

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES  
Marin County Civic Center, Room #328 - San Rafael  
MEETING – ~~March~~ April 13, 2008

Hearing Officer      Johanna Patri, AICP  
Jeremy Tejirian, AICP  
Benjamin Berto

Staff Present:        Jeremy Tejirian~~Curtis Havel~~, Senior Planner  
Johanna Patri~~Veronica Corella Pearson~~, Senior Planner  
Neal E. Osborne, Planner  
Veronica Corella Pearson, Assistant Planner

Joyce Evans, Recording Secretary

Convened at 9:~~07-05~~ A.M.  
Adjourned at 9:~~34-12~~ A.M.  
Reconvened at 9:~~38-14~~ A.M.  
Adjourned at 10:~~00-24~~ A.M.  
Reconvened at 10:27 A.M.  
Adjourned at 11:11 A.M.

April 17, 2008  
~~March 13, 2008~~

**Marin County**  
**Community Development Agency**

Alex Hinds, Director

**NOTICE OF DECISION**

Applicant's Name: Stinson Beach County Water District

Application (type and number): Coastal Permit (CP 08-17)

Assessor's Parcel Number: 195-260-48

Project Location: The northern end of Laurel Avenue, Stinson Beach

For inquiries, please contact: Jeremy Tejirian, Senior Planner

Decision Date: April 17, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the April 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-11.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer

**C1. COASTAL PERMIT (CP 08-17): STINSON BEACH COUNTY WATER DISTRICT**

A proposal for the replacement of the District's existing Surface Water Treatment Facility and existing Surface Water Treatment Facility buildings with new water treatment equipment of equal capacity (200 gallons per minute), a new water treatment plant building, and related tanks. The existing backwash pond, process unit for conventional treatment, and lab building would be demolished and replaced with a new treatment building in approximately the same location. The proposed 2,100 square foot treatment building would reach a maximum height of 16.5 feet above grade and would have the following minimum setbacks: more than 100 feet from the southern front property line; 4 feet from the western side property line; 40 feet from the eastern side property line; and 5 feet from the northern rear property line. The facility would remain fenced and inaccessible to the public. The subject property is located at **the northern end of Laurel Avenue, Stinson Beach**, and is further identified as **Assessor's Parcel 195-260-48.**

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report. He noted that the new water treatment capacity was 200 gallons per minute.

The applicant was present and had no questions for staff.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer concurred with staff's analysis and approved the Stinson Beach County Water District Coastal Permit, based on the Findings and subject to the Conditions in the Resolution.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-116

A RESOLUTION APPROVING WITH CONDITIONS

THE STINSON BEACH COUNTY WATER DISTRICT COASTAL PERMIT

ASSESSOR'S PARCEL 195-260-48

NOTHERN END OF LAUREL AVENUE, STINSON BEACH

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**SECTION I: FINDINGS**

- I. WHEREAS the project involves the replacement of the District's existing Surface Water Treatment Facility and existing Surface Water Treatment Facility buildings with new water treatment equipment of equal capacity (200 gallons per minute), a new water treatment plant building, and related tanks. The existing backwash pond, process unit for conventional treatment, and lab building would be demolished and replaced with a new treatment building in approximately the same location. The proposed 2,100 square foot treatment building would reach a maximum height of 16.5 feet above grade and would have the following minimum setbacks: more than 100 feet from the southern front property line; 4 feet from the western side property line; 40 feet from the eastern side property line; and 5 feet from the northern rear property line. The facility would remain fenced and inaccessible to the public. The exterior walls would be tan and the roof would be grey shingles. The subject property is located at the northern end of Laurel Avenue, Stinson Beach, which is also identified as Assessor's Parcel 195-260-48.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 17, 2008 to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 because it would not result in substantial grading, tree removal, or other adverse effects to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (Section 22.56.130I of Marin County Code) as specified below.

A. Water Supply:

The proposed project would modernize the existing water treatment facility in conformance with State requirements, but would not increase the existing rate of water withdrawal because the project would not increase the existing water treatment capacity. Further, the design of the project would not include the potential for increasing treatment capacity because the

sizing of the individual components of the project, including the pressure membrane equipment, has been calibrated to be sufficient for 200 gallons per minute. As indicated in section IV of the Local Coastal Plan, Unit I, the anticipated maximum capacity of the Stinson Beach County Water District was specified as 550 gallons per day, which is well above the 200 gallons per day of existing and proposed capacity. LCP Public Services Policy 1 does not apply to the project because no expansion of a utility service would result from the development. Therefore, the project is consistent with this finding.

B. Septic System Standards:

The wastewater from the bathroom would be pumped to a wastewater holding tank on the site, and periodically removed for transportation to an off-site wastewater treatment facility in a manner that is consistent with the Stinson Beach County Water District's own requirements. Therefore, the project is consistent with this finding.

C. Grading and Excavation:

The proposed project would not entail substantial grading outside of the footprints of the proposed structures. The proposed structures would be located in approximately the same location as the existing treatment building, which is on a relatively level building pad. Grading would be necessary for the construction of retaining walls at the uphill perimeter of the proposed development envelope and the existing 10-foot deep backwash pond would be filled. The height of the retaining walls outside of the footprint of the treatment building would average approximately 5 feet, and would have a maximum height of 10 feet above the level of the building pad. These improvements would not substantially reform the existing topography or alter drainage patterns on the site outside of the development envelope. Therefore, the project is consistent with this finding.

D. Archaeological Resources:

The subject property is not located within an area of high archaeological sensitivity and is not expected to result in adverse effects to cultural resources. Therefore, the project is consistent with this finding.

E. Coastal Access:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

F. Housing:

The subject property is not governed by the C-VCR zoning district and would not result in the demolition of any housing. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection:

The applicant submitted a biological assessment for the proposed project, which evaluated the surrounding area to determine whether the ravine adjacent to the subject property has the characteristics of a stream, wetland, or other environmentally sensitive habitat area (ESHA). The biological assessment found that the site does not support any streams or

wetlands. Further, the biological assessment found that there is an ESHA within the ravine approximately 200 feet south of the project site, but that it would not be affected by the proposed development. Therefore, the project is consistent with this finding.

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 Plan. Therefore, the project is consistent with this finding.

I. Wildlife Habitat:

The biological assessment which evaluated the proposed development indicates that the project would not adversely affect special status species, and the property lacks the wetland or riparian habitats that would generally be suitable for the widest diversity of special status animals. Therefore, the project is consistent with this finding.

J. Protection of Native Plant Communities:

The biological assessment which evaluated the proposed development indicates that the project would not adversely affect sensitive plant communities because the site has been previously disturbed with development. Therefore, the project is consistent with this finding.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

L. Geologic Hazards:

The applicant submitted a geotechnical investigation of the proposed project, which evaluated the surrounding area's geologic conditions. The investigation found that the area is seismically active and is within the Alquist-Priolo Special Studies zone. Further, the investigation found that small landslides had occurred uphill from the site to the north. The geotechnical report indicates that measures should be taken to adequately address hazards associated with earthquakes and landslides, including designing the structures withstand earthquakes and building retaining walls with excess height above the uphill grade to provide a catchment to reduce future debris deposits. These recommendations are being incorporated into the design of the facility. Therefore, the project is consistent with this finding.

M. Public Works Projects:

The proposed project would not affect any existing or proposed public works project in the area. Therefore, the project is consistent with this finding.

N. Land Division Standards:

No Land Division or Lot Line Adjustment is proposed as part of this project. Therefore, the project is consistent with this finding.

O. Visual Resources:

The structures would be well below the maximum 25 foot height limit allowed in the coastal zone and would be located a sufficient distance from property lines to avoid impeding views from the surrounding area. Further, the design and exterior materials of the structures would be compatible with the rural character of the Stinson Beach community. Therefore, the project is consistent with this finding.

P. Recreation/Visitor Facilities:

The proposed project would be constructed on a lot developed for public utility purposes and would have no effect on visitor or recreation facilities. Therefore, the project is consistent with this finding.

Q. Historic Resource Preservation:

The project site is not located within any designated historic district boundaries as identified in the Marin County Historic Study for the Local Coastal Plan. Therefore, the project is consistent with this finding.

## SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Stinson Beach County Water District Coastal Permit (CP 08-17) subject to the following conditions:

### Marin County Community Development Agency

1. Except as modified by these conditions of approval, this Coastal Permit allows the replacement of the District's existing Surface Water Treatment Facility with new water treatment equipment of equal capacity (200 gallons per minute), a new water treatment plant building, and related tanks in conformance with "Exhibit A" consisting of the project plans on file with the Marin County Planning Division. The existing backwash pond, process unit for conventional treatment, and lab building shall be demolished and replaced with a new treatment building in approximately the same location. The proposed 2,100 square foot treatment building shall reach a maximum height of 16.5 feet above grade and shall have the following minimum setbacks: more than 100 feet from the southern front property line; 4 feet from the western side property line; 40 feet from the eastern side property line; and 5 feet from the northern rear property line. The facility shall remain fenced and inaccessible to the public. The subject property is located at the northern end of Laurel Avenue, Stinson Beach, which is also identified as Assessor's Parcel 195-260-48.
2. Building Permits are not required for the proposed project. However, if the Stinson Beach County Water District voluntarily decides to submit a Building Permit application, then the plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Water Treatment Plant Replacement Project," consisting of 8 sheets prepared by Stetson Engineers and Kreiger and Stewart, with final revisions submitted on February 11, 2008 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. Approved exterior building materials and colors shall substantially conform to the color/materials description and sample which is identified as "Exhibit B," prepared by the applicant and on file with the Marin County Community Development Agency. All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
5. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of

the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

6. All construction activities shall comply with the following standards:

- a. Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
- b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

7. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.

8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul this approval, for which action is brought within the applicable statute of limitations.

9. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

### **Marin County Department of Public Works, Land Use and Water Resources**

10. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:

- A. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
- B. The letter shall include any geotechnical changes since the 2005 report.

- C. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
- D. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp. Advise applicant that no portion of any structure, including retaining walls, shall extend beyond property lines or easements. This includes footings (particularly the westside retaining wall).
- E. A separate Building Permit is required for site/driveway retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge).
- F. Submit Erosion and Siltation Control plans.

11. BEFORE ISSUANCE OF A BUILDING PERMIT OR COMMENCING CONSTRUCTION, the applicant shall fulfill the following requirements:

- A. An encroachment permit shall be required for work within a county-maintained road right-of-way.
- B. Move the gate and fence portion that extends beyond the property lines back to the property line (eastside of property).

**SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Stinson Beach County Water District Coastal Permit (CP 08-17) approval by April 17, 2010, by substantially completing work as approved or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and it is approved by the Agency Director. An extension of up to four years may be granted for cause pursuant to Section 22.56.050I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 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 April 24, 2008.

**SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17<sup>th</sup> day of April, 2008.

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JOHANNA PATRI  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary

**Marin County**  
**Community Development Agency**

Alex Hinds, Director

**NOTICE OF DECISION**

Applicant's Name: John Wookey

Application (type and number): Coastal Permit (CP 08-22) and Design Review (DR 08-24)

Assessor's Parcel Number: 112-050-46

Project Location: 555 Via De La Vista, Inverness

For inquiries, please contact: Jeremy Teirian, Senior Planner

Decision Date: April 17, 2008

**DETERMINATION:** **Approved with Conditions**

Minutes of the April 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-14.

Marin County Community Development Agency

Johanna Patri, AICP  
Hearing Officer

**C2. COASTAL PERMIT (CP 08-22) AND DESIGN REVIEW (DR 08-24): JOHN WOOKEY**

The owner is proposing to demolish 23 square feet of the existing 2,822 square foot residence and attached garage and construct 1,325 square feet of upper and lower level additions. The additions would reach a maximum height of 24.5 feet above grade and would have a 60 foot setback from the northwestern front property line. There is no record of permits for the existing residence, the existing 825 square foot detached garage, the small shed in the front yard, or the fence attached to the residence. Therefore, the applicant also proposes to legalize the existing structures on the site. The septic system would be improved to be consistent with current requirements. The subject property is located at **555 Via De La Vista, Inverness,** and is further identified as **Assessor's Parcel 112-050-46.**

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report. However, the staff report shows the Lot Area as 1.14 acres, which should be corrected to read, 4.72 acres.

The applicant was present and had no questions for staff.

The public testimony portion of the hearing was opened and closed.

The Hearing Officer concurred with staff's analysis and approved the Wookey Coastal Permit and Design Review, based on the Findings and subject to the Conditions in the Resolution.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-118

A RESOLUTION APPROVING WITH CONDITIONS

THE WOOKEY COASTAL PERMIT AND DESIGN REVIEW

ASSESSOR'S PARCEL 112-050-46

555 VIA DE LA VISTA, INVERNESS

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**SECTION I: FINDINGS**

- I. WHEREAS the owner proposes to demolish 23 square feet of the existing 2,822 square foot residence and attached garage and construct 1,325 square feet of upper and lower level additions, resulting in a 4,124 square foot residence. The proposed floor area ratio on the 205,603 square foot property would be 2.2 percent. The additions would reach a maximum height of 24.5 feet above grade and would have a 60 foot setback from the northwestern front property line. There is no record of permits for the existing residence, the existing 825 square foot detached garage, the small shed in the front yard, or the fence attached to the residence. Therefore, the applicant also proposes to legalize the existing structures on the site. The septic system would be improved to be consistent with current requirements. The subject property is located at 555 De La Vista, Inverness, which is also identified as Assessor's Parcel 112-050-46.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 17, 2008 to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 because it would not result in substantial grading, tree removal, or other adverse effects to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the reasons listed below.
  - A. The project would comply with the C-SF3 (Coastal, Residential, 1 unit per 1 to 5 acres).
  - B. The 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.
  - C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works (Title 24 of the Marin County Code).

D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services.

E. The project would be compatible with the rural residential character of the local community.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent policies of the Inverness Ridge Community Plan for the reasons listed below.

A. The project would involve single-family residential development on the property, which is a principally permitted use under the governing C-RSP-0.33 zoning district.

B. The project would not adversely impact the surrounding natural environment relative to vegetation and species habitats and on-site drainage.

C. The project would be served by the existing roadway network.

D. The project would not impact any streams or waterways.

E. The project would be served by the Inverness Public Utility District for water service and an on-site sewage disposal system approved by Marin County Environmental Health Services staff.

F. The project would not result in significant adverse impacts to the surrounding built environment relative to off-site views from adjacent properties, privacy for the subject and surrounding properties, and building design, siting, height, mass and bulk.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (Section 22.56.130 of Marin County Code) as specified below.

A. Water Supply:

The proposed project would not adversely affect the ability to the Inverness Public Utility District to continue to provide adequate water to the subject or surrounding properties because the District has sufficient capacity to continue to serve the residence. Therefore, the project is consistent with this finding.

B. Septic System Standards:

The proposed project requires a new septic system, which shall be constructed in conformance with the requirements of the Environmental Health Services Division. The leachfield would be located in an area of the property that is not heavily vegetated and the construction of the new septic system would not result in substantial ground disturbance or vegetation removal. Therefore, the project is consistent with this finding.

C. Grading and Excavation:

The proposed project would not entail substantial grading because the additions would not substantially expand the building footprint of the existing residence. Therefore, the project is consistent with this finding.

D. Archaeological Resources:

The subject property is not located within an area of high archaeological sensitivity and the minimal amount of ground disturbance minimizes the likelihood that the project would result in adverse effects to cultural resources. However, a standard condition of approval requires that the County be notified in the event that the construction uncovers archaeological resources. Therefore, the project is consistent with this finding.

