

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR**  
Bolinás Community Public Utility District (BPUD) Coastal Permit

Item No:	C-2	Application No:	CP 08-38
Applicant:	BPUD	Owner:	BPUD
Property Address:	400 Mesa Road, Bolinas	Assessor's Parcels:	188-120-21
Hearing Date:	June 12, 2008	Planner:	Veronica Corella-Pearson

**RECOMMENDATION: Approve With Conditions**  
**APPEAL PERIOD: 5 Working Days to the Planning Commission**  
**LAST DATE FOR ACTION: July 4, 2008**

**PROJECT DESCRIPTION:**

The applicant and owner, Bolinas Community Public Utility District, has applied for Coastal Permit approval for the placement of ground mounted solar arrays at 400 Mesa Road that would span approximately 152 feet by 38 feet, and be mounted flush to natural grade with a maximum height of approximately 2 feet. The system would be located to the north of the water treatment building, on the south aspect of the levee, within 100 feet of the reservoir. The project would be constructed between August 15<sup>th</sup> and October 15<sup>th</sup> of 2008 and would be limited to an area of existing disturbance. Ground work would consist of excavation for the piers that support the panels, at a depth of 3 feet, 8 inches, and a trench for the conduit which would run to an equipment pad adjacent to the water treatment building, approximately 25 feet to the south.

**GENERAL INFORMATION:**

CWP Land Use Designation:	C-OS (Coastal, Open Space)
Zoning:	C-OA (Coastal, Open Area)
Lot size:	27.3 acres
Adjacent Land Uses:	Point Reyes National Seashore
Vegetation:	Coastal scrub, non-native grassland, freshwater marsh
Topography and Slope:	Moderately sloping
Environmental Hazards:	Sensitive habitat

**ENVIRONMENTAL REVIEW:**

The Bolinas Community Public Utility District acting as the lead agency, pursuant to Section 15051 of the California Environmental Quality Act, has filed a Notice of Exemption with the County Clerk under Section 15303, Class 3 (e).

**PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the public hearing date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. At the time of the drafting of this staff report, no comments were received in response to the public notice distributed for the project.

**PROJECT ANALYSIS:**

The proposed project entails the construction of new solar panels, which will require a minimal amount of excavation for the panel footings and will not require the removal of sensitive habitat or native vegetation. The parcel is approximately 27.3 acres in size and is the site of the Woodrat 1 Reservoir and the water treatment building. The dam was constructed on a blueline stream and captures water during the winter. The creek continues at the southeastern corner of the reservoir and flows along a swale between Mesa Road and the water treatment building and joins a culvert under Mesa road and continues. The reservoir is surrounded by non-native grassland and coastal scrub, and the edge of the reservoir is a freshwater marsh, which is considered a wetland.

For the purposes of environmental review, the Marin County Planning Division is considered a responsible agency, which would issue permits for the project. Pursuant to Government Code Section 53091, the project is exempt from local building and zoning ordinances, and therefore the County does not issue Design Review, Use Permit or other discretionary entitlements that may otherwise be required by the Marin County Interim Zoning Code. However, the project is not exempt from State mandated requirements. Therefore, pursuant to the Interim Marin County Code Section 22.56.055(C), the applicant is required to obtain Coastal Permit approval from the County Planning Division. Since no discretionary entitlements are required apart from a Coastal Permit, the policies contained in the Marin Countywide Plan and the Bolinas Community Plan because the Coastal Commission has not adopted these plans.

The proposed solar panels are proposed within 100 feet of the reservoir, which falls under the category of Environmentally Sensitive Habitat Areas (ESHA's) as defined in the California Coastal Act Section 30107.5 and is protected under Section 30240. However, the project is in compliance with Section 30233 a(4) of the California Coastal Act, which allows activity in a wetland buffer if the project is incidental to public service purposes.

