

# Marin County Community Development Agency

Alex Hinds, Director

## STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR SUTTON COASTAL PERMIT AND USE PERMIT

|                   |                          |                    |                          |
|-------------------|--------------------------|--------------------|--------------------------|
| Item No:          | H2.                      | Application No:    | CP 06-31 & UP 09-8       |
| Applicant:        | Lynette and James Sutton | Owner:             | Lynette and James Sutton |
| Property Address: | 3715 Shoreline Highway,  | Assessor's Parcel: | 195-162-45 and 46        |
| Hearing Date:     | August 14, 2008          | Planner:           | Christine Gimmler        |

|                              |  |
|------------------------------|--|
| <b>RECOMMENDATION:</b>       | <b>Approve With Conditions</b>                       |
| <b>APPEAL PERIOD:</b>        | <b>Five business days to the Planning Commission</b> |
| <b>LAST DATE FOR ACTION:</b> | <b>October 17, 2008</b>                              |

### PROJECT DESCRIPTION:

The applicant is proposing to demolish an existing 1,896 square foot residence that straddles Easkoot Creek and construct a new 1,649 square foot residence and 748 square foot secondary unit and an associated septic system on the property at the corner of Shoreline Highway and Calle del Arroyo in Stinson Beach. As part of the project, all four historic lots comprising Assessor's Parcels 195-162-45 and -46 (formerly 195-162-39) would be merged into one building site. The northern half of the property is traversed by Easkoot Creek, a designated blue line stream. Due to the property's size and shape, almost the entire parcel is located within the designated 100-foot wide stream conservation area for this creek. The new residence, secondary unit, and septic system are proposed to be constructed on the southern half of the 14,369 square foot site, with a minimum setback of 50 feet to the top of creek bank. A riparian planting plan is also proposed along the creek. The proposed primary residence would attain a maximum height of 23 feet, 6-inches above grade and the proposed secondary unit would attain a maximum height of 16-feet, 9-inches above grade. Proposed development would maintain the following setbacks from corresponding property lines: 14 feet from the east front property line along Calle del Onda (zero feet at the carport), 6 feet from the southern side property line, 14 feet from the western rear property line along Calle del Resaca, and 2 feet from the nearest portion of the northern side property line (along Calle del Arroyo). Resident parking spaces would be provided in a two-vehicle carport located at the southeast corner of the property along Calle del Onda, with an additional on-site space at the western corner of the site accessed from Calle del Arroyo. Four on-street guest parking spaces are indicated along the property frontage on Calle del Arroyo and Calle del Onda.

### GENERAL INFORMATION:

|                        |   |
|------------------------|---|
| Countywide Plan:       | C-GC (Coastal, General Commercial//Mixed Use)       |
| Zoning:                | C-H-1 (Coastal, Limited Roadside Business District) |
| Lot size:              | 14,369 square feet                                  |
| Adjacent Land Uses:    | Single-family residential                           |
| Vegetation:            | Native and introduced landscaping material          |
| Topography and Slope:  | Level   |
| Environmental Hazards: | Proximity to Easkoot Creek                          |

## **ENVIRONMENTAL REVIEW:**

An Initial Study has been prepared pursuant to the requirements of the California Environmental Quality Act, and the Environmental Coordinator of the County of Marin has recommended the grant of a Negative Declaration of Environmental Impact. All potentially significant adverse effects of the project are discussed in the Initial Study (see Attachment 3)

## **PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 325 feet of the subject property.

## **BACKGROUND AND ENVIRONMENTAL SETTING:**

The 14,369 square foot subject consists of four historic lots (Lots 25 through 28) which were created as part of Subdivision Number One of the Charles Robinson Tract in 1931 (RM Book 5, Page 60). The four lots have historically been held under one ownership, but were never legally merged. As part of the project, the applicant proposes to merge the four historic lots into one building site which would accommodate the proposed development. The property is currently developed with an 1,896 square foot structure which straddles Easkoot Creek. According to County records, this structure was constructed in 1937 and housed a restaurant and bar (known as "Elwood's") until the early 1970's. In 1977, the County approved a Use Permit that allowed conversion of the structure to residential use. It appears that this building has been substantially modified since its original construction, has not been regularly inhabited for several years, and is in a state of disrepair.