E. Coastal Access:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

F. Housing:

The subject property is not governed by the C-VCR zoning district and would not result in the demolition of any housing. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection:

There are no streams or wetlands on or immediately adjacent to the subject property. Therefore, the project is consistent with this finding.

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 Plan. Therefore, the project is consistent with this finding.

I. Wildlife Habitat:

The property lacks the wetland or riparian habitats that would generally be suitable for the widest diversity of special status animals and the project would result in minimal ground disturbance and vegetation removal. However, northern spotted owls, a Federally endangered species, have been found to nest within 0.25 miles of the subject property by surveys conducted by the Point Reyes Bird Observatory. The project would not entail removal of any trees that could be used for owl nests, however, it is possible that construction noise could disturb the owls during nesting season (February 15 until July 15). A condition of project approval prohibits exterior construction activities during the Owl's nesting season to eliminate the potential disturbance it may cause, unless the applicant submits a report from a qualified biologist indicating that there are no nesting owls within 0.25 miles of the construction site. Therefore, the project is consistent with this finding.

J. Protection of Native Plant Communities:

The property lacks the wetland or riparian habitats that would generally be suitable for the widest diversity of special status animals and the project would result in minimal ground disturbance and vegetation removal. Therefore, the project is consistent with this finding.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

L. Geologic Hazards:

According to the information in the Marin County GIS provided by the USGS and State Division of Mines and Geology, the subject property is not within the Alquist-Priolo Zone, in close proximity to a mapped fault trace, or in an area of high shaking amplitude during an earthquake. Therefore, the project is consistent with this finding.

M. Public Works Projects:

The proposed project would not affect any existing or proposed public works project in the area. Therefore, the project is consistent with this finding.

N. Land Division Standards:

No Land Division or Lot Line Adjustment is proposed as part of this project. Therefore, the project is consistent with this finding.

O. Visual Resources:

The development would meet the height standards and would be located a sufficient distance from property lines to avoid impeding views from the surrounding area. Further, the design and exterior materials of the structures would be compatible with the rural character of the Inverness community. Therefore, the project is consistent with this finding.

P. Recreation/Visitor Facilities:

The proposed project would be constructed on a developed private property and would have no effect on visitor or recreation facilities. Therefore, the project is consistent with this finding.

Q. Historic Resource Preservation:

The project site is not located within any designated historic district boundaries as identified in the Marin County Historic Study for the Local Coastal Plan. Therefore, the project is consistent with this finding.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the project would be consistent with the mandatory findings for Design Review approval (Section 22.82.040I of the Marin County Code) as specified below.

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

The design of the proposed structure would be consistent with the current goals and policies contained in the Marin Countywide Plan, as discussed above in section IV, and the Inverness Ridge Community Plan, as discussed above in section V. Further, the project would be consistent with the policies contained in the LCP for the reasons discussed above in the mandatory findings for Coastal Permit approval. Therefore, the project is consistent with this finding.

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 design of the residence would feature simple building forms that are consistent with traditional development patterns in the area. The residence and each of the accessory structures on site would appear distinct relative to the others on the property because they would have irregular building alignments, offset footprint positions, and varied sizes and building heights. The individual structures would appear unique when viewed collectively as a whole, and compliment the site and one another without a creating an imposing presence. Architectural features such as exterior curved roof trusses at the gable ends, building step-backs, exterior transom windows, a porch, decks and trellises provide visual interest to the design in conformance with the Single-family Residential Guidelines. Therefore, the project is consistent with this finding.

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 and be of a comparable size and scale with other structures in the surrounding community. The development would be located a sufficient distance from neighboring residences to result in adverse effects to the air, light, and privacy enjoyed on surrounding properties. Therefore, the project is consistent with this finding.

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 neighboring residences. The proposed development would not encroach into any rights-of-way, conservation easements or public lands. There is a trail located on the road adjacent to the

property that is identified in the Countywide Plan as part of Marin's trail network, and this trail has been shown on the plans. However, the trail does not cross the subject property and the proposed development would not adversely affect views from the trail or access to the trail because of its distance from the development. Therefore, the project is consistent with this finding.

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

The surrounding area is heavily vegetated and the project would not result in the removal of mature trees. Therefore, the project is consistent with this finding.

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 with 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 with articulations in the building facades. Therefore, the project is consistent with this finding.

2. Drainage systems and appurtenant structures,

The property 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 buildings as area that is undeveloped, providing adequate area for water to infiltrate into the soil. Therefore, the project is consistent with this finding.

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

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. 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. Development would also avoid sharp angled cut and fill banks and long linear slopes that do not visually blend with the surrounding natural topography. Therefore, the project is consistent with this finding.

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. Therefore, the project is consistent with this finding.

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. Therefore, the project is consistent with this finding.

- 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 development 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. Further, as a condition of project approval, the applicant would be required to meet the green building standards for remodels and additions. Therefore, the project is consistent with this finding.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Wookey Coastal Permit and Design Review subject to the following conditions:

### **Marin County Community Development Agency**

1. Except as modified by these conditions of approval, this Coastal Permit and Design Review approval allows the owner to demolish 23 square feet of the existing 2,822 square foot residence and attached garage and construct 1,325 square feet of upper and lower level additions, resulting in a 4,124 square foot residence. The approved floor area ratio on the 205,603 square foot property would be 2.2 percent. The additions shall reach a maximum height of 24.5 feet above grade and shall have a 60 foot setback from the northwestern front property line. There is no record of permits for the existing residence, the existing 825 square foot detached garage, the small shed in the front yard, or the fence attached to the residence. Therefore, this approval also legalizes the existing structures on the site. The septic system shall be improved to be consistent with current requirements. No mature trees shall be removed for the project. The subject property is located at 555 De La Vista, Inverness, which is also identified as Assessor's Parcel 112-050-46.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled "Addition and Remodel, 555 Via De La Vista," consisting of 9 sheets prepared by Stacy Ford and Daniel F. Simon, with final revisions submitted on January 18, 2008 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as "Exhibit B," prepared by the project architect, submitted December 5, 2007, and on file with the Marin County Community Development Agency. All

flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.
5. External construction that may cause loud noises shall not occur and no Building Permits shall be issued during the Spotted Owl's nesting season from February 15 until July 15, unless the applicant submits a report from a qualified biologist indicating that there are no nesting owls within 0.25 miles of the construction site.
6. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
7. All construction activities shall comply with the following standards:
  - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding,

against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul this approval for which action is brought within the applicable statute of limitations.

9. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been constructed in compliance with all of the measures that were used to meet the "Certified" or better rating under the Marin Green Home: Remodeling Building Residential Design Guidelines.

10. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

### **Marin County Department of Public Works, Land Use and Water Resources**

11. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:

- A. Clearly show and label all easements on site plan. The site plan currently shows a discontinuous line for the 40' access easement.
- B. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.
- C. Provide a drainage plan for the project that is consistent with Marin County requirements.

### **Inverness Fire Department**

12. BEFORE FINAL INSPECTION, the applicant shall submit verification from the Inverness Fire Department that the department's requirements have been satisfied.

### **Inverness Public Utility District**

13. BEFORE FINAL INSPECTION, the applicant shall submit verification from the district that the district's water system requirements have been satisfied.

### **Environmental Health Services Division**

14. Install a septic system in conformance with septic permit #07-106 and abandon the existing septic tank.

### **SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Wookey Coastal Permit and Design Review (CP 08-22, DR 08-24) approval by February 14, 2010, by obtaining a Building Permit and substantially completing work as approved or all rights granted in this approval

shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Agency Director approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.0501 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 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 April 24, 2008.

**SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17<sup>th</sup> day of April, 2008.

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JOHANNA PATRI  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Secretary

# Marin County Community Development Agency

Alex Hinds, Director

## NOTICE OF DECISION

- | Applicant's Name: Janet LehuaJohn and Carol Longstreth
- | Application (type and number): Use Coastal Permit (CP 08-24) and Second Unit Amnesty (SA 08-28)
- | Assessor's Parcel Number: 043112-2143-01, -02, and -10
- | Project Location: 226 Reed Circle, Mill Valley10 Balmoral, Inverness
- | For inquiries, please contact: Curtis Havel, PlannerJohanna Patri, Senior Planner
- | Decision Date: March-April 137, 2008

**DETERMINATION: Approved with Conditions**

- | Minutes of the April 17, March 13, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-166.

Marin County Community Development Agency

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Jeremy Tejirian, AICP  
Hearing Officer

**H4C3. COASTAL PERMIT (CP 08-24) AND SECOND UNIT AMNESTY PERMIT (SA 08-28):  
USE PERMIT (UP 08-2): JANET LEHUA JOHN AND CAROLYN LONGSTRETH**

Hearing proposing a Second Unit Amnesty Permit to legalize the conversion of approximately 430 square feet of the lower level of an existing single-family residence into an attached second unit on an approximately 19,000 square foot parcel in Inverness. The existing primary residence is approximately 3,170 square feet in size. No new physical additions are proposed as part of this project. The subject property is located at 10 Balmoral, Inverness, and is further identified as Assessor's Parcel 112-143-11 (formerly 112-143-01, -02, and -10).~~Hearing to consider construction of a new 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line (where a front yard setback of 25 feet would otherwise be required). Also proposed, but not subject to Use Permit approval, is the construction of 612 square feet of additions onto the existing 1,726 square foot single-family residence for a total residential floor area of 2,523 square feet on the 13,951 square foot lot resulting in a floor area ratio of 18.1%; and, conversion of 748 square feet of the single-family residence into a second dwelling unit. Proposed building materials include composition shingle roofing and siding to match the existing residence. Also proposed is construction of a new deck and glass windscreen along the rear of the residence. The subject property is located 226 Reed Circle, Mill Valley, and is further identified as Assessor's Parcel 043-213-02.~~

In response to the Hearing Officer, staff summarized the supplemental memorandum dated April 17, 2008, regarding concerns with Condition's of Approval # 2 (e), 3, 6, and 7 in the proposed Resolution. She clarified each of the issues in the e-mail correspondnece, including:

- Condition of Approval # 2 (e): An amnistey Building Permit application fee will be required and the Department of Public Works will require a fee that is not yet determined, but will be a 50% reduction;
- Condition of Approval # 3: The Department of Public Works is willing to work with the applicant regarding the language of the waiver for any work that was done in the 1990's over an easement at the corner of the property sloping down to Sir Francis Drake Boulevard;
- Condition of Approval # 6: Paving of the apron approach off of Sir Francis Drake Boulevard will be required in accordance with the State of California Transportation standards as this is a State highway; and
- Condition of Approval # 7: The Department of Public Works reviewed the letter received from the Inverness Fire Department and will waive this Condition of Approval.

The encorachment permit needs to be applied for in the Department of Public Works.

The public testimony portion of the hearing was opened.

Carolyn Longstreth, applicant, spoke regarding obtaining historic documents regarding any work the County did within the easement and what documents need to be in place prior to issuance of a Building Permit.

The public testimony portion of the hearing was closed.

The Hearing Officer determined that this project was a public hearing Coastal Permit and made the following changes to the recommended Resolution:

- SECTION I: FINDINGS, Geologic Hazards: Does not apply in LCP 2 and can be deleted;
- Condition of Approval #3: delete;
- Condition of Approval #7: delete as requested by the Department of Public Works.

The Hearing Officer concurred with staff's analysis and approved the Longstreth Coastal Permit and Second Unit Amnesty, based on the Findings and subject to the Conditions in the Resolution with modifications.

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

~~In response to the Hearing Officer, staff explained that the project description in the agenda should include the southerly side setback is ten feet. He described an e-mail correspondence from Mimi Towle, neighbor, expressing concerns regarding location of the proposed garage, and suggested alternatives to the design. Staff stated that her comments were representative of other community comments on the project. While the proposed garage is visible from the street, it is not inconsistent with development patterns in the community. The applicant had modified the project so that the garage doors did not face the street and the height of the garage is actually under the height limit for the zoning district. After staff continued the item from a previous hearing, the applicant hired a traffic consultant to evaluate the traffic patterns and circulation, and found that the project would not result in adverse impacts on the traffic flow. An e-mail from Janet Lehua questioned the address for the second unit, and staff stated that an address of # 228 Reed Circle is appropriate.~~

~~The Hearing Officer noted that The State of California has directed local jurisdictions to handle applications for second units on a ministerial basis, similar to Building Permits. Further, the second unit permit application in this case is not necessarily linked to the Use Permit application for the garage. The action for the second unit will be taken by staff, but is not within the Hearing Officer's purview or authority. Therefore, the second unit approval was removed from consideration at today's hearing.~~

~~The public testimony portion of the hearing was opened.~~

~~Bill Cullen, architect, concurred with the Condition of Approval, and asked if the utilities needed to be undergrounded.~~

~~David Curtis and Barry Kuhn, neighbors, expressed concerns with:~~

- ~~Keeping the community character;~~
- ~~Lack of notification of a hearing from the Strawberry Design Review Board;~~

- ~~Dual parking structures;~~
- ~~A setback of five feet from the front for a detached structure, where 25 feet is required; and~~
- ~~Safety concerns for speeding fire trucks on a curve where visibility is an issue.~~

~~The public testimony portion of the hearing was closed.~~

~~The Hearing Officer responded to the comments;~~

- ~~Staff will have some description regarding the undergrounding of the utilities;~~
- ~~Community character will not be an issue because of the dual garages;~~
- ~~The Transportation Facilities fee is linked to the second unit and will be deleted from this resolution;~~
- ~~The Hearing Officer noted that all decisions are based on County of Marin Codes and guidelines, and although there is no requirement to notice the Design Review Board meetings, the County is now noticing those meetings;~~
- ~~After a site visit by our Department of Public Works, Land Use and Transportation, it was determined that the site distance is adequate;~~
- ~~Community Character is determined by published design guidelines which were used as a criteria to avoid having the garage doors facing the street;~~

~~The Hearing Officer approved the project with the following modifications:~~

- ~~The Second Unit Resolution will be deleted;~~
- ~~As indicated in Finding IV. E, the project would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles on either Reed Boulevard or Reed Circle. Further, the garage has been design in conformance with Marin County Design Guideline C-1.4 because the garage would be detached from the residence and would be oriented with the door turned away from the street to minimize its visual presence. This orientation would also provide sufficient back-out space to satisfy the requirements of the Department of Public Works;~~
- ~~The project would be consistent with the Transportation Policies contained in the Marin Countywide Plan, as verified by the Department of public Works, because it would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles.~~
- ~~Condition of Approval 14 (b)- Department of Public Works: deleted; and~~
- ~~Correct the date to March 13, 2008.~~

~~The Hearing Officer approved the Lehua Use Permit based on the Findings and subject to the Conditions in the Resolution as modified.~~

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

# ~~MARIN COUNTY DEPUTY ZONING ADMINISTRATOR~~

## ~~RESOLUTION 08-113~~

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-118

A RESOLUTION CONDITIONALLY APPROVING THE LONGSTRETH COASTAL PERMIT (CP 08-24) AND  
SECOND UNIT AMNESTY PERMIT (SA 08-28)  
10 BALMORAL WAY, INVERNESS  
ASSESSOR'S PARCEL 112-143-11

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### SECTION I: FINDINGS

I. WHEREAS the applicants are requesting a Coastal Permit and Second Unit Amnesty Permit to legalize construction of improvements within a lower level at the rear of an existing residential structure and the conversion of this floor area into an approximately 430 square foot attached second dwelling unit on an approximately 19,119 square foot parcel in Inverness. County Tax Assessor's Records indicate that the original approximately 1,575 square foot, residence, with an unfinished attic and lower level, was built in 1913. The Community Development Agency – Planning Division and Building Inspection records indicate that in 1986, with a Design Review Waiver approval from the Planning Division, an approximately 874 square foot addition within the attic, including a dormer extension and a deck, was constructed, resulting in an approximately 2,449 square foot, two-story residence with a height of 28.5 feet. The 1986 plans indicate that the second unit did not exist. The 1986 plans indicate that the lower level consisted of two shop rooms and a lavatory (half bath) totaling 330 square feet. It is not known when the lower level was remodeled into an approximately 430 square foot second unit and an approximately 70 square foot separate workshop by a previous owner, but according to the current property owners, who purchased the property in 2006 with the second unit, the second unit has been utilized as a rental unit since the late 1980's. The structure is sited with the following setbacks from property lines: front (east) 23 feet; side (north) 6 feet; rear (west) 133 feet; 20 feet side (south). No new structural additions are proposed as part of this project. The current owners are proposing to legalize the conversion of the lower level to a second dwelling unit through the County's Second Unit Permit Amnesty program. A Coastal Permit is required to

allow the conversion and modifications of floor area that result in more than 10 percent of additional living space within the existing structure.