Staff has conducted a site visit, reviewed all submittal information and finds that all the mandatory findings for a Coastal Permit can be made, and that all efforts have been made to preserve the viewshed, protect listed species, and to prevent disturbance to sensitive habitat. The proposed solar panels would not result in any filling or grading of the wetland since all work would be confined to the dam face and an area of existing disturbance which is dominated by non-native forbs and coastal scrub. Finally, the project would substantially advance the effort to rely on environmentally sustainable energy sources, which would benefit the public. As discussed in the attached Resolution, the project would be consistent with all the mandatory findings for Coastal permit approval.

**RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution conditionally approving the Bolinas Community Public Utility District Coastal Permit.

Attachments:

1. Proposed Resolution recommending conditional approval of the Bolinas Community Public Utility District Coastal Permit (CP 08-38).
2. CEQA Exemption
3. Location Map
4. Department of Public Works, Land Development memo dated 5/7/08
5. Project Plans (2 pages)
6. Bolinas Community Public Utility District, letter emailed 5/27/08
7. Community Development Agency – Planning Division, letter sent 5/29/08

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION APPROVING  
THE BOLINAS COMMUNITY PUBLIC UTILITY DISTRICT COASTAL PERMIT (CP 08-38)

ASSESSOR'S PARCELS 188-120-21

400 MESA ROAD, BOLINAS

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**SECTION 1: FINDINGS**

- I. WHEREAS the Bolinas Community Public Utility District has requested Coastal Permit approval for the placement of ground mounted solar arrays at 400 Mesa Road that would span approximately 152 feet by 38 feet, and be mounted flush to natural grade with a maximum height of approximately 2 feet. The system would be located to the north of the water treatment building, on the south aspect of the levee, within 100 feet of the reservoir. The project would be constructed between August 15<sup>th</sup> and October 15<sup>th</sup> of 2008 and would be limited to an area of existing disturbance. Ground work would consist of excavation for the piers that support the panels, at a depth of 3 feet, 8 inches, and a trench for the conduit will run to the location of the equipment pad which is adjacent to the water treatment building, approximately 25 feet to the south. The subject property is identified as 400 Mesa Road, Bolinas, and Assessor's Parcels 188-120-21.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on June 16, 2008, to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS The Bolinas Community Public Utility District acting as the responsible agency, pursuant to Section 15051 of the California Environmental Quality Act, has filed a Notice of Exemption with the County Clerk under Section 15303, Class 3 (e).
- IV. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Coastal Permit (Section 22.56.130 of the Marin County Code) for the reasons specified below:

**A. Water Supply:**

The proposed project would support the Bolinas Community Public Utilities District's ability to provide water to residents.

**B. Septic System Standards:**

The Marin County Environmental Health Services Division has reviewed plans and the proposed solar panels will have no impact to existing septic systems.

**C. Grading and Excavation:**

The proposed project requires a minimal amount of excavation for the placement of the panel piers and electrical conduit.

**D. Archaeological Resources:**

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of archaeological sensitivity. However, a minimal amount of site disturbance is proposed and the project is not likely to disturb cultural resources. Conditions of project approval would require that in the event that cultural resources are discovered during site preparation or construction of this project, all work shall immediately be stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures to meet Local Coastal Program requirements.

**E. Coastal Access:**

The project site is not located adjacent to the shoreline and therefore the project will not affect coastal access.

**F. Housing:**

The proposed will not impact the availability of affordable housing to households of lower or moderate income.

**G. Stream Conservation Protection:**

This project site is situated in an area subject to riparian protection policies, as identified on the National Resources Map for Unit I of the LCP. Yet, all work proposed would be contained to the south aspect of the levee reservoir and will not impact the reservoir or the stream that continues south of Mesa Road, as verified by the consulting biologist.