As noted previously, the subject property is traversed by Easkoot Creek, a perennial blueline stream, that qualifies for protection as a Stream Conservation Area and drains to Bolinas Lagoon. The Easkoot Creek streambed is approximately 25 feet wide as it crosses the property (top of bank to top of bank). As described in the Initial Study, Easkoot Creek has historically been known to support Steelhead, a federally-listed threatened species. Easkoot Creek on either side of existing development currently supports riparian habitat. However, the riparian community is restricted to short narrow bands along the banks of the creek on either side of the existing residence straddling the creek. The northwest end of the channel supports several native riparian trees including red alder and arroyo willow. The remainder of the site is comprised primarily of domestic landscaping and ruderal grassland habitat.

## **PLAN CONSISTENCY:**

### Marin Countywide Plan

The subject property is located in the Coastal Recreation Corridor, as established by the Marin Countywide Plan and is designated with a C-GC (Coastal General Commercial/Mixed Use) land use designation, which permits a variety of commercial uses as well as residential development, with a permitted floor area ratio range of 5 to 25 percent. As described previously, the subject property was historically used for commercial purposes, supporting a bar and restaurant use for 40 years. However, the structure was converted to residential use in 1977 with Use Permit approval. The proposed replacement of the existing 1,896 square foot residence spanning Easkoot Creek, with a new 1,649 square foot residence and 748 square foot secondary unit sited 50 feet or more from the stream bank would result in residential floor area ratio of 17 percent on the 14,369 square foot subject property, consistent with the floor area ratio limit of the governing CWP land use designation. In addition, as part of the project, the four historic lots created as part of the Stinson's subdivision would be merged into one legal building site which would prevent further subdivision of the site.

As further described in the Initial Study (Attachment 3), the project would be consistent with CWP policies because, as modified by conditions of approval and mitigation measures, the project would not: 1) adversely impact special status species or substantially change the diversity of the existing vegetation and wildlife habitat; 2) result in significant impacts to existing drainage facilities, or expose people or property to significant flood hazards; 3) cause significant impacts on existing, available public services and utilities, such as water supply, police and fire protection, solid waste disposal, sewage disposal, and schools; 4) result in significant grading or tree removal; or 5) result in a significant increase in the number of vehicle trips or traffic congestion that would alter existing levels of service in the area. In addition, the proposed project would significantly increase the property's conformance with stream conservation policies by removing an existing structure spanning the creek, replacing it with development which provides a minimum creekbank setback of 50 feet, and providing a riparian planting plan which would supplement existing riparian vegetation and improve creek function with respect to habitat value, water quality, and flood control. Please refer to the recommended resolution for detailed findings and the project analysis below for additional discussion of stream conservation policies, species protection, and flooding and drainage issues.

### Local Coastal Program, Unit I

The proposed project would be consistent with relevant policies in the Marin County Local Coastal Plan (LCP), Unit I. The proposed project entails the removal of an existing residential structure and the construction of a new single family residence and secondary unit. Water service to the property is provided by the Stinson Beach County Water District and designs for an on-site sewage disposal system have also been approved by the District. The proposed replacement of an existing residence with a new primary residence and secondary unit would be consistent with existing moderate density residential development in the vicinity, and would not result in adverse impacts to historic structures, visual resources, public views of the coast, archaeological artifacts, geologic hazards, or natural resources such as streams, wetlands, or sensitive habitats. In accordance with the LCP, Unit I stream protection policies, the proposed project would result in the removal of an existing structure which spans Easkoot Creek and an outdated septic system located in close proximity to the creek, and the construction of new development which maintains a minimum stream buffer of 50 feet or more from the banks of the stream served by an up to code septic system located approximately 75 feet or more from the creek. Therefore, the project would result in an overall benefit to Easkoot Creek with respect to habitat value, water quality, and flood control. Due to its location, LCP policies requiring public access do not apply to the proposed project. Finally, the project would not result in significant demands on existing roadways or entail expansion of public roads, flood control projects, or utility services.