The subject property is located at **10 Balmoral Way, Inverness** and is further identified as **Assessor's Parcel 112-143-11.**

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing April 17, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.

III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 because the project consists of legalization of an attached second dwelling unit within the lower level of an existing structure requiring no vegetation removal or grading and resulting in no significant environmental impacts.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Coastal Permit (Marin County Code Section 22.56.130) and finds that this project conforms to the requirements of Local Coastal Program, Unit II, as follows:

A. Water Supply:

The Inverness Public Utility District has indicated that adequate water service is available to the property to serve both the primary residence and the second dwelling unit.

B. Septic System Standards:

The Marin County Community Development Agency - Environmental Health Services has reviewed and verified that the existing septic system is adequate to serve the primary residence and the second dwelling unit as proposed.

C. Grading and Excavation:

No grading or excavation would be required as the structure is an existing structure and the proposed second dwelling unit is contained within the lower level of the existing structure.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. However, as the project consists of the legalization of a second dwelling unit, within an existing structure, no potential archaeological resources would be impacted.

E. Coastal Access:

The subject property is not located between the sea and the first public road or adjacent to a coastal area identified by the Local Coastal Program, Unit II, where public access is desirable or feasible. While the project site is located within the boundary of the Tideland Survey

Boundary, during a field inspection, staff found no evidence of historic public use of this site, and found that the site is not located near any tidelands or submerged lands.

F. Housing:

The proposed second dwelling unit will increase the availability of housing stock in the Inverness Community.

G. Stream Conservation Protection:

Alder Creek, a blue line stream, as identified on the Inverness Quadrangle of the U.S. Geological Survey, and identified as an anadromous fish stream, runs along the northwest boundary of the property and Aberdeen Way. Department of Public Works (DPW) has reviewed this project, including the location of the access and parking area associated with the second unit. The parking area for the second unit has historically encroached approximately 50 feet into the 100-foot wide Stream Conservation Area. All work associated with the driveway approach off Sir Francis Drake Boulevard required by DPW will occur within the road right-of-way of Sir Francis Drake, from the edge-of-pavement to the property line, a highly disturbed and trafficked area and no other location for this access is feasible. Therefore, legalizing the second unit with the associated access and parking will not impact the potential resources associated with Alder Creek.

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:

Review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject is in a potential habitat area for the pallid bat (*Antrozous pallidus*) and the rare Point Reyes Mountain Beaver (*Aplodontia rufa phaea*). However, the project does not entail any structural construction as the second unit is located within an existing structure; therefore legalization of the existing second unit would not impact any sensitive or endangered wildlife. Department of Public Works (DPW) has reviewed this project, including the location of the access and parking area associated with the second unit. All work associated with the driveway approach off Sir Francis Drake Boulevard required by DPW will occur within the road right-of-way of Sir Francis Drake, from the edge-of-pavement to the property line, a highly disturbed and trafficked area. Any remaining wildlife habitat on the subject property will not be endangered because no significant alteration or removal of natural vegetation is proposed and wildlife movement will not be hindered. Therefore, legalizing the second unit with the associated access and parking will not impact the potential wildlife habitat resources of the site.

J. Protection of Native Plant Communities:

Review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the property is located in a potential habitat area for the Marin Knotweed (*Polygonum marinense*), Lyngbye's sedge (*Carex lyngbyei*), North Coast phacelia (*Phacelia insularis*), Marin hesperian (*Vespericola marinensis*), Coast lily (*Lilium maritimum*),

and the Marin checker lily (*Fritillaria lanceolata* var. *tristulus*). However, the project does not entail any structural construction as the second unit is an existing structure; therefore legalization of the existing second unit would not impact any sensitive or endangered plants. Department of Public Works (DPW) has reviewed this project, including the location of the access and parking area associated with the second unit. All work associated with the driveway approach off Sir Francis Drake Boulevard required by DPW will occur within the road right-of-way of Sir Francis Drake, from the edge-of-pavement to the property line, a highly disturbed and trafficked area. Any remaining plant habitats on the subject property will not be endangered because no significant alteration or removal of natural vegetation is proposed. Therefore, legalizing the second unit with the associated parking will not impact the potential plant resources of the site.

K. Shoreline Protection:

The project site is not located adjacent to the shoreline or within a bluff erosion zone. conditions of approval. In addition, as a condition of approval, the applicants shall execute and record a Waiver of Liability holding the County, other governmental agencies, and the public harmless of any matter resulting from the existence of geologic hazards or activities on the subject property.

L. Public Works Projects:

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

M. Land Division Standards:

The subject parcel is a legal lot of record. No land division or property line adjustment is proposed as part of this project.

N. Visual Resources:

The proposed project has no adverse impacts on visual resources since it is contained in the existing footprint and layout of the residence as originally built in 1913. The residential structure incorporates colors, and materials that are commonly found throughout the Inverness community. The project will not adversely impact scenic resources as seen from public roads, beaches, trails, and vista points.

O. Recreation/Visitor Facilities:

The proposed project will 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.

P. Historic Resource Preservation:

The project site is located outside of the historic preservation boundaries for Inverness as identified in the Marin County Historic Study for the Local Coastal Program and does not entail impacts to any historic resources. While the original 1913 structure was a good example of a shingle-bungalow, the structure was altered in 1986, converting attic space to living space and

adding a dormer extension and a deck. The conversion of the lower level required the filling of some floor area under the original staircase and additional windows, which did not appreciably alter the remodeled residence, not impact an historic structure.

V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the following mandatory findings to approve a Second Unit Second Unit Amnesty Permit pursuant to Marin County Board of Supervisors Ordinance #3480.

A. The existing residential second unit proposed for legalization was constructed or established prior to June 3, 2003, when the current Housing Element was adopted.

B. The 430 square foot second dwelling unit will provide a minimum of 220 square feet of floor area and will not exceed a maximum of 750 square feet of floor area.

C. While the current property owners live in the primary residence, the owner-occupancy requirement does not apply to second units in the Inverness community.

D. Satisfactory completion of a Second Unit Housing Inspection by a Building & Safety Division Inspector was conducted on October 2, 2007 by the Marin County Community Development Agency – Building and Safety Division staff for compliance with the Uniform Housing Code and the Second Unit Amnesty program. This inspection concluded that no corrections are required. The second dwelling unit complies with the following minimum Uniform Housing Code standards:

1. The unit has independent heating controls;
2. The unit has adequate light and ventilation;
3. The unit has kitchen amenities including a sink, refrigerator, and stove; and,
4. The unit has at least one bathroom with a sink, tub or shower, and toilet.

E. The second unit complies with all current Marin County fire safety standards, including Section 19.04.065 of the Marin County Code. The second unit plans have been reviewed and accepted by the Inverness Public Utility District (District). There is adequate water service available for both fire suppression and domestic water service. The Inverness Fire Department found the application complete for Fire Department purposes, but recommends that the owners consider the merits of installing interior residential fire sprinklers in the existing residential structure and has been duly noted in the Conditions of Approval. (This is a recommendation only, not a requirement.)

F. The proposed project has been reviewed and approved by the Inverness Public Utility District, which currently provides water to the property. The property is currently served by the Inverness Water System, and there is enough water available for fire suppression and domestic water service.

G. One parking space shall be provided in addition to the required or existing parking for the primary residence. The parking plan for the primary residence and the second dwelling unit, which includes two parking spaces for the second unit, has been reviewed and accepted by the Department of Public Works. Conditions of approval will require some additional work to the driveway approach off Sir Francis Drake Boulevard.

- H. The Inverness Public Utility District currently provides water service to the property and adequate water is available to serve both the primary residence and the proposed second dwelling unit.
- I. Marin County Environmental Health Services has reviewed the proposed project and finds that there is adequate on-site sewage disposal and the project is acceptable as proposed.
- K. The second unit is not located in a floodplain according to flood hazard maps maintained by the Marin County Department of Public Works.
- L. The second dwelling unit is not located within 100 feet of a blue-line creek as identified on the Inverness Quadrangle of the U. S. Geological Survey. Alder Creek, a blue line stream identified as an anadromous fish stream, runs along the northwest boundary of the property and Aberdeen Way. Department of Public Works (DPW) has reviewed this project, including the location of the access and parking area associated with the second unit. The parking area for the second unit has historically encroached approximately 50 feet into the 100-foot wide Stream Conservation Area. All work associated with the driveway approach off Sir Francis Drake Boulevard required by DPW will occur within the road right-of-way of Sir Francis Drake, from the edge-of-pavement to the property line, a highly disturbed and trafficked area and no other location for this access is feasible. Therefore, legalizing the second unit with the associated access and parking will not impact the potential resources associated with Alder Creek.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Longstreth Coastal Permit (CP 08-24) and Second Unit Amnesty Permit (SA 08-28) pursuant to Sections 22.56I, and 22.82I of the Marin County Code and Board of Supervisor Ordinance #3480, subject to the following conditions:

### **Marin County Community Development Agency - Planning Division**

1. Pursuant to Marin County Board of Supervisors Ordinance #3463, the Second Unit Amnesty Permit legalizes the following: construction of improvements within the lower level at the rear of an existing residential structure and the conversion of this floor area into an approximately 430 square foot attached second dwelling unit on an approximately 19,119 square foot parcel in Inverness. The height of the residential structure is 28.5 feet. The structure is sited with the following setbacks from property lines: front (east) 23 feet; side (north) 6 feet; rear (west) 133 feet; 20 feet side (south). No new structural additions are proposed as part of this project. The subject property is located at **10 Balmoral Way, Inverness** and is further identified as **Assessor's Parcel 112-143-11**. **The street address for the second unit that is approved herein shall be 12 Balmoral Way, Inverness.**
2. The second unit approved herein shall meet the following adopted standards established by Marin County Board of Supervisors Ordinance #3480.
  - a. No additional dwelling units other than the primary dwelling unit and the approved second dwelling unit shall be permitted on the subject property. A second unit may be rented but shall not be sold separately from the single-family unit.
  - b. The addresses for the primary dwelling unit and the second unit shall be posted in conformance with the latest adopted version of the California Fire Code.
  - c. The Community Development Agency shall file this Notice of Decision, including all second unit amnesty standards, with the Marin County Recorder's Office. Recordation of the Notice of Decision shall serve to advise future property owners of the standards applicable to maintenance of the second unit.
  - d. Any changes or additions to the project shall be submitted to the Community Development Agency staff for review and approval before the contemplated modifications may be initiated. PLEASE BE APPRISED, this Second Unit Amnesty Permit obtains a legal, non-conforming status for the second unit. Any future addition or expansion of the second unit beyond what is legalized in this determination will be required to meet current regulatory standards.
  - e. Within 30 days of this decision, the applicant must submit an Amnesty Building Permit application to legalize the second unit. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
  - f. Within 90 days of this decision, an Amnesty Building Permit for all approved work must be issued. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

- g. Within 120 days of this decision, the applicant must complete the approved work and receive approval of a final inspection by the Building and Safety Division. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

Marin County Department of Public Works.

#### PRIOR TO ISSUANCE OF A BUILDING PERMIT

3. All improvements shall conform to Title §24 of the Marin County Code or as approved by DPW and the Fire Department.
4. The site plan shall show the full width of the Sir Francis Drake Blvd. right-of-way as well as the edge-of-pavement.
5. The driveway approach off Sir Francis Drake Blvd. from the edge-of-pavement to the property line shall be paved a minimum of 12-feet wide with 2" of asphalt over a minimum of 6" compacted aggregate base. Also, the approach shall have a minimum of 10-ft radius flares onto Sir Francis Drake Blvd.

Inverness Fire Department

6. The Inverness Fire Department recommends that the owners consider the merits of installing interior residential fire sprinklers in the existing residential structure. This is a recommendation only, not a requirement.

#### SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

The applicant must vest this approval by obtaining an Amnesty Building Permit or other construction permit, if required, for the approved work, and substantially complete any required improvements in accordance with the approved permits consistent with the time lines specified in the Conditions of Approval or all rights granted in this approval shall lapse. This Second Unit Amnesty Permit is vested in perpetuity as long as the standards for the second are maintained.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 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 April 24, 2008.

**SECTION IV: ACTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17<sup>th</sup> day of April 2008.

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JEREMY TEJIRIAN, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

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Attest:

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Joyce Evans

DZA Recording Secretary

~~A RESOLUTION APPROVING  
THE LEHUA USE PERMIT 08-1~~

**Marin County**  
**Community Development Agency**

Alex Hinds, Director

**NOTICE OF DECISION**

Applicant's Name: Elloway Subdivision

Application (type and number): Subdivision (SD 07-2)

Assessor's Parcel Number: 146-261-21, and -22

Project Location: 1970 Indian Valley Road, Novato

For inquiries, please contact: Neal E. Osborne, Planner

Decision Date: April 17, 2008

**DETERMINATION:** **Approved with Conditions**

Minutes of the April 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-46.

Marin County Community Development Agency

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Jeremy Tejrjian, AICP  
Hearing Officer

**H1. A. NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT:  
ELLOWAY SUBDIVISION (SD 07-2)  
B. ELLOWAY SUBDIVISION (SD 07-2)**

Hearing proposing to divide the subject 7.8-acre property into six lots. Access to the existing residence would continue to be from the existing driveway on Indian Valley Road. Access to the other five lots would be from a new 480-foot cul-de-sac private street extending east from Wilson Avenue. The proposed street would span Wilson Creek with a new bridge. Right-of-way widening is proposed to widen Wilson Avenue by 30 feet, and Indian Valley Road by 15 feet. A portion of Hatch Road along the northern property line has been vacated to preclude the use of the right-of-way and retain the rural character without through traffic from McClay Road to Wilson Avenue. Drainage improvements are proposed to safely convey stormwater runoff to Wilson Creek. Portions of Wilson Creek would be stabilized and repaired with riprap to minimize erosion. Sanitary service would be provided by individual on-site sewage disposal systems for each lot. The project does not include any proposals to construct residences on the 5 new lots proposed, however, the environmental review will include potential build out and projected impacts from the construction of 5 new residences and septic systems. The 7.8-acre property is located near the western end of Indian Valley Road on the east side of Wilson Avenue in the northwestern region of the unincorporated Indian Valley community in Novato. The address of the property is **1970 Indian Valley Road, Novato**, and is further identified as **Assessor's Parcel 146-261-21 and -22.**

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report, however, after making another site visit with the Department of Public Works staff, additional language regarding creek restoration should be added. A large oak tree is to be protected to stabilize the embankment and may require shifting of the position of the bridge. Discussion followed on the need for an arborist to determine if the bridge should be shifted ofr if it is feasible to protect the tree.

