse unless the owner applies for an extension at least 30 days before the expiration date above and it is approved by the Agency Director. Vesting shall entail receiving foundation inspection approval and completing the Detailed Mitigation Plan improvements. An extension to the entitlement may be approved for cause by the Planning Division based upon the submission of an extension application.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Board of Supervisors. A Petition for Appeal and a \$675.00 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 **August 16, 2004**.

**SECTION IV: VOTE**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 9<sup>th</sup> day of August, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

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ALLAN BERLAND, CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Jessica Woods  
Recording Secretary

11. DRAFT MARIN COUNTYWIDE PLAN

Public hearing on the Draft Countywide Plan.

*(This item was continued to August 16<sup>th</sup>, 2004 Planning Commission meeting.)*

Chairman Berland adjourned the meeting at 6:15 p.m. and continued the Countywide Plan discussion to August 16, 2004 at 1:00 p.m.