### Stinson Beach Community Plan

The proposed project would be consistent with relevant Stinson Beach Community Plan land use policies and programs. The proposed project would result in an increase in the availability of housing opportunities in an existing residential community consistent with the moderate-density residential zoning in the vicinity. The property is already served by an existing road network and a public water system, and has an adequate leachfield area for development of an new on-site sewage disposal system. Consistent with Community Plan land use and environmental policies, new development on the site would be located on the south side of Easkoot Creek and would preserve and improve natural resources in the community by removing a dilapidated structure which spans the creek and supplementing existing riparian vegetation. Although the project site is governed by commercial zoning, the proposal to continue the residential use of the property (originally approved in 1977 through Use Permit) would be consistent with Community Plan policies which encourage commercial uses and activities to be located within the historic downtown area. Finally, proposed new development would not obstruct public views of the coast and has been designed to minimize impacts to the views of Bolinas Ridge enjoyed by adjacent neighbors.

### Marin County Code Title 22 (Zoning)

The subject property is governed by Coastal, Limited Roadside Business District (C-H-1) zoning, which is generally intended for commercial uses. However, single and multiple family dwellings are also conditionally permitted uses. As described previously, the existing structure on the property was constructed and used as a bar and restaurant for approximately 40 years, but was converted to residential use in 1977 with Use Permit approval and has remained in residential use since that time. Accordingly, the proposal to continue residential use of the site would be consistent

with the zoning, as well as previously noted policies of the Stinson Beach Community Plan, which recommend that commercial uses be located within the historic downtown area of Stinson Beach. Consistent with the development standards of the governing C-H-1 zoning, proposed structures would not exceed a height of 25 feet above grade. Finally, it should be noted that C-H-1 zoning does not contain provisions regulating yard setbacks or maximum floor area ratios

## **DEVELOPMENT ISSUES**

The primary issues that staff has identified in reviewing the project include consistency with stream conservation area (SCA) policies, biological resource protection, and drainage and flood control issues, which are addressed below.

### *Protection of Streams and Riparian Systems:*

CWP Stream Conservation Area policies are intended to protect streams and their associated riparian habitat because of their values for erosion control, water quality, fish and wildlife, aesthetics, recreation, and the health of human communities. In coastal areas, these policies call for a 100-foot wide Stream Conservation Area (SCA) buffer zone to be established between the top of stream banks and proposed development in order to maintain stream courses in their natural state to the greatest extent feasible. Within SCA areas, new structures are generally prohibited unless the property lies entirely within the SCA zone, or it can be demonstrated that development elsewhere on the property would result in more adverse effects on water quality, or other environmental impacts. Related CWP policies also encourage the protection and re-establishment of riparian vegetation and the restoration of natural stream channel function where possible. As described previously, the property is traversed by Easkoot Creek, a designated blue-line stream. Therefore, a 100-foot SCA buffer zone is applied from the top of banks. Due to the size, shape, and configuration of the subject property in relation to the creek, the entire site, with the exception of the extreme northwest corner of the property bordering Calle del Resaca (comprising approximately 800 square feet) is located within the 100-foot buffer zone encompassing Easkoot Creek. Therefore, it is not feasible to development the property without encroaching into the 100 foot SCA. However, the project would significantly increase conformance of the property with SCA policies by removing an existing structure which actually spans the creek channel, and replacing it with development that provides a setback of 50 feet or more, thus improving the hydraulic capacity and natural function of the creek. The old septic system on the site, which is located immediately south of the structure, less than 20 feet from the steam bank, would also be removed. In addition, the proposed project includes a riparian planting plan which would supplement existing riparian vegetation and improve the creek functions with respect to habitat value, water quality and flood control. Accordingly, the project would result in an environmental benefit and further CWP goals related to stream conservation and preservation of riparian systems.