The Hearing Officer noted that the staff report stated that a Design Review was required within the 50 foot SCA. Staff explained that it is for protection of resources for the creek and discussion followed on the drainage easement that would be required and the limitations for uses allowed with the easement.

Berenice Davidson, Department of Public Works, stated that any work within the 20-foot setback takes precedent would require a creek permit. The easement is 50 feet from the top of bank and is being dedicated to the flood control district, and no residential development can occur within the easement. The subdivision would have to be amended in the Initial Study. Staff responded that we need could to refine what we allow in the building envelopes and we need to look at structures in the drainage easement that does not meet the definition of a building. He noted that any site disturbance within the Stream Conservation Area is a concern and should be reviewed with a discretionary Design Review before work is completed.

In response to the Hearing Officer, staff stated the reference to a 1 for 1 mitigation measure 1 (a)-1 in the Initial Study was a typographical error. Noting The Hearing Officer noted that the public notice stated that 33 trees were proposed for removal, while the impact analysis in the Initial Study shows 108 trees, and said that any mention of the trees and replacement trees should be left out deleted from the resolution to avoid confusion.

Discussion followed on the eMarin County Code Section 22.27.100 regarding tree replacement costs-in-lieu fees and the necessity for tree replacement to mitigate climate change and the effect of carbon storage. The applicant and fire department should review the proposal for tree replacement as part of the Vegetation Management Plan.

Further discussion followed on The Hearing Officer directed changes to be made to the recommended resolutions as follows:

- **Proposed Resolution 1 and 2, SECTION 1: FINDINGS, 1,** ~~Thirty three trees are proposed for removal including seven oak trees, two bay trees, and twenty four walnut trees. Thirty native trees are proposed to replace the trees removed.~~
- **Proposed Resolution 1, SECTION 1: FINDINGS, IV, B:** ~~“The proposed project would result in the division of property into two six lots.....”~~
- **Proposed Resolution 1, SECTION 1: FINDINGS, VI, A:**, add ~~“The project would be consistent with the goals and policies of the Marin Countywide Plan and the Indian Valley Specific Plan because it involves the subdivision of land to establish five additional building sites for single-family residences consistent with the density range of the land use designation and the one acre minimum lot size. No adverse impacts to natural resources, including the blue-line stream -- Wilson Creek, which flows through the site, have been identified. The project would be consistent with development and zoning codes (Marin County Code Title 22) because the Subdivision and future single-family residences are uses that could meet all development standards, including minimum lot size, potential future visual effects, setbacks from property lines, and protection of the blue-line stream. Therefore, the project would be consistent with the goals and policies of the Marin Countywide Plan and the Indian Valley Specific Plan. The project also includes a proposal to purchase a separate property in the unincorporated portion of the Novato community and offer it as an affordable housing unit to comply with the affordable housing requirements. The provision of second units as recommended in Policy 3.26 of the Housing Element is not mandatory because the residences would be limited to 2,800 square feet of floor area by septic system constraints. These relatively moderate-sized homes could provide affordable or workforce housing by themselves. Second units are encouraged if septic system capacity can be provided.”~~
- **Proposed Resolution 1, SECTION 1: FINDINGS, VI, B:** ~~In the interest of the public health and safety, as a prerequisite to the orderly development of the surrounding area, the construction of road improvements are not required within a specified time frame.~~, then add: ~~“In the interest of the public health and safety, as a prerequisite to the orderly development of the surrounding area, the construction of road improvements are not required within a specified time frame. The Subdivision would have no visual impacts, but the future development of a bridge and five single-family residences within the proposed building envelopes of each proposed lot could result in visual impacts. However, compliance with the development standards of the A2:B4 zoning district will require ample property line setbacks and residences~~

limited to maximum heights of 30 feet without Design Review. The visual effects of 5 single-family residence containing no more than 2,800 square feet of floor area would not create adverse visual impacts. In 1998, the Board of Supervisors decision carried forward the Planning Commission's mandatory requirement for Design Review for the new residences, but staff does not recommend Design Review for single-family residences in conventional zoning districts if they comply with development standards. Building Permit applications would be reviewed for conformance to the development standards in Title 22 before approval. Discretionary review should only be required if established thresholds of total building areas were to exceed 4,000 square feet. If heights were to exceed 30 feet, and if yards were proposed less than the standard 30 feet for the front yard, 20 feet for side yards, and 25 feet for rear yards. Design Review should be required for any structures proposed within the 50-foot SCA. The CDA Environmental Health Services Division granted preliminary approvals for the design concepts proposed for each residence, and for the abandonment and replacement of the existing leach field for Lot 1, abandonment of an existing well, and limiting residences to 2,800 square feet unless additional nitrate and groundwater monitoring studies are completed. The project site is in an area of high archaeological sensitivity based on the resource maps maintained in the Planning Division. Katherine Flynn of Archaeological Resource Service completed a Cultural Resources Evaluation of the site. The literature check and site survey with surface examination determined that the site does not contain any known archaeological resources. Although determined unlikely, it is possible that buried prehistoric deposits underlie the current ground surface. Mitigation Measure 14(a)-1 and Condition of Approval 22 require, in the event that archaeological features are discovered during grading or site excavation, all work shall stop and an archaeologist shall be hired to evaluate the features discovered. A Native American monitor may also be retained at the discretion of the Environmental Coordinator in conformance with CEQA, for protection of sacred resources. No special status plant or animal species were identified as potentially occurring on the subject property based on site inspections and review of the natural Diversity Database. No special status species exist on the subject property and available habitat value has been affected by the historic and continuing use of the property for grazing sheep. However, the creek is a tributary of Novato Creek that does support Steelhead and Chinook Salmon. The portion of Wilson Creek through the property could provide spawning habitat for Steelhead, if fish passage improvements were completed downstream. A 50-foot Stream Conversation Area will be protected with a drainage easement and with a requirement for Design Review for any new development activities. The existing structures, vehicles, and trash shall be removed from the Drainage Easement, and the creek banks will be restored and stabilized with implementation of the required Stormwater Pollution Prevention Plan."

- **SECTION 2: CONDITIONS OF PROJECT APPROVAL, #4:** add "within the Novato Planning Area. The residential property shall be located in an area with appropriate community character, residential density, accessibility to public transportation and other services. Additionally, the property shall be offered in a condition suitable for rental or purchase. A written agreement must be executed between the County and the applicant which specifies the terms of inclusionary housing. The affordable housing unit must be deed restricted in perpetuity and made available at income levels specified in the Marin County Code. The applicant may either place the affordable unit for sale with the Marin County Below Market Rate home ownership program, or retain ownership and provide as an affordable rental. The affordable unit must be placed in service before recordation of the Final Map."
- **Condition of Approval #12, correct,** "...\$100 for each tree required removed..." and "Design Review approval shall be obtained for any structures and development activities proposed to be located within the Drainage Easement."

- New Condition of Approval #13: "BEFORE APPROVAL OF THE IMPROVEMENT PLANS, the applicant shall retain a Consulting Arborist to evaluate the means, by either moving the bridge north a specific distance and/or modifying the bridge design, to save the large oak tree adjacent to the south side of the existing bridge to be replaced. The retention of this tree is required to retain stability of the creek embankment on the west side of the creek."

Berenice Davidson, Department of Public Works stated that anything proposed within 20 feet of top of the bank would require a Creek Permit. She further noted that anything within the easement, such as sheds that do not require a Building Permit, have been allowed because they are easy to remove.

In response to the Hearing Officer, staff stated that in addition to the structures proposed to be removed, a number of structures, including fences, a guest house, and a garage structure, will need to be removed from the Drainage Easement.

The public testimony portion of the hearing was opened.

Ron Soules, neighbor, spoke regarding written comments provided by the Sierra Club expressing concerns with the out of date Initial Study, and a legal precedent that requires an Environmental Impact Report before the project goes forward.

The public testimony portion of the hearing was closed.

The Hearing Officer responded to Mr. Soules comments and stated that there is no legal requirement to conduct an Environmental Impact Report, and The Stream Conservation Act can not be exempted. The project is subject to an initial study and the old initial study still applies because the project falls under the guidelines of the 1994 Countywide Plan. Area Stream Conservation Act policies in the 1994 Countywide Plan have been followed and a 50-foot buffer from the creek is being provided. A new Initial Study was prepared for the current project and all potentially significant environmental impacts have been identified and will be mitigated to less than significant levels with the representation of recommended mitigation measures and conditions of approval.

The Hearing Officer adopted the Elloway Negative Declaration of Environmental Impact.

The Hearing Officer approved the Elloway Subdivision based on the Findings and subject to the Conditions in the Resolution as modified.

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

Ron Soules – neighbor – spoke regarding written comments provided, especially by the Sierra Club expressing concerns with the out of date initial study that is 11 years old, and a legal precedent that requires an environmental impact report. Before the project goes forward.

The SCA issue. – no legal requirement to conduct an EIR/ SCA can not be exempted , but this project is subject of an initial study. The old initial study information is still valid. The 1994 Countywide plan still applies to this project.

A/C as modified by the changes discussed today

In response to the HO, the bridge would be moved just a few feet and not substantial. The mitigation measures are sufficient and an arborist should be consulted but will not result in additional impacts. Add a COA – before issuance of approval for the improvement plans, and arborist shall be consulted to see if any minor changes to the bridge are warranted to protect the oak tree.

Drainage easement – Bernese – stated that anything proposed within 20 foot of top of bank. Would require a creek permit. Anything within the easement – sheds etc that don't require a Bp have been allowed in the past because they are easily removed if need be.

HO asked Neal if a COA could be added that no development be allowed in the easement. He noted that a number of structures, including fences, a guest house and garage structure will need to be removed.

HO would like a COA stating that no NEW structures proposed under the approval shall be constructed within the drainage easement. Bernese stated that structures are not allowed in easements unless they are easily removed. The HO is trying to protect the stream without going through design review. Staff noted that the Countywide plan protects the SCA and design review is required to protect resources.

New COA – any development within the drainage easement dedicated to DPW shall be subject of design review.

Questions about the easement – no additional coa will be necessary but any development within the easement is subject to design review

Expand information in the initial study to be copied and pasted into the resolution. Mitigation type.

Staff report resolution finding FINDING 4 (b) – type – 2 lots should be 6 lots.

Housing element of the Countywide plan – the applicant has offered to dedicate a low market housing unit. For affordable housing. Need to be within the Novato planning area. – dd “Within the Novato Planning area”.

The second unit policy in the housing element H3.26 requires that at least two of the lots will have second units. Staff responded that we need to investigate the septic requirements. It would cause the size and number of bedroom in the main unit.

The analysis in the staff report and initial study is good, but there are some outstanding questions that needs to be included in the resolution.

The requirements for sub-division need to be addressed: Section 22.84.060 – findings requiring denial =

The Ho would like the final reso copied from certain sections in the intital study including the plant consistency – based on the plant consistency from the intial study. How best to explain the issue of the second units in the sub-division. Some flexibility is warranted becuse the houses are small. The constraints of the septic systems may preclude the applicant b from building 2<sup>nd</sup> units on them.

The changes can be copied and p[asted into the resolution.]

The third finding – a number of sections in the initial study pertain to – based on the findings of the initial study and the discussin in the project analysis. Discussion of biological resources and setbacks to Wilson creek would apply.

#4 the dwesign of the subdivision is likely to cause public health problems. Reference the findings in the initial study and the septic requirements. Copy and past to the resolution.

#5 can be addressed in a similar fashion.

#6 is addressed in the reoltuion.

COA requiring that an arborist evaluate the protection of the oak tree and recommended measures for minor changes to the bridge design or protect the root system of the tree before plans are approved.

COA – affordable housing unit – the unit must be located within the Novato Planning area.

Resolutions – 33 trees are proposed.....and 35 native tree....strike from the projset description.

COA 4 (b) – minor change

The public hearing was opened.

The applicant stated that some of the trees near his house may be dying from Oak death and has spread to some of his walnut trees. He asked about the removal of the garage.

Ron Soules — neighbor — spoke regarding written comments provided, especially by the Sierra Club expressing concerns with the out of date initial study that is 11 years old, and a legal precedent that requires an environmental impact report. Before the project goes forward.

The SCA issue. — no legal requirement to conduct an EIR/ SCA can not be exempted, but this project is subject of an initial study. The old initial study information is still valid. The 1994 Countywide plan still applies to this project.

A/C as modified by the changes discussed today

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION #08-119**

**A RESOLUTION GRANTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT  
FOR THE ELLOWAY SUBDIVISION**

**ASSESSOR'S PARCELS 146-261-21 and -22**

**1970 INDIAN VALLEY ROAD, NOVATO**

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**SECTION 1: FINDINGS**

- I. WHEREAS Norman Elloway submitted the Elloway Subdivision application proposing to divide the subject 7.8-acre property into six lots. The proposed lots would have varying sizes, ranging from 1-acre to 1.8-acre. Access to the existing residence would continue to be from the existing driveway on Indian Valley Road. Access to the other five lots would be from a new 480-foot cul-de-sac private street extending east from Wilson Avenue. The proposed street would span Wilson Creek across a new concrete single span bridge. Right-of-way widening is proposed to widen Wilson Avenue by 30 feet, and Indian Valley Road by 15 feet. A portion of Hatch Road along the northern property line has been vacated to preclude the use of the right-of-way and retain the rural character without through traffic from McClay Road to Wilson Avenue. Drainage improvements are proposed to safely convey stormwater runoff to Wilson Creek. Portions of Wilson Creek would be stabilized and repaired with riprap to minimize erosion. Sanitary service would be provided by individual on-site sewage disposal systems for each lot. The project does not include any proposals to construct residences on the 5 new lots proposed, however, the environmental review will include potential build out and projected impacts from the construction of 5 new residences and septic systems. The property is located at 1970 Indian Valley Road, Novato, and is further identified as Assessor's Parcels 146-261-21 and -22.
- II. WHEREAS the Marin County Community Development Agency prepared an Initial Study for the project that determined no significant effects would occur, and there is no evidence that the project may have a significant effect on the environment.
- III. ~~III.~~ WHEREAS the Marin County Environmental Coordinator has determined that, based on the Initial Study, a Negative Declaration of Environmental Impact is required for the project pursuant to the California Environmental Quality Act (CEQA).

IV. WHEREAS on February 15, 2008, an Initial Study and proposed Negative Declaration of Environmental Impact were completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Negative Declaration, and a Notice of the public review period and Marin County Deputy Zoning Administrator 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 30-day public review period on March 17, 2008, the Marin County Deputy Zoning Administrator reviewed and considered the information contained in the draft Negative Declaration, Initial Study, and comments and responses thereto.

## **SECTION 2: ACTION**

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Deputy Zoning Administrator 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 Deputy Zoning Administrator.
3. The Negative Declaration of Environmental Impact for the project consists of the Negative Declaration, Initial Study, responses to comments, 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 Deputy Zoning Administrator hereby grants the Negative Declaration of Environmental Impact for the Elloway Subdivision application as an adequate and complete environmental document 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, the State CEQA Guidelines, and the County's CEQA process.

## **SECTION 3: DECISION**

GRANTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of April 2008.