**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:**

The California Natural Diversity Database, prepared by the State Department of Fish and Game, indicates that the subject property is located in the vicinity of habitat areas for the California red-legged frog (*Rana aurora draytonii*) and the Northwestern pond turtle (*Actinemys marmorata*). The red legged frog prefers aquatic habitats and breeds in dense, shrubby, riparian vegetation and deep, still or slow moving water, between late November and late April, with inactivity in the dry months. The Northwestern pond turtle (NWPT) prefers submerged cover and basking structures and nests on unshaded slopes close to their aquatic habitat. The hatchlings require shallow water with relatively dense emergent and submergent vegetation for foraging. A site visit was conducted by a biologist and no red legged frogs or NWPT were seen and it was determined that no work will impact any of their habitat. Nor

will work occur during the breeding season for the turtle. The applicant has also proposed to train all construction crews prior to beginning construction to identify the two species so in the event they are seen, all work shall cease. Accordingly, the project will not adversely affect any wildlife habitats.

**J. Protection of Native Plant Communities:**

A review of the California Natural Diversity Database, prepared by the California Department of Fish and Game, indicates that the subject property is located in the habitat area for Coast yellow leptosiphon (*Leptosiphon croceus*). This plant is currently known to exist at only one location in San Mateo County and has since been considered to be extirpated in Marin County. Furthermore, during the site visit it was concluded that the location of the proposed solar panels consists of primarily non-native plants. Therefore, no significant or adverse impacts to native plant communities would result from the project.

**K. Shoreline Protection:**

The proposed project would not occur within the shoreline protection zone and therefore the project would not affect the shoreline.

**L. Geologic Hazards:**

The project site is not located within the Alquist-Priolo Special Study Zone or in an area that is subject to landslides.

**M. Public Works Projects:**

This proposed project does not entail expansion of public roads, flood control projects, or utility service and will not affect any public works projects.

**N. Land Division Standards:**

No land division is proposed as part of this project.

**O. Visual Resources:**

The proposed project will be sited on an area of existing disturbance, and will be located near the water treatment building, below the reservoir, preserving views of the reservoir and open areas.

**P. Recreation/Visitor Facilities:**

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

**Q. Historic Resource Preservation:**

The subject parcel is not located within the designated historic preservation boundaries for Bolinas as identified in the Marin County Historic Study for the Local Coastal Program.

**SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Bolinas Community Public Utilities District Coastal Permit subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Bolinas Community Public Utility District Coastal Permit (CP 08-38) is approved for the placement of ground mounted solar arrays at 400 Mesa Road that will span approximately 152 feet by 38 feet, and be mounted flush to natural grade with a maximum height of approximately 2 feet. The system will be located to the north of the water treatment building, on the south aspect of the levee, within 100 feet of the reservoir. The project will be constructed between August 15th and October 15th of 2008 and will be limited to an area of existing disturbance. Work would consist of excavation for the piers that support the panels with a depth of 3 feet, 8 inches, and a trench for the conduit will run to the location of the equipment pad adjacent to the water treatment building, approximately 25 feet to the south. The subject property is identified as 400 Mesa Road, Bolinas and Assessor's Parcel 188-120-21.
2. Building Permits are not required for the project. However, if the applicant voluntarily applies for a Building Permit then except as modified herein, plans submitted for Building Permits shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as Exhibit A, "Bolinas Community Public Utility District", consisting of 2 pages, received on February 4, 2008.
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.
4. 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.
5. All utility connections and extensions serving the project shall be installed underground. Modifications to this condition may be considered by the Community Development Director at the written request of the applicant.
6. 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. 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.
7. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
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 Coastal Permit, for which action is brought within the applicable statute of limitations.

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

9. None of the solar arrays or any other structure shall be located within the mesa Road County right-of-way or any easements.

**SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Bolinas Community Public Utility District Coastal Permit approval with the substantial completion of all the approved work before June 16, 2010 or all rights granted in this approval shall lapse unless the applicant applies for an extension limited to a maximum of four years, at least 30 days before the expiration date above and the 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, Civic Center, San Rafael, no later than **4:00 p.m. on June 20, 2008.**



**SECTION 4: ADOPTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 12<sup>th</sup> day of June, 2008:

Attest:

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Johanna Patri  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

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Joyce Evans  
Recording Secretary