### *Special Status Species Protection:*

CWP species and habitat preservation policies are intended to protect and enhance areas that contain sensitive natural communities, wetlands, baylands, coastal habitat, wildlife movement corridors, and essential habitat for special-status species. As described in Section V of the Initial Study, the applicant hired Prunuske Chatham, Inc., to conduct an analysis of the biological and botanical resources on the subject property. The study indicated that the project site contains suitable or potentially suitable habitat for six special status plant species and eight special status animal species. The biologists did not detect any special status plants on the property and the report concludes that no special status plants are likely to occur on the site or be impacted by the project. The eight special-status animal species that could occur in the habitat types found within the project area or that have reported sightings within close proximity to the project site include two federally-listed species of fish (Steelhead and Coho salmon), two species of amphibians (the federally-listed threatened California red-legged frog and the Foothill yellow-legged frog), two bird species (Saltmarsh common yellowthroat and San Pablo song sparrow), one mammal (Point Reyes mountain beaver), and one reptile (Northwestern pond turtle). The Biological Resource Survey did not identify the presence of any of these special status species on the subject property and the report concludes that the likelihood of their occurrence is low. The project would improve the quality of the riparian area along Easkoot Creek and its use as a wildlife movement corridor through the removal of an existing structure which currently spans the creek and the installation of additional riparian vegetation. However, to ensure that potential project impacts to special status species which may use the creek channel as a migratory corridor (particularly the federally listed Steelhead, Coho Salmon, and Red-legged frog)

are reduced to a less-than-significant level, the report recommends a number of mitigation measures related primarily to construction methods and timing, which have been incorporated into the recommended conditions of approval to ensure that no adverse impacts to special status animal species result.

### *Drainage and Flooding Issues:*

The subject property is relatively flat with elevations ranging between about 5.5 and 6.5 feet above mean sea level. Currently, there are no formal drainage facilities on the property. Rainfall generally percolated onsite in the gravelly fill and sandy soils that cover the property. During heavy storms, runoff tends to sheet flow in a northwesterly direction across the property and subsequently across Calle del Arroyo. In the most severe instances, storm surge from ocean waves occasionally flows onto and across the property from Calle del Onda. The Federal Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (Panel 060173-0419B) indicates that the subject property as well as all other properties in the “Calles” area of Stinson Beach are located in a Flood Zone A1, which is designated as an area of 100-year flooding with base flood elevations and flood hazard factors determined. However, the proposed residence would be constructed with a minimum finished floor elevation of 9.0 feet NGVD to ensure that improvements are located above FIRM Base Flood Elevation in conformance with FEMA requirements. In addition, a preliminary drainage plan has been prepared (incorporating a number of infiltration trenches, grass swales, berms and V-ditches both on the project site and along Calle del Onda) which is intended to ensure that stormwater continues to flow toward Easkoot Creek in its current pattern without collecting on adjoining properties. Review of the preliminary drainage plan by Department of Public Works staff indicates that the project would not cause drainage problems on or off the site. In addition, before issuance of a building permit, the applicant would be required to submit a final detailed stormwater drainage plan for collecting and conveying stormwater which conforms to the County’s hydrological engineering standards (Title 24 Development Standards) to ensure proper drainage of stormwater from and across the project site. It should be noted that the project plans prepared by the architect indicated solid fencing around portions of the property which could potentially interfere with site drainage during major storm events. However, the applicant has confirmed and conditions of approval will require that all site fencing (as well as building siding, stairways, etc) maintain a minimum open “gap” of one foot above grade to allow unimpeded water flow. It should also be noted that the septic system has been designed with standard automatic shut-off valves to ensure that system does not discharge into the drain field when flood waters are detected on the site.

## **PUBLIC COMMENTS**

During the public review period for the Sutton Coastal Permit/Use Permit and Negative Declaration of Environmental Impact, the Planning Division received a number of letters from public agencies, community groups and nearby residents who have comments and concerns regarding the proposed project as well as a letter of support (see Attachments 16 to 30). Comments were submitted on both the merits of the project as well as environmental issues addressed in the Initial Study. In general, project opponents have concerns regarding the size and density of proposed development (particularly with respect to the approved septic system), drainage and flooding hazards, the commercial zoning governing the property, proposed development setbacks, the amount and location of parking, view and neighborhood compatibility issues, and proposed fencing. Several of these concerns have been addressed in the previous analysis. However, a response to the primary issues raised is provided below.