\_\_\_\_\_  
JEREMY TEJIRIAN  
DEPUTY ZONING ADMINISTRATOR

Attest:

\_\_\_\_\_  
Joyce Evans



**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION ~~\_\_\_\_\_~~ **08-120****

**A RESOLUTION APPROVING  
THE ELLOWAY SUBDIVISION WITH CONDITIONS**

**ASSESSOR'S PARCELS 146-261-21 and -22**

**1970 INDIAN VALLEY ROAD, NOVATO**

\*\*\*\*\*

**SECTION 1: FINDINGS**

- I. WHEREAS, Norman Elloway submitted the Elloway Subdivision application proposing to divide the subject 7.8-acre property into six lots. The proposed lots would have varying sizes, ranging from 1-acre to 1.8-acre. Access to the existing residence would continue to be from the existing driveway on Indian Valley Road. Access to the other five lots would be from a new 480-foot cul-de-sac private street extending east from Wilson Avenue. The proposed street would span Wilson Creek across a new concrete single span bridge. Right-of-way widening is proposed to widen Wilson Avenue by 30 feet, and Indian Valley Road by 15 feet. A portion of Hatch Road along the northern property line has been vacated to preclude the use of the right-of-way and retain the rural character without through traffic from McClay Road to Wilson Avenue. Drainage improvements are proposed to safely convey stormwater runoff to Wilson Creek. Portions of Wilson Creek would be stabilized and repaired with riprap to minimize erosion. Sanitary service would be provided by individual on-site sewage disposal systems for each lot. — The project does not include any proposals to construct residences on the 5 new lots proposed, however, the environmental review will include potential build out and projected impacts from the construction of 5 new residences and septic systems. The property is located at 1970 Indian Valley Road, Novato, and is further identified as Assessor's Parcels 146-261-21 and -22.
  
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on April 17, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
  
- III. WHEREAS the Marin County Deputy Zoning Administrator reviewed and considered testimony in favor of, and against, a proposed Negative Declaration and determined, subject to 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's CEQA process.

IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the 1994 Marin Countywide Plan because:

- A. The proposed project would comply with Marin County standards for geotechnical engineering and seismic safety, and include improvements to protect lives and property from hazard;
- B. The proposed project would result in the division of property into six lots consistent with the density range of one unit per one acre to five acres under the governing SF3 Countywide Plan land use designation;
- C. The proposed project would comply with governing development standards related to grading, flood control, drainage and utility improvements as verified by the Department of Public Works;
- D. The proposed project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services; and
- E. The proposed project would minimize soil disturbance and maximize protection of natural vegetation, wetlands, and drainage courses.

V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Indian Valley Specific Plan because:

- A. The proposed project involves a six-lot subdivision and future construction of five single-family residences, which are principally permitted uses on the property consistent with the one unit per acre density recommended in Policy 3.1.2.
- B. The proposed project would not adversely impact the surrounding natural environment relative to vegetation, habitats, or drainage.
- C. The proposed project would maintain adequate off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
- D. 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 access from Wilson Avenue consistent with Policy 3.1.1.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Tentative Map (Marin County Code Section 22.84.060) because:

- A. The proposed project involves a six-lot subdivision and future construction of five single-family residences, which are principally permitted uses on the property consistent with the Marin Countywide Plan and the Indian Valley Specific Plan. The project would be consistent with the goals and policies of the Marin Countywide Plan and the Indian Valley Specific Plan because it involves the subdivision of land to establish five additional building sites for single-family residences consistent with the density range of the land use designation and the one acre minimum lot size. No adverse impacts to

natural resources, including the blue-line stream -- Wilson Creek, which flows through the site, have been identified. The project would be consistent with development and zoning codes (Marin County Code Title 22) because the Subdivision and future single-family residences are uses that could meet all development standards, including minimum lot size, potential future visual effects, setbacks from property lines, and protection of the blue-line stream. Therefore, the project would be consistent with the goals and policies of the Marin Countywide Plan and the Indian Valley Specific Plan. The project also includes a proposal to purchase a separate property in the unincorporated portion of the Novato community and offer it as an affordable housing unit to comply with the affordable housing requirements. The provision of second units as recommended in Policy 3.26 of the Housing Element is not mandatory because the residences would be limited to 2,800 square feet of floor area by septic system constraints. These relatively moderate-sized homes could provide affordable or workforce housing by themselves. Second units are encouraged if septic system capacity can be provided. No findings for denial in Subsection D can be made.

B. In the interest of the public health and safety, as a prerequisite to the orderly development of the surrounding area, the construction of road improvements are not required within a specified time frame. The Subdivision would have no visual impacts, but the future development of a bridge and five single-family residences within the proposed building envelopes of each proposed lot could result in visual impacts. However, compliance with the development standards of the A2:B4 zoning district will require ample property line setbacks and residences limited to maximum heights of 30 feet without Design Review. The visual effects of 5 single-family residences containing no more than 2,800 square feet of floor area would not create adverse visual impacts. In 1998, the Board of Supervisors decision carried forward the Planning Commission's mandatory requirement for Design Review for the new residences, but staff does not recommend Design Review for single-family residences in conventional zoning districts if they comply with development standards. Building Permit applications would be reviewed for conformance to the development standards in Title 22 before approval. Discretionary review should only be required if established thresholds of total building areas were to exceed 4,000 square feet, if heights were to exceed 30 feet, and if yards were proposed less than the standard 30 feet for the front yard, 20 feet for side yards, and 25 feet for rear yards. Design Review should be required for any structures proposed within the 50-foot SCA.

-The CDA Environmental Health Services Division granted preliminary approvals for the design concepts proposed for each residence, and for the abandonment and replacement of the existing leachfield for Lot 1, abandonment of an existing well, and limiting residences to 2,800 square feet unless additional nitrate and groundwater monitoring studies are completed.

-The project site is in an area of high archaeological sensitivity based on the resource maps maintained in the Planning Division. Katherine Flynn of Archaeological Resource Service completed a Cultural Resources Evaluation of the site. The literature check and site survey with surface examination determined that the site does not contain any known archaeological resources. Although determined unlikely, it is possible that buried prehistoric deposits underlie the current ground surface. Mitigation Measure 14(a)-1 and Condition of Approval 22 require, in the event that archaeological features

area discovered during grading or site excavation, all work shall stop and an archaeologist shall be hired to evaluate the features discovered. A Native American monitor may also be retained, at the discretion of the Environmental Coordinator in conformance with CEQA, for protection of sacred resources. No special status plant or animal species were identified as potentially occurring on the subject property based on site inspections and review of the Natural Diversity Database.

-No special status species exist on the subject property and available habitat value has been affected by the historic and continuing use of the property for grazing sheep. However, the creek is a tributary of Novato Creek that does support Steelhead and Chinook Salmon. The portion of Wilson Creek through the property could provide spawning habitat for Steelhead, if fish passage improvements were completed downstream. A 50-foot Stream Conservation Area will be protected with a Drainage Easement and with a requirement for Design Review for any new development activities. The existing structures, vehicles, and trash shall be removed from the Drainage Easement, and the creek banks will be restored and stabilized with implementation of the required Stormwater Pollution Prevention Plan.

C. The findings for waiver of Parcel Map are not applicable to this project.

D. The findings requiring denial cannot be made pursuant to State Subdivision Map Act Section 66474 as follows:

1. The proposed subdivision would be consistent with the Marin Countywide Plan and the Indian Valley Specific Plan with the 6 proposed residential lots on 7.8 acres resulting in a density of 0.76 units per acre where the Land Use Designation allows for a maximum of 1 unit per acre and the Specific Plan allows one unit per acre, or a maximum of 7 units.

## **SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Elloway Subdivision application subject to the following conditions:

1. Pursuant to Marin County Development Code Section 22.84.060, this Tentative Map for Subdivision approval permits the division of the subject 7.8-acre property into six lots. The proposed lots are approved with varying sizes, ranging from 1-acre to 1.8-acre, as shown in Exhibits A and B. The Tentative Map approval grants access to the new five lots from a new 480-foot cul-de-sac private street to be identified as "Tod Court" extending east from Wilson Avenue. The approval permits the street with a new concrete single span bridge across Wilson Creek. The approval includes right-of-way widening to widen Wilson Avenue by 30 feet, and Indian Valley Road by 15 feet. The approval permits drainage improvements to safely convey stormwater runoff to Wilson Creek. Portions of Wilson Creek would be stabilized and repaired with revetment and native vegetation to minimize erosion. The approval permits sanitary service with individual on-site sewage disposal systems for each lot. The subject property is located at 1970 Indian Valley Road, Novato, and is further identified as Assessor's Parcels 146-261-21 and -22.
2. Except as modified herein, plans submitted for an Improvement Plan and Final Map for the approved project shall substantially conform to plans on file in the Marin County Community

Development Agency, Planning Division, identified as Exhibit A, "Tentative Map Title Sheet, 1970 Indian Valley Road, Novato CA 94947 APN 146-261-21 and 146-261-22", consisting of 2 sheets prepared by AYS Engineering Group, Inc.; Exhibit B, "Improvement Plan General Notes, Details, & X-Sections", consisting of 6 sheets prepared by AYS Engineering Group, Inc.; Exhibit C, "Elloway Subdivision", consisting of 4 sheets prepared by ConSpan Bridge Systems date stamped received July 13, 2007; and Exhibit D, "Elloway Subdivision Tree Mitigation, Planting and Irrigation" consisting of 2 sheets prepared by Quadriga Landscape Architecture and Planning, Inc. date stamped received February 17, 2006.

3. BEFORE JULY 17, 2008 AND RECORDATION OF THE FINAL MAP, the applicant shall deconstruct the existing accessory structures on the property as shown on Exhibits A and B and identified as to be removed. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall deconstruct the garage/shed and shed structures located within the 50-foot Creek Conservation Easement on Lot 1. The applicant shall complete the deconstruction work and submit photographs verifying removal of the structures to the Planning Division for review and approval. All materials should be recycled or reused to the fullest extent feasible consistent with the Construction and Demolition Ordinance.
4. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall submit to the Community Development Agency verification of the construction of one dwelling unit, or rental of one existing dwelling unit as affordable housing within the Novato Planning Area. The residential property shall be located in an area with appropriate community character, residential density, accessibility to public transportation and other services. Additionally, the property shall be offered in a condition suitable for rental or purchase. A written agreement must be executed between the County and the applicant which specifies the terms of inclusionary housing. The affordable housing unit must be deed restricted in perpetuity and made ~~avaialbe~~available at income levels specified in the Marin County Code. The applicant may either place the affordable unit for sale with the Marin County Below Market Rate home ownership program, or retain ownership and provide as an affordable rental. The affordable unit must be placed in service before recordation of the Final Map. The affordable housing unit shall comply with the provisions of Marin County Development Code Chapter 22.22 (Affordable Housing Regulations), which requires that proposed projects resulting in the development of two or more units or parcels shall provide 20 percent of the total number of units or parcels for the development of affordable housing.
5. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall submit to the Community Development Agency, a park fee in-lieu of land dedication for future park improvements. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.
6. BEFORE RECORDATION OF THE FINAL MAP, the Notice of Decision shall be recorded on the title of the subject property.
7. BEFORE RECORDATION OF THE FINAL MAP, the following items must be submitted to the Community Development Agency, Planning Division:

- a. Verification from the North Marin Water District, which confirms that all required legal, financial, and construction agreements have been applied for and completed to install new water distribution facilities to the approved lot.
  - b. Verification from the County of Marin Community Development Agency, Environmental Health Services Division, which confirms that all required legal, financial, easements, contracts, and/or construction agreements have been applied for and completed to install new septic systems to the approved lots and the existing septic system for Lot 1 is relocated to be contained within the proposed Lot boundaries.
  - c. Verification from Pacific Gas and Electric, which confirms that all required legal, financial, easements, contracts, and construction agreements have been applied for and completed to provide underground power lines serving the approved lots.
8. BEFORE RECORDATION OF THE FINAL MAP, the applicant ~~should~~shall prepare a solar access study, completed by a qualified solar energy specialist, and submit the study to the Community Development Agency Planning Division for review and approval. The solar access study ~~would~~shall determine appropriate building orientation and locations for solar collectors on each lot and propose solar access easements to protect solar access rights for the building envelopes on all lots of the subdivision. Mitigation Measure 5(a)-1.
  9. BEFORE ISSUANCE OF A GRADING PERMIT, CREEK PERMIT, AND BUILDING PERMITS, the applicant shall follow Best Management Practices (BMP) by submitting a Stormwater Runoff Pollution Control Plan ("Plan") that addresses both interim (during construction) and final (post construction) stormwater pollution control measures. The Plan ~~shall~~ ~~should~~ follow guidelines as established in "Start at the Source," published by the Bay Area Stormwater Management Agencies Association. The Marin County Department of Public Works must approve such Plan prior to the issuance of a Building Permit. This Plan must comply with construction guidelines of the Marin County Stormwater Pollution Prevention Program, which includes, but is not limited to: siltation fencing, hay bales, and other drainage erosion control measures; stabilization of graded soils; hydroseeding; protection of graded soils from precipitation and runoff; and limiting construction equipment access. Ground-disturbing activities should be conducted during the dry season (May through October) to reduce the potential of soil erosion. Mitigation Measure 3(b)-1.
  10. The project shall be constructed in a manner that will avoid soil erosion and sediment impacts due to stormwater runoff. Before issuance of Building Permits, a Grading Permit, or a Creek Permit, the applicant shall submit a Stormwater Pollution Prevention Plan that identifies best management practices and addresses erosion control and rock stabilization provisions during construction as well as long-term permanent erosion control mechanisms throughout the property. For example, the design of the drainage system shall meet standard civil engineering specifications in Marin County Code Sections 24.04.520 through 24.04.560, and Sections 24.04.620 through 24.04.627. These sections include Best Management Practices in accordance with the "Baseline Urban Runoff Control Plan for the Cities and County of Marin" and the "Manual of Standards for Erosion and Sediment Control Measures" of the Association of Bay Area Governments. This plan shall be submitted to the Department of Public Works, Land Use and Water Resources Division for their review and approval. Mitigation Measure 3(b)-1.
  11. The project shall be constructed in a manner that will avoid erosion and sediment impacts. Before issuance of a Building Permit, the project sponsor shall submit a creek restoration and overall drainage management plan ("Plan") including Best Management Practices such as

bioengineered revetments and a five-year monitoring and maintenance program for review and approval by the Marin County Community Development Agency, Planning Division and the Department of Public Works. Stream bank stabilization methods should incorporate native vegetation into the design. A registered professional civil engineer, hydrologist, or hydro-geomorphologist shall prepare the Plan. Mitigation Measure 7(a)-1.

12. The project shall be constructed in a manner that protects riparian trees. Before issuance of Building Permit, the project sponsor shall submit revised plans to the Director for review and approval to specifically address the protection of all existing native riparian trees, not proposed for removal for the bridge construction, with temporary steel post and orange plastic mesh construction fencing. The Tree Mitigation Plan prepared by Quadriga Landscape Architecture and Planning, Inc. shall be modified to delete the 26 trees proposed in the Wilson Avenue road right-of-way and additional native riparian shrubs and forbs shall be proposed within the 50-foot wide SCA to enhance the native riparian habitat. To compensate for the 26 trees deleted from Wilson Avenue, street trees shall be proposed to shade the street paving. If it is infeasible to plant 119 trees on site, based on written statements from the Landscape Architect and a Biologist, the applicant shall contribute the appropriate fees into the Tree Replacement Fund (Currently \$100 for each tree removed but not planted, per Marin County Code Section 22.27.100). The revised plans shall specify all portions of the street located within the 50-foot SCA as consisting of pervious materials. Design Review approval shall be obtained for any structures and development activities proposed to be located within the Drainage Easement. All drainage outfalls shall be located upslope of the creek top-of-bank as approved by the Department of Public Works. Mitigation Measure 7(a)-2.
13. BEFORE APPROVAL OF THE IMPROVEMENT PLANS, the applicant shall retain a Consulting Arborist to evaluate the means, by either moving the bridge north a specific distance and/or modifying the bridge design, to save the large oak tree adjacent to the south side of the existing bridge to be replaced. The retention of this tree is required to retain stability of the creek embankment on the west side of the creek.
14. Before issuance of a Building Permit or Creek Permit for any construction activity below the creek top-of-bank, the applicant shall obtain a Streambed Alteration Agreement from the California Department of Fish and Game, and permits from the San Francisco Regional Water Control Board (CWA Section 401) and the United States Army Corps of Engineers (CWA Section 404). Copies of these permits shall be submitted to the Community Development Agency Planning Division and the Department of Public Works. Mitigation Measure 7(a)-3.
15. The project shall be constructed to avoid stormwater runoff impacts. Before issuance of a Building Permit, the applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP) that identifies best management practices and addresses erosion control provisions during construction as well as long-term permanent erosion control mechanisms throughout the property. The SWPPP shall address and implement both temporary (during construction) and permanent (post construction) measures to control erosion and sedimentation, and to prevent pollutants from entering the drainage systems and water courses. Erosion control BMPs may include, but are not limited to, scheduling and timing of grading activities, timely re-vegetation, of graded slopes, the use of hydroseed and hydraulic mulches, and installation of erosion control blankets. Sediment control may include properly sized detention basins or dams or filters to reduce entry of suspended sediment into the storm drain system and water courses, straw/fiber rolls, mulch, and silt and other barrier fences between the creek and work areas before the onset of the rainy season, and installation of construction entrances to prevent tracking of sediment

into adjacent streets. Pollution prevention practices may include designated washout areas or facilities, control of trash and recycled materials, tarping of materials stored onsite, and proper location of and maintenance of worker sanitary facilities. The combination of BMPs used, and their execution in the field, must be customized to the site using up-to-date standards and practices. Permanent BMPs may include but are not limited to site and drainage design features that route runoff from roofs and paved surfaces to landscaped areas, engineered bio-retention facilities, and roofs over trash areas. The SWPPP shall include operation and maintenance provisions for permanent BMPs. Grading shall not occur in the rainy season from October 15 through April 15, unless the Department of Public Works approves, and the applicant implements, an Erosion and Sediment Control Plan that implements Best Management Practices including straw/fiber rolls, mulch, and silt and other barrier fences between the creek and work areas before the onset of the rainy season. This plan shall be submitted to the Department of Public Works, Land Use and Water Resources Division for review and approval. Mitigation Measure 7(a)-4.

16. The creek restoration work shall only be constructed during the dry season from April 15 through October 15. The design of the bridge structure and all streambank stabilization and erosion control techniques including silt and barrier fence, straw/fiber rolls, and mulch shall be submitted to the Department of Public Works for their review and approval, and shall comply with all requirements of the California Department of Fish and Game, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers. Mitigation Measure 7(a)-5.

17. The future residential designs for each lot shall include:

- a. Design elements and building orientation to maximize passive space heating in winter and cooling in summer.
- b. Renewable solar energy generation systems including solar thermal and photovoltaics.
- c. Best management practices to minimize use of raw materials and energy.
- b. Green Building measures that result in a Certified rating on the Green Building Checklist.
  - a. Measures to exceed Title 24 Energy Standards by at least 15%.
  - c. Water-saving best management practices wherever applicable including:
    - i. Energy and water efficient appliances
    - ii. Low flow fixtures
    - iii. High efficiency toilets
    - iv. Pre-plumb for greywater to landscaping
    - v. Native and drought tolerant landscaping
    - vi. Weather based irrigation controllers
    - vii. Rainwater catchment and reuse system.

(Mitigation Measure 5[a]-2)

18. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the approved lots shall be as follows:

<u>Lot</u>	<u>Street Address</u>
<u>One</u>	<u>1970 Indian Valley Road, Novato</u>
<u>Two</u>	<u>10 Tod Court, Novato</u>
<u>Three</u>	<u>5 Tod Court, Novato</u>
<u>Four</u>	<u>15 Tod Court, Novato</u>
<u>Five</u>	<u>25 Tod Court, Novato</u>
<u>Six</u>	<u>20 Tod Court, Novato</u>

19. The applicant must submit Final Map Checking applications, and obtain approval of the Final Map from the Planning Division and Department of Public Works County Surveyor, and the County of Marin Board of Supervisors. After approval of the Final Map, the applicant shall file a Final Map with the County Recorder to record the Subdivision map approved herein. The required Final Map must be in substantial conformance with Exhibits A, B, and C, including, but not necessarily limited to, the proposed lot lines and easements. Final Map data and form must be in compliance with provisions of Chapter 22.86 of the Marin County Code.
20. The Elloway Subdivision Tentative Map approval must be vested with the filing of the required Final Map in compliance with all conditions of approval within three years after the date it is conditionally approved by the County of Marin. A timely filing is made when all parties having record title interest in the real property submit written consent, and a fully executed Mylar complying with all conditions of approval, including executed versions of all required agreements and paying all required fees, are submitted to the County Surveyor. The Community Development Agency Director may administratively authorize extensions to this mandatory vesting period upon written request by the applicant and payment of the appropriate extension fee for a period not to exceed an aggregate of five years beyond the expiration date. Extension of the Subdivision Tentative Map approval may also be permitted pursuant to applicable State law.
21. Pursuant to California Government Code Section 66474.9(b), the County of Marin shall require that the applicant defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Elloway Subdivision, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the applicant of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
22. If archaeological resources are discovered during grading, trenching, or other construction activities all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. At the discretion of the Environmental

Coordinator and consistent with CEQA, the Environmental Coordinator shall retain a Native American monitor to evaluate any cultural resource discovery for sacred values and propose protection measures appropriate to the Federated Indians of the Graton Rancheria Sacred Sites Protection Committee. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director. Mitigation Measure 14(a)-1.

23. All flashing, metal work and trim shall be an appropriately subdued, non-reflective color and all exterior lighting shall be downward directed and hooded, and the minimum light intensity necessary for safety.
  
24. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
  
25. During construction, the applicant shall take all appropriate measures, including 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.
  
26. All soils disturbed by development of the project shall be covered with mulch or other suitable cover and reseeded with native grasses or wildflowers to control erosion.
  
27. The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on site and off the street/driveway so that pedestrians and vehicles can pass safely at all times.
  
28. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
  
29. No trees, except those approved for removal, 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.
  
30. Any new utilities proposed to serve the approved project shall be underground.
  
31. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Community Development Agency, Environmental Health Services Division

32. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall obtain a permit from Environmental Health Services to abandon the existing well on Lot 4.
33. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall obtain a permit from Environmental Health Services to abandon the substandard septic system on Lot 2.
34. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall obtain a permit from Environmental Health Services to abandon the existing leach lines on Lot 2 that serve the residence on Lot 1, and the new septic system for the existing residence on Lot 1 shall be installed entirely on Lot 1.
35. The proposal for surface drainage mitigation on site must be compatible with above ground Mound septic disposal systems and not create an operational problem for these types of systems. Any surface mitigation will need to be approved by Environmental Health Services before construction or installation.
36. The applicant shall obtain permits from Environmental Health Services for any proposed greywater system, before any greywater discharge is allowed.
37. The applicant shall complete additional groundwater monitoring and a nitrates study, if septic systems are sized for residences larger than 3-bedrooms and 2,800 square feet.

Department of Public Works, Land Use and Water Resources

38. Monuments shall be installed on all property corners unless waived by the County surveyor No grading shall be allowed in the public right-of-way
39. BEFORE RECORDATION OF THE FINAL MAP, the applicant shall fulfill the following requirements:
  - a. Applicant shall submit a maintenance agreement that provides for the ability of the shared drainage, roadway, and bridge improvements to be maintained by Lots 2 through 6. Such agreement shall be provided to the Department of Public Works for review and approval. The agreement shall be recorded concurrent with the Final Map.
  - b. The drainage easement along Wilson Creek shall be dedicated to Marin County Flood Control & Water Conservation District for flood control and access purposes. Submit plat and description for review by DPW and recordation after approval.
40. Prior to issuance of the Grading Permit or Improvement Plan Approval, the applicant shall fulfill the following requirements:
  - a. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and the Fire District. Prior to approval of any building permit or grading permit, all roadway/driveway and drainage improvements shall be completed and approved by DPW and the Fire District. At the County's discretion, the Uniform Construction Standards for the Cities and County of Marin shall be used in the design of curbs and gutters.

- b. A Registered Civil Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
- c. The plans must be reviewed and approved by a Registered Soils Engineer. Certification shall be either by the engineer's wet stamp and original signature on the plans, or by wet stamp and signed letter.
- d. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
- e. Submit a Stormwater Runoff Pollution Control Plan that addresses both interim (during construction) and final (post construction) stormwater pollution control measures, referred to as Best Management Practices (BMP). Permanent BMPs may include, but are not limited to, artificial wetlands and ponds, sediment basins, infiltration trenches, grassed swales, filter strips and buffers, oil/water separators, and site and landscaping management procedures. The plan should follow guidelines as established in "Start at the Source", published by the Bay Area Stormwater Management Agencies Association. The Marin count Department of Public Works must approve the Stormwater Runoff Pollution Prevention Plan prior to issuance of a grading permit or improvement plan approval
- f. Provide information summarizing post construction storm water treatment measures incorporated into the project design. Submit informational brochure on VortSentry manholes for DPW review and approval.
- g. An Encroachment Permit shall be required for construction within the road right-of-way.
- h. Applicant shall provide permits as needed from other resource agencies for all work in the creek, including streambank stabilization and bridge crossing.
- i. Minimum drainage pipe diameter in County roads shall be 15".
- j. Provide copy of RWQCB stormwater NOI.
- k. Offset of proposed 15-foot drainage easement and APN146-261-23 property corner shall be addressed with the survey required for the Final Map.
- l. Continue the 15-foot drainage easement and facilities from Lot 6 to the easterly corner of Lot 5 and review the need for a drainage easement and facilities along the common property line between said lots.
- m. Sheet C1, Improvement Plans, Creek Notes:
  - Item 1. Change MCFD to DPW.
  - Item 2. Typo. THE for TEH.
  - Item 4. Same as Item 1.

Add Item 5. Provide permits from jurisdictional and regulatory agencies prior to any work in the creek.

41. Additional readily feasible stormwater best management practice should be considered as part of the environmental review, including converting concrete ditches to grass lined ditches and providing individual lot detention or infiltration.

North Marin Water District

42. BEFORE RECORDATION OF THE FINAL MAP, the applicant must apply to the North Marin Water District and enter into an agreement with the District, and complete financial arrangements for the new facilities. Mitigation Measure 12(c)-1.

43. Occupancy approval shall not be granted until water service installation is complete. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures and compliance must be verified. Key requirements include High Efficiency Appliances, High-Efficiency Toilets, Indoor Plumbing Fixtures, and Landscape Requirements limiting turf areas to no more than 800 square feet per household.

Novato Fire Protection District

44. The Improvement Plans must indicate a minimum of one fire hydrant located within the project site with the exact position(s) to be determined by the Novato Fire Marshal. Mitigation Measure 9(e)-1.

45. The creek crossing (bridge) shall be designed to withstand the weight of emergency vehicles. The design of the structure shall be submitted to the Department of Public Works and the Novato Fire Protection District for their review and approval. Mitigation Measure 6(c)-1.

46. A Vegetation Management Plan (VMP) shall be submitted prior to approval of the design and planning of new buildings.

**SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Elloway Subdivision Tentative Map approval by recording a Final Map before April 17, 2011, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency, Planning Division, Room 308, Marin County Civic Center, San Rafael, no later than 4:00 p.m. on May 1, 2008.

**SECTION 4: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17<sup>th</sup> day of April 2008.

\_\_\_\_\_  
\_\_\_\_\_  
**JEREMY TEJIRIAN**  
**DEPUTY ZONING ADMINISTRATOR**

Attest:

\_\_\_\_\_  
Joyce Evans  
Deputy Zoning Administrator Secretary

**ELLOWAY**

~~ASSESSOR'S PARCEL 043-213-02  
226 REED CIRCLE, MILL VALLEY~~

~~\*\*\*\*\*~~

**SECTION I: FINDINGS**

~~I. WHEREAS William Cullen, on behalf of the property owner, Janet Lehua, has submitted a Use Permit application proposing to construct a new 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line. Proposed building materials include composition shingle roofing and siding to match the existing residence. Use Permit approval is required because the detached accessory structure would be located 5 feet from the front property line where 25 feet would otherwise be required. The subject property is located at 226 Reed Circle, Mill Valley, and is further identified as Assessor's Parcel 043-213-02.~~

- ~~II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on March 13, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.~~
- ~~III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 because it entails construction of an accessory structure on a residentially developed property that would not result in grading or other adverse environmental impacts.~~
- ~~IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan and the Strawberry Community Plan for the following reasons:~~
- ~~A. The construction of a new detached accessory structure would be consistent with the SF5 (Single Family, 4 to 7 units per acre) land use designation;~~
  - ~~B. The 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;~~
  - ~~C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works;~~
  - ~~D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services;~~
  - ~~E. The project would be consistent with the Transportation Policies contained in the Marin Countywide Plan, as verified by the Department of Public Works, because it would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles.~~
  - ~~F. The project incorporates design features that minimize soil disturbance and maximize preservation existing vegetation to prevent erosion and preserve water quality and aesthetics;~~
  - ~~H. The project would be served by the Marin Municipal Water District for water service and an the Richardson Bay Sanitary District for sewage disposal; and~~
  - ~~I. The project would not adversely impact the surrounding built environment relative to off-site views from adjacent properties, and privacy for the subject and surrounding properties.~~
- ~~V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the regulations of Title 22 of the Marin County Code because the project consists of the construction of a detached accessory structure which is a permitted use in the R-1:B-2 zoning district. Accessory structures are allowed to be located within the required yards and exceed the~~

~~15-foot height limit subject to the securing of a Use Permit in accordance with Section 22.48.040 of the Marin County Code.~~

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

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

~~—The proposed detached garage and storage accessory structure is allowed provided it is accessory to the primary residential use of the property within the governing R-1:B-2 (Residential, Single Family, 10,000-square foot minimum lot area) zoning district.~~

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

~~—The proposed use is consistent with the Countywide Plan and the Strawberry Community Plan for reasons discussed in Section IV above.~~

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

~~—The proposed project is categorically exempt from the California Environmental Quality Act for the reasons discussed in Section III above.~~

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

~~—The proposed project would be compatible with existing and future land uses in the area because the detached accessory structure would be used as a garage and storage area which is commonly associated with surrounding residential land uses. As indicated in Finding IV.E, the project would comply with the requirements of Marin County Code Chapter 13.18 by avoiding visibility obstructions to vehicles on either Reed Boulevard or Reed Circle. Further, the garage has been design in conformance with Policy C-1.4 of the Marin County Single Family Residential Design Guidelines because the garage would be detached from the residence and would be oriented with the door turned away from the street to minimize its visual presence. This orientation would also provide sufficient area for ingress and egress, satisfying the requirements of the Department of Public Works.~~

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

~~—The detached accessory structure would be visually compatible with proposed development on the subject parcel and surrounding parcels because it would utilize building forms, materials and colors that are harmonious with other buildings and materials in the neighborhood~~

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

~~—The granting of the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located because the project is located on a property that is disturbed by residential development and associated uses, and will not obstruct any adjacent neighbor's views, air, light, or privacy. Additionally, the detached accessory structure would be required to meet Uniform Building Code standards and, therefore, would be constructed in a manner which would preclude potential injury to improvements on the subject property, and improvements on neighboring properties.~~

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

~~NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Lehua Use Permit 08-1 subject to the following conditions:~~

~~**Marin County Community Development Agency, Planning Division**~~

~~1. Pursuant to Marin County Code Section 22.48.040 (Use Permit), AND AS MODIFIED BY THESE CONDITIONS OF APPROVAL, the Lehua Use Permit 08-1 hereby approves the construction of a 665 square foot, 11-foot, 7-inch tall detached garage and storage/mechanical room located 5 feet from the northeasterly front property line and 10 feet from the southerly side property line. Approved building materials include composition shingle roofing and siding to match the existing residence.~~

~~The property is located at 226 Reed Circle, Mill Valley, and is further identified as Assessor's Parcel 043-213-02.~~

~~2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A," entitled, "Lehua Addition," consisting of 3 sheets, prepared by William Cullen, dated April 2007, revised November 23, 2007 and March 5, 2008, and on file in the Marin County Community Development Agency.~~

~~3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Use Permit Conditions of Approval as notes.~~

~~4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time~~

illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties. The Building Plans shall include specifications (cut sheet) for all exterior lights.