**Square footage of proposed development:** A number of commenters have questioned whether the project, as proposed and described in the Initial Study, has been increased in size beyond what the permitted septic system would accommodate. Specifically, several individuals refer to a discrepancy of 300 square feet between what was understood to be approved by the Stinson Beach County Water District (2,100 square feet), and what is referenced in the Initial Study (1,649 square foot residence plus 748 square foot secondary unit = 2,397 square feet). The size of the proposed development has not been modified since the plans were last reviewed by the Water District in December 2007. Instead, the approximately 300 square foot difference between these two figures represents the difference between the interior habitable square footage of the residences and the gross square footage of development (measured from exterior wall to exterior wall) both of which are indicated on the submitted plans. The Design Approval Permit for the onsite water disposal system issued by the Stinson Beach County Water District on October 29, 2007, indicates that the septic design has been approved for a maximum peak flow rate of 150 gallons per day (and a maximum average flow of 100 gallons per day), but does not specify a maximum building square footage or

whether allowable square footage should be calculated based on interior habitable area or gross square footage (see Attachment 16). The current project plans, which were sent to the Water District in December 2007, included both total habitable and total gross square footage, as well as complete floor plans for the proposed project. After reviewing the plans, Water District staff requested minor modifications related to setback requirements for the water meter and building/deck footings, but did not identify any problems or concerns regarding the building square footage, design, siting, or interior layout. Water District staff familiar with this project were not available prior to issuance of the staff report to discuss the project or clarify the comment in their letter of July 28, 2008 regarding the planned occupancy of the project. However, conditions of approval require that the applicant obtain a septic system construction permit from the Water District prior to issuance of a Building Permit for the proposed structures, which would ensure that the project is constructed in compliance with the previously approved septic system permit.

**Flooding and drainage concerns:** Various commenters have suggested that the proposed development should be smaller in overall size and/or should not include two residential units due to flooding hazards created by proximity to Easkoot Creek and storm surge from nearby ocean waters. Concerns have also been expressed about the drainage plans for the project. These issues have been addressed in some detail in the previous section. It should be noted that, although the subject property borders Easkoot Creek, the entire “Calles” area of Stinson Beach is within a designated area of 100-year flooding, with deeper flood depths expected on properties to the south (i.e. closer to the ocean than the subject property). Accordingly, the same FEMA requirements would apply regardless of the size of the proposed structure, the number of dwelling units it contains, or its location within the Calles. In other words, from the standpoint of FEMA regulations and Marin County Code standards, the flood hazards on the subject property are similar to or in some cases less hazardous than on nearby properties. Several commenters have cited Marin County Code Section 22.98.091(g) related to Residential Second Units, which states that “second units” should not be located on a parcel that is subject to environmental or public safety hazards such as flooding. As noted above, the subject property is not subject to unusual or more severe flood hazards than other properties in the vicinity and potential flood hazards can be addressed through compliance with standard FEMA requirements. In addition, it should be clarified that this code provision does not apply to the subject property, due to its zoning, which allows one-family, two-family, or multi-family residential development through a Use Permit, rather than a “Second Unit Permit” process. This would also be the case if the subject property had C-R-2 zoning consistent with the rest of the Calles, which also allows one-family or two-family residential development without the need to obtain a Second Unit Permit.