- ~~5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a landscape and irrigation plan for review and approval by the Community Development Agency. The plan shall include native, drought-tolerant planting selections (including scientific and common plant names, and container sizes) that partially screen and soften the appearance of the new garage/storage structure. The landscape plan must also clearly depict trees to be removed, and location, type and size of replacement trees.~~
- ~~6. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front and side property lines to verify building setbacks for the detached accessory structure and submit a written (stamped) confirmation to the Planning Division confirming that the structure maintains distances to property lines consistent with this approval.~~
- ~~7. BEFORE FINAL INSPECTION AND UPON VESTING OF THIS PROJECT, the Community Development Agency shall file this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners of the property development restrictions.~~
- ~~8. BEFORE FINAL INSPECTION, the applicant shall install all proposed and required landscaping and a drip irrigation system to serve it. The applicant 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. Failure to pass inspection will result in withholding of the occupancy certificate and imposition of hourly fees for subsequent reinspections.~~
- ~~9. All construction activities shall comply with the following standards:
  - ~~a. Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.~~
  - ~~b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.~~
  - ~~c. During construction, the applicant shall take all appropriate measures, including 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.~~

~~d. All soils disturbed by development of the project shall be reseeded with native grasses or wildflowers to control erosion.~~

~~10. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.~~

~~11. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Lehua Use Permit 08-1 for a detached accessory structure, for which action is brought within the applicable statute of limitations.~~

~~12. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.~~

#### Department of Public Works, Land Development

~~13. Portions of the existing privacy fence and patio facility encroach into the road right-of-way. The County of Marin has no record of any permit for its existence in the right-of-way and therefore requires that it be removed and located outside of the road right-of-way.~~

~~14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit pertinent design information as specified below.~~

~~a. Revise plans to depict 5-foot to 10-foot radius driveway flares.~~

~~b. An Encroachment Permit will be required for construction within the road Right-Of-Way.~~

~~c. Revise plans to depict and label the 15-foot structure setback line consistent with subdivision map.~~

#### Southern Marin Fire Protection District

~~15. An automatic residential fire sprinkler system is required to be installed in the main residence, including garages. Plans for fire sprinkler system design shall be reviewed and approved by the Southern Marin Fire Protection District prior to installation.~~

~~16. BEFORE FINAL INSPECTIONS, the applicant shall submit written certification from the District Fire Marshal that the project complies with all District regulations, including, but not limited to the following items listed below.~~

~~a. Smoke detectors shall be installed in accordance with the Uniform Building Code.~~

- ~~b. A remotely located, second means of egress shall be provided for each floor above the first.~~
- ~~c. The address shall be posted in accordance with requirements of the Uniform Fire Code.~~
- ~~d. Non-combustible roofing is required for all new construction.~~
- ~~e. Provide for compliance with Public Resources Code 4291 relating to brush and weed clearance.~~
- ~~f. Prior to occupancy, a spark arrester shall be installed on the chimney(s).~~

### ~~SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS~~

~~NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Lehua Use Permit 08-1 approval by obtaining a Building Permit, or other construction permit if required, for the approved work and substantially completing all work before January 31, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.~~

~~The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Use Permit approval (and no extensions have been granted), the Building Permit and Use Permit approval may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension to the Use Permit at least 10 days before the expiration of the Use Permit approval.~~

~~NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on March 24, 2008.~~

~~SECTION IV: ACTION~~

~~PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 13<sup>th</sup> day of March, 2008.~~

\_\_\_\_\_  
JEREMY TEJIRIAN, AICP

\_\_\_\_\_  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

\_\_\_\_\_  
Joyce Evans  
Deputy Zoning Administrator Secretary

**Marin County**  
**Community Development Agency**

Alex Hinds, Director

**NOTICE OF DECISION**

Applicant's Name: Lori Robinson and Rosemarie Scafa

Application (type and number): Design Review (DM 07-43) and Use Permit (UP 07-32)

Assessor's Parcel Number: 050-081-13

Project Location: 530 Shoreline Highway, Mill Valley

For inquiries, please contact: Veronica Corella Pearson, Planner

Decision Date: April 17, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the April 17, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-17.

Marin County Community Development Agency

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Benjamin Berto  
Hearing Officer



**H2. DESIGN REVIEW (DM 07-43) AND USE PERMIT (UP 07-32):  
LORI ROBINSON AND ROSEMARIE SCAFA**

Hearing proposing additions and renovations to an existing 1,683 square foot residence on the 17,916 square foot parcel. Design Review is required for retaining walls, pool, vestibule, and landscape and hardscape features. Use Permit approval is required for encroachment of the carport and storage enclosure into the front (west) and side (south) setbacks. The proposed work to occur within the setbacks include: 1) a new 25 foot long by 8.5 foot wide vestibule, with a height of 9 feet, 3 inches; 2) new pool, terrace and retaining wall (height of 9 feet); 3) new stairs, retaining wall (max. height of 9 feet), and planter boxes; 4) new 673 square foot carport and storage, with a height of 12 feet. Also proposed is a new 650 square foot addition to the rear (east) of the residence, connected to the main residence by an enclosed bridge. The subject property is located at **530 Shoreline Highway, Mill Valley**, and is further identified as **Assessor's Parcel 050-081-13**.

The item was continued from the hearing of March 13, 2008 to allow the applicants time to address concerns raised.

In response to the Hearing Officer's inquiry if there had been any additional correspondence since the memo dated April 15, 2008, staff stated the she had not received a copy of the hydrology report, but had just been informed by DPW, that they had received a copy directly.

The public testimony portion of the hearing was opened.

The public hearing was opened.

Ernie Selander, representing the applicant, spoke and verified completion and submission of the hydrology report and drainage plan, memorandum of the arborist report with results on the soil boring, and Mr. Selanders stated that the owners had begun trimming the bamboo to meet PG&E requirements. Revisions of the plans had not been done to allow for permeable pavers due to concerns raised by the Geology Report. The owners were okay with the three foot setback for the garage, but request that the vestibule setback remain as shown.

Roy Leggitt, consulting arborist, spoke regarding his revisit to the property and his findings from the soil borings and summarized his recent memo which verified that removal of the fill in the location of the proposed garage would not result in impacts to the root structure of the oak tree at 528 Shoreline Highway, and the project would improve the health of the tree by removing soil that prevents anaerobic oxygen activity and there would not likely be any roots present in fill removed within 18 feet to the east of the tree.

In response to questions raised by the hearing officer, Mr. Leggitt stated that the tree shows no evidence of Sudden Oak Death and appears to be healthy, and the native soil appears to be at 62 inches below surface.

Jonathan Canick, neighbor, spoke and stated that he had meet with Mr. Selanders and was unable to resolve any issues regarding existing drainage. Mr Canick expressed concerns with the location of the existing property line fence and retaining walls. He also saw no evidence of bamboo trimming and requested that the bamboo be removed and replaced with native plants.

The public testimony portion of the hearing was closed.

Berenice Davidson, Department of Public Works, stated that she had made a site visit to the property and received their recent submittals and provided the following revisions to the Conditions of Approval:

- Amend Condition 14 c “ submit engineer’s calculations for site retaining walls, signed and stamped by the Project Engineer.”

She further noted that the applicant could request an exemption to the parking requirements of Title 24 in writing.

Ernie Selander asked if the parking spaces could be increased or decreased.

The public testimony portion of the hearing was closed.

The Hearing Officer acknowledged that the issues brought up at the previous hearing were addressed by the applicant. The drainage issues appear to be adequately addressed in the project design and will continue to be addressed throughout the Building Permit phase. The turnaround should must meet minimum requirements and the vestibule can remain with a zero foot setback.

Berencie Davidson asked if he was striking condition of approval 14g. Mr. Berto responded yes.

Mr. Berto went on to make the following changes.

The following changes were made to the Resolution to read:

- Finding XII F.2, “Conditons of approval require Low Impact Design features and would restrict the location of the garage to maintain a minimum of 3 feet from the applicable property lines, therefore enabling drainage systems to be installed and maintained, and minimizing adverse physical, or visual impacts of appurtenant structures.”
- Amend Finding language to read “the proposed project as amended by the Conditons of Approval . . . “

Modify the following Conditions of Approval to read:

- 2.B The pool, retaining walls, and carport and storage, shall have a minimum 3-foot setback from the northern, southern, and western property lines and all disturbed areas between the property line and the new structures shall be planted with drought tolerant, perennial native plants, which will attain a height of approximately 6 feet except for the area identified in the revised landcape plan which may utilize bamboo or similar shrub between the new addition and southerly neighbor.

8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this Design Review and Use Permit application, for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.

12. The applicant shall retain the services of a licensed arborist, botanist, or forester to periodically monitor the construction activities, ensure that the project is consistent with the assessment findings, and to submit a report confirming that the project has complied with all of the best management practices and other requirements of the tree assessment BEFORE FINAL INSPECTION. Final soil grade outside of the garage footprint shall be at a grade that maximizes tree benefits. No construction spoils shall be placed outside of the garage footprint.

#### New Conditions of Approval

13. BEFORE ISSUANCE OF A BUILDING PERMIT, a qualified arborist shall evaluate and prune the bamboo on the north property line for adequate powerline clearance. It is strongly recommended that the applicants permanently maintain this clearance.

14. BEFORE ISSUANCE OF A BUILDING PERMIT, to the extent deemed feasible by the applicant's engineer, the project shall incorporate Low Impact Development (LID) principles to minimize offsite runoff.

The Hearing Officer approved the Robinson Design Review and Use Permit, based on the Findings and subject to the Conditions in the Resolution as modified.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 08-121

A RESOLUTION CONDITIONALLY APPROVING THE ROBINSON/SCAFA  
DESIGN REVIEW (DM 07-43) AND USE PERMIT (UP 07-32)  
530 SHORELINE HIGHWAY, MILL VALLEY  
ASSESSOR'S PARCEL 050-081-13

\*\*\*\*\*

**SECTION I: FINDINGS**

- I. WHEREAS the applicant, Selander Architects, on behalf of Rosemarie Scafa and Lori Robinson, has made an application for Design Review for additions and renovations to an existing 1,683 square foot residence on the 17,916 square foot subject property. The proposed project includes: 1) a new 39-foot long by 10 foot wide vestibule, that will be 9 feet, 3 inches in height; 2) new in-ground pool; 3) new terrace and deck; 4) new stairs and retaining walls; 5) new 673 square foot garage with storage; 6) new 650 square foot addition with an enclosed bridge that will attain a height of 19 feet; and 7) an addition of 38 square feet to the north end of the lower level of the main residence. Design Review is required for retaining walls over 4 feet in height, a vestibule that has a height of 9 feet, 3 inches and is located in the side (north) setback, and a pool in the side (south) setback. Use Permit approval is required for encroachment into the front (west) and side (north and south) setbacks. The proposed project would not increase the existing height of the residence (20 feet, 11 inches) and as proposed, the new structures would have exterior materials and colors to match the existing structure with wood blue siding, with natural wood trim, and composite shingle roof. The retaining walls would be tinted gray. The new garage would be directly on the north and south property line and would have a maximum height of 12 feet. The eastern wall of the garage would serve as a retaining wall for the new pool and terrace which would be located directly to the east of the carport. The new garage would provide covered parking for two vehicles with 247 square feet of storage. The new vestibule would be located along the side (north) property line and would be at the same elevation as the existing lower story of the residence, with a maximum height of 9 feet, 3 inches. The vestibule would have no roof and would be fully enclosed on all sides and would serve as the main access to the residence and terrace. The existing garage would be converted to habitable space and the north wall of the lower level would be extended to meet the north wall of the existing upper level. The new addition to the rear (east) of the residence would have a height of 19 feet and would be located 1-foot within the otherwise 10-foot side (south) setback. The subject property is located at 530 Shoreline Highway, Mill Valley, and is further identified as Assessor's Parcel 050-081-13.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing August 30, 2007, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator determined that additional material was needed to make a determination and requested: an arborist report, storey poles, landscape plan, drainage plan, survey, and a drainage plan.

VI. WHEREAS the applicant submitted the requested materials on January 18, 2008, which included the following revisions to the architectural plans: 1) terraced retaining walls facing Shoreline Highway; 2) redesign of the stairway approach to the vestibule; 3) planter boxes facing Shoreline Highway and the side (north) property line; 4) the garage has been changed to a carport with an enclosure for storage and moved 3 feet from the front property line; 5) the vestibule has been reduced to a length of approximately 25 feet, and width of 8.5 feet; 6) new retaining wall on the side (north) property line that would begin at grade and increase to a maximum height of 9.5 feet for a length of approximately 44 feet; and 7) the addition to the residence on the north wall of the lower level has been removed from the plans.

VII. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing March 13, 2008, to review the requested material, consider the merits of the project, and hear testimony in favor of and in opposition to the project.

VIII. WHEREAS the Marin County Deputy Zoning Administrator continued the project to the date of April 17, 2008 so that the applicant could provide a: 1) complete drainage plan showing the existing drainage and resulting runoff from the project; 2) to incorporate permeable pavers into the plans; ) to conduct soil borings to identify if soil removed for the placement of the carport would affect the roots or health of the oak; 3) to comply with PG&E requirements for the maintenance of vegetation near utility lines; 4) and staff was requested to add a condition of approval stating that the carport shall not be used as a deck.

IX. WHEREAS, the applicant submitted a memorandum for the consulting arborist on April 10, 2008, and a revised drainage plan and driveway profile on April 10, 2008.

X. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing April 17, 2008, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.

XI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per 15303, Class 3 because construction of an accessory structure on a residentially developed lot would have no potentially significant impacts on the environment.

XII. WHERAS THE Marin County Deputy Zoning Administrator finds that, subject to conditions of approval, the proposed project is consistent with the mandatory findings for Design Review approval (Section 22.42 of the Marin County Development Code) for the reasons listed below.

**A. The proposed development will properly and adequately perform or satisfy its functional requirements without being unsightly or creating incompatibility/disharmony with its locale and surrounding neighborhood;**

The proposed retaining walls, rear addition, vestibule, pool, and landscape and hardscape features as amended by the Conditions of Approval (C.O.A's) would be unobtrusive to the surrounding neighborhood and would not be unsightly or create incompatibility with the neighborhood, since the conditioned landscaping will shield visibility of the retaining walls and structures.

**B. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;**

The proposed retaining walls, vestibule, pool, and landscape and hardscape features as amended by C.O.A's would maintain adequate setbacks, which would preserve the adjacent neighbors enjoyment of their property, and would not interfere with the development of the neighborhood.

**C. The proposed development will not directly, or cumulatively, 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 proposed retaining walls, vestibule and pool as amended by C.O.A's would allow for adequate setback from adjacent properties to allow for improvements in the vicinity to other properties and would not inhibit development on public lands and rights-of-way.

**D. The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural features and will conserve non-renewable energy and natural resources;**

Based on the amended conditions of approval, which will require drought tolerant, native perennial plants to be place at the base of the proposed retaining walls, the proposed project will provide adequate landscaping and will not impact other natural features, and would not result in overuse of non-renewable energy and natural resources.

**E. The proposed development will be in compliance with the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);**

The proposed project as amended by the Conditions of Approval will comply with the design and locational characteristics of Chapter 22.16 as described in the above sections A through H.

**F. The proposed development will minimize or eliminate adverse physical or visual effects, which might otherwise result from unplanned or inappropriate development, design, or placement. Adverse effects include those produced by the design and location characteristics of the following:**

**1. The area, heights, mass, materials, and scale of structures;**

Conditions of project approval as amended have been required which would have required landscaping along all retaining walls, reducing the appearance of their height and mass.

**2. Drainage systems and appurtenant structures;**

Conditions of approval as amended would require Low Impact Development (LID) features and would restrict the garage to maintain a minimum setback of 3 feet from the applicable property lines, therefore enabling drainage systems to be installed and maintained, and minimizing adverse physical, or visual impacts of appurtenant structures.

**3. Cut and fill or the reforming of the natural terrain, and appurtenant structures (e.g., retaining walls and bulkheads);**

The proposed project as amended by the C.O.A's would minimize impacts associated with cut and fill or the reforming of the natural terrain and appurtenant structures.

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

The proposed project will improve the circulation of vehicles onto the subject property and improve parking and safety, and will not result in adverse impacts to the circulation of animals, conveyances, or watercraft.

**5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.**

The proposed project as amended by C.O.A's will minimize impacts to light, views, vistas and privacy to adjacent properties.

**G. The project design includes features, which foster energy and natural resource conservation while maintaining the character of the community.**

The proposed project is required to meet Title 24 of the Marin County Code and the Marin Green Home: Remodeling Green Building Residential Design Guidelines, which require that the residence use minimal amounts of natural resources and utilize sustainable materials in all construction.

**H. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations, are compatible with the existing and future land uses in the vicinity, and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

The project proposes to construct new additions and renovations to an existing single family residence which is consistent with the Marin Countywide Plan land-use designation of SF5 (Single-family, 1 unit/2-4 acres), with the governing RA:B2 (Residential Agriculture, Minimum Lot Area 1 unit/10,000 square feet) zoning district with Use Permit and Design Review approval.

XIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project as conditioned is consistent with the Marin Countywide Plan for the following reasons:

- A. The project would be consistent with the SF5 (Single-family, 2-4 unit/acre) land use designation;
- B. The 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;
- C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works;
- D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services; and
- E. The project would minimize soil disturbance and maximize retention of natural vegetation.
- F. The project has been reviewed and approved by the Tamalpais Design Review Board.

XIV. WHEREAS the Marin County Deputy Zoning Administrator finds that, in accordance with the amended conditions of approval, the Mandatory Findings for a Use Permit per Section 22.48.040 of the Marin County Code can be made for the following reasons:

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

The proposed improvements conform to the RA:B2 zoning district standards and with Marin County Code Section 22.20.090.2.c, Setback Requirements and Exceptions, because the applicant is applying for a Use Permit for detached accessory structure located within a required setback.

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

Please see Section IV above.

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

Please see Section III above.

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

The proposed project as conditioned will insure that the proposed structures are designed, located, and sized so that they are compatible with the single-family residential land use of the neighborhood.

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

The proposed improvements as conditioned would not impair the architectural integrity and character of the RA:B2 zoning district and is consistent with the requirements in Section 22.20.050.

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

The proposed carport would meet the findings described above in Section V, A though E, and granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Robinson/Scafa Design Review and Use Permit subject to the following conditions:

### Community Development Agency – Planning Division

1. Pursuant to Chapter 22.42 (Design Review) and Chapter 22.48 (Use Permits) of the Marin County Code, the Robinson/Scafa Design Review and Use Permit is approved for additions and renovations to an existing 1,683 square foot residence on the 17,916 square foot subject property. The approved work entails: 1) a new 25-foot long by 8.5 foot wide vestibule, that will be 9 feet, 3 inches in height; 2) new in-ground pool; 3) new terrace; 4) new stairs and retaining walls, that will have a maximum height of 12 feet; 5) new 2 car carport (35 feet long by 18.5 feet wide) with 240 square feet of storage which have been approved by the Use Permit; 6) new 650 square foot addition with an enclosed bridge that will attain a height of 19 feet; and 7) new landscape and hardscape features. The proposed project would not increase the existing height of the building (20 feet, 11 inches) and, as proposed, the new structures would have exterior materials and colors to match the existing structure with wood siding stained blue, and natural wood trim, with composite shingle roof and retaining walls in gray.
2. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, the plans shall be incorporated into the approved project file as "Exhibit A-1" and shall supersede "Exhibit A."
  - a. The carport shall maintain a minimum 3-foot setback from the western and southern property lines and the west and south facing wall of the carport shall be fully landscaped with drought tolerant, perennial native plants, which will attain a height of approximately 6 feet.
  - b. The vestibule and stairs shall have a 0-foot setback from the northern property line, and the pool and pool retaining walls, carport and storage, shall have a 3-foot setback from the southern, and western property lines and all disturbed areas between the property line and the new structures shall be planted with drought tolerant, perennial native plants, which will attain a height of approximately 6 feet, except for areas identified in the revised landscape

plan between the new addition and southern property line which shall have bamboo or similar taller shrub screening plant.

- d. The base of all retaining walls and structures shall be landscaped along their entirety with drought tolerant, native perennial plants.
- e. All plans shall be revised to show the heights and dimensions of all structures (retaining walls, carport, rear addition) and their setback from property lines.
- f. The addition to the rear of the residence shall be moved one foot to the north and not encroach into the side setback.

3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these conditions of approval as notes.

4. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the west, north, and south property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked by stakes similar to batter boards that are installed at the foundation corners. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building setbacks.

5. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

6. All construction activities shall comply with the following standards:

- a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday.** No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's

request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

7. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be under grounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.

8. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this Design Review and Use Permit, for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.

9. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

10. The roof of the carport shall not be modified to be used as a deck.

11. All site development construction practices shall be in accord with the recommended guidelines and inspection schedule contained in the above conditioned tree assessment.

12. The applicant shall retain the services of a licensed arborist, botanist, or forester to periodically monitor the construction activities, ensure that the project is consistent with the assessment findings, and to submit a report confirming that the project has complied with all of the best management practices and other requirements of the tree assessment BEFORE FINAL INSPECTION. Final grade outside the garage footprint shall be at a grade that maximizes tree benefits. No construction spoils shall be placed outside of the garage footprint.

13. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a redesign to be approved by staff, which will comply with the Department of Public Work's Condition of Approval 14G, which would show the east parking space exiting the property in a head out configuration in no more than one turning motion. The redesign shall not result in retaining walls greater than 4 feet in height facing Shoreline Highway.

14. BEFORE ISSUANCE OF A BUILDING PERMIT, a qualified arborist shall evaluate and prune the bamboo on the north property line for adequate power line clearance. It is strongly recommended that the applicants permanently maintain this clearance.

15. BEFORE ISSUANCE OF A BUILDING PERMIT, to the extent deemed feasible by the applicants' engineer, the project shall incorporate Low Impact Development (LID) principles to minimize offsite runoff.

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

16. PRIOR TO ISSUANCE OF A BUILDING PERMIT:

- a. Clearly note height of all retaining walls on site plan.
- b. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
- c. Submit engineer's calculations for site/driveway retaining walls, signed and stamped by the Project Engineer.
- d. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.
- e. Plot and label the driveway and utility easement on the plans.
- f. Provide a driveway profile for the existing and proposed driveway along the centerline of Shoreline Highway. Show all vertical curves for the proposed driveway configuration.
- g. Show how the proposed east parking space can exit the property in a head out configuration in no more than one turning motion.
- h. The Hydrology report dated December 17, 2007 by ILS is incomplete. Calculate pre and post development peak flows. Clearly show on plans existing drainage patterns and proposed drainage improvements incorporated in the geotechnical investigation dated August 17, 2007 by Herzog. Show the proposed drainage management from the bubble up down to Shoreline Highway.

Marin Municipal Water District

17. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (Ordinance 385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems.

**SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by: obtaining a Building Permit or other construction permit, if required, for the approved work and substantially completing the improvements in accordance with the approved permits. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code. Upon vesting of this approval, this Use Permit shall be valid in perpetuity upon timely vesting of the approval and adherence to all conditions of approval.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date

of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Use Permit approval (and no extensions have been granted), the Building Permit and Use Permit approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension to the Use Permit at least 10 days before the expiration of the Use Permit approval.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, no later than **May 1, 2008.**

#### **SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of April, 2008.

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BEN BERTO, AICP

MARIN COUNTY ACTING DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary

#### **H3. DESIGN REVIEW (DM-07-43) AND USE PERMIT (UP-07-32):** **LORI ROBINSON AND ROSEMARIE SCAFA**

~~Hearing proposing additions and renovations to an existing 1,683 square foot residence on the 17,916 square foot parcel. Design Review is required for retaining walls, pool, vestibule, and landscape and hardscape features. Use Permit approval is required for encroachment of the carport and storage enclosure into the front (west) and side (south) setbacks. The proposed work to occur within the setbacks include: 1) a new 25 foot long by 8.5 foot wide vestibule, with a height of 9 feet, 3 inches; 2) new pool, terrace and retaining wall (height of 9 feet); 3) new stairs, retaining wall (Max. height of 9 feet), and planter boxes; 4) new 673 square foot carport and storage, with a height of 12 feet. Also proposed is a new 650 square foot addition to the rear (east) of the residence, connected to the main residence by an enclosed bridge. The~~

subject property is located at ~~530 Shoreline Highway, Mill Valley~~, and is further identified as ~~Assessor's Parcel 050-081-13~~.

~~ROBINSON RESO~~In response to the Hearing Officer, staff summarized the supplemental memorandum, highlighting the issues brought forth at the August 30, 2008 hearing, including revised architectural plans, detailed landscape plan and a drainage plan and hydrology report.

The public testimony portion of the hearing was opened.

Earlie Selander, architect, spoke regarding the 3 foot setbacks on the side on the side of the garage that will eliminate any downhill drainage issues. He asked if the vestibul could encroach into the setback. He discussed the net water runoff and the setback near the tree.

Jonathan Canick, neighbor, spoke regarding concerns with the bamboo that

~~touches the power lines, a retaining wall built without sufficient support, and drainage diverted into his backyard that caused flooding. He would like to address these issues with the applicant, but has not been successful to date.~~

~~The Hearing Officer noted that the memorandum from the Department of Public Works, regarding the lack of completion regarding the drainage issue, and lack of a drainage plan. A set of drainage plans, showing the existing pattern and methods to alleviate the problem such as permeable surfaces, will be needed to approve the project. The bamboo that touches the power lines needs to be addressed to comply with PG&E clearance requirements and the siting of the carport in relationship to the distance to the tree. Borings will have to be taken to ascertain~~

~~where the carport should be located. A Condition of Approval should be added stating that the carport will not be used as a deck. A pathway for access for fire personnell is a concern.~~

~~The Hearing Officer continued the item to the hearing of April 19, 2008.~~

~~Ren Soules — neighbor — spoke regarding written comments provided, especially by the Sierra Club expressing concerns with the out of date initial study that is 11 years old, and a legal precedent that requires an environmental impact report. Before the project goes forward.~~

~~The SCA issue. — no legal requirement to conduct an EIR/ SCA can not be exempted, but this project is subject of an initial study. The old initial study information is still valid. The 1994 Countywide plan still applies to this project.~~

~~A/C as modified by the changes discussed today~~

~~In response to the HO, the bridge would be moved just a few feet and not substantial. The mitigation measures are sufficient and an arborist should be consulted but will not result in additional impacts. Add a COA — before issuance of approval for the improvement plans, and arborist shall be consulted to see if any minor changes to the bridge are warranted to protect the oak tree.~~

~~Drainage easement — Bernese — stated that anything proposed within 20 feet of top of bank. Would require a creek permit. Anything within the easement — sheds etc that don't require a Bp have been allowed in the past because they are easily removed if need be.~~

~~HO asked Neal if a COA could be added that no development be allowed in the easement. He noted that a number of structures, including fences, a guest house and garage structure will need to be removed.~~

~~HO would like a COA stating that no NEW structures proposed under the approval shall be constructed within the drainage easement. Bernese stated that structures are not allowed in easements unless they are easily removed. The HO is trying to protect the stream without going through design review. Staff noted that the Countywide plan protects the SCA and design review is required to protect resources.~~

~~New COA — any development within the drainage easement dedicated to DPW shall be subject of design review.~~

~~Questions about the easement — no additional COA will be necessary but any development within the easement is subject to design review~~

~~Expand info in the initial study to be copied and pasted into the resolution. Mitigation type:~~

Staff report resolution finding FINDING 4 (b) – type – 2 lots should be 6 lots.

Housing element of the Countywide plan – the applicant has offered to dedicate a low market housing unit. For affordable housing. Need to be within the Novato planning area. – dd “Within the Novato Planning area”.

The second unit policy in the housing element H3.26 requires that at least two of the lots will have second units. Staff responded that we need to investigate the septic requirements. It would cause the size and number of bedroom in the main unit.

The analysis in the staff report and initial study is good, but there are some outstanding questions that needs to be included in the resolution.

The requirements for sub-division need to be addressed: Section 22.84.060 – findings requiring denial =

The Ho would like the final reso copied from certain sections in the intital study including the plant consistency – based on the plant consistency from the intial study. How best to explain the issue of the second units in the sub-division. Some flexibility is warranted becuse the houses are small. The constraints of the septic systems may preclude the applicant b from building 2<sup>nd</sup> units on them.

The changes can be copied and pfasted into the resolution.

The third finding – a number of sections in the initial study pertain to – based on the findings of the initial study and the discussin in the project analysis. Discussion of biological resources and setbacks to Wilson creek would apply.

#4 the dwesign of the subdivision is likely to cause public health problems. Reference the findings in the initial study and the septic requirements. Copy and past to the resolution.

#5 can be addressed in a similar fashion.

#6 is addressed in the reoltuion.

COA requiring that an arborist evaluate the protection of the oak tree and recommended measures for minor changes to the bridge design or protect the root system of the tree before plans are approved.

COA – affordable housing unit – the unit must be located within the Novato Planning area.

Resolutions – 33 trees are proposed.....and 35 native tree....strike from the project description.

COA 4 (b) – minor change

The public hearing was opened.

The applicant stated that some of the trees near his house my be dying from Oak death and has spread to some of his walnut trees. He asked about the removal of the garage.

~~Ron Soules — neighbor — spoke regarding written comments provided, especially by the Sierra Club expressing concerns with the out of date initial study that is 11 years old, and a legal precedent that requires an environmental impact report. Before the project goes forward.~~

~~The SCA issue. — no legal requirement to conduct an EIR/ SCA can not be exempted , but this project is subject of an initial study. The old initial study information is still valid. The 1994 Countywide plan still applies to this project.~~

~~A/C as modified by the changes discussed today~~