**Commercial zoning and yard setbacks:** Since 1964, the subject property has been governed by C-H-1 zoning (Coastal, Roadside Limited Business District), which is generally intended for commercial uses, but also allows the development of single-family, two-family or multi-family dwellings subject to Use Permit approval. The C-H-1 zoning provisions do not contain any specific yard setback requirements. Instead, appropriate setbacks for residential development are determined through the Use Permit process. With the exception of the subject property and a few other parcels fronting Highway One, the “Calles” area of Stinson Beach is governed by C-R-2 (Coastal, Two-family Residential) zoning, which allows the development of both one-family and two-family dwellings. C-R-2 zoning requires a front setback of 25 feet, side setbacks of 6 feet, and a rear yard setback of 20% of lot depth (to a maximum setback of 25 feet). Several commenters contend that the C-H-1 zoning is inappropriate and that residential zoning standards applicable to adjoining properties should be used to evaluate the proposed project. As described previously, due to the shape and size of the property in relation to Easkoot Creek and the need to provide the maximum feasible setback from the creek for the septic system and proposed structures, the applicant has proposed a relatively long and narrow building footprint which sites development as close as possible to the southern side property line, and as far as possible from Easkoot Creek. As proposed, a minimum side setback of 6 feet to all structures (including the carport) would be provided along the southern side property line. The primary residence would be located 18 feet from the front property line on Calle del Onda, although the proposed carport would extend up to the property line. On the opposite side of the site, the secondary unit would maintain a minimum setback of 14.3 feet from the property line along Calle del Resaca. In order to accommodate the septic system in the far southwest corner of the property (away from the creek), the secondary unit would come within 2 feet of the property line along Calle del Arroyo. However, due to the width of this right-of-way, the structure would maintain a distance of 25 feet or more from the edge of pavement along Calle del Arroyo. Although the proposed setbacks from surrounding rights of way are less than what would be required under the zoning applicable to adjacent properties, the smaller setbacks are justified by the unique characteristics of the site created by the location of Easkoot Creek. In addition, review of County records and aerial photos indicates that the proposed setbacks would not be inconsistent with the surrounding community, which is

characterized by many structure with small or zero setbacks to adjoining property lines. For example, it appears that a majority of the existing residences along both Calle del Onda and Calle del Resaca maintain front setbacks that are significantly less than the 25 foot zoning standards, with many front yards measuring 10 feet or less (see Building Footprint Map, Attachment 6).

**Proposed Parking:** As shown on the submitted plans, the applicant is proposing to provide three on-site parking spaces and has indicated up to four guest parking spaces along the property frontage bordering Calle del Onda and Calle del Arroyo. Commenters on the project have indicated concerns that the amount of parking proposed is inadequate, that guest parking spaces should be required to be on-site, that the areas along the property frontage proposed for guest parking are already used by other residents or the public, or that the project should be reduced in scope so that less parking is needed. Pursuant to Title 24 of Marin County Code, a total of three on-site spaces are required for the project, including two resident spaces for the primary residence, and one resident space for the one-bedroom secondary unit. Guest parking is also required. However, in coastal village areas, guest parking spaces are often allowed to be located along the street if available along the property frontage to minimize site impacts and maintain the character of the neighborhood (where multi-car garages and large driveways are typically lacking). Due to its corner location, the subject property has over 300 linear feet of frontage along Calle del Onda, Calle del Resaca, and Calle del Arroyo. Since the existing building on the subject property has been vacant for several years, on-street parking adjoining the subject property has in the past been available for members of the public or other residents. Although parking spaces within public rights-of-way cannot be reserved for the exclusive use of a single property owner, it is reasonable to allow a portion of the parking spaces along Calle del Onda and Calle del Arroyo fronting the subject property to serve as guest parking for the proposed project. Overall, the number of parking spaces and the proposed parking design has been reviewed by Department of Public Works staff and found to be adequate for the proposed project.

**Neighborhood Compatibility and Visual Impacts:** Several individuals who submitted letters regarding the proposed project feel that the size and siting of the proposed project would adversely impact the views of adjacent neighbors and would generally be incompatible with neighboring development. Although the residential structures would be visible from the adjacent properties at 6 Calle del Onda (Zell residence) and 3 Calle del Resaca (Livak residence), the project has been designed to reduce view and privacy impacts on the adjoining neighbors to the extent possible given FEMA elevation requirements and the site constraints created by Easkoot Creek (which requires that development be sited as far south toward the side property line and away from the creek as possible). A majority of the proposed project is one story in height, and would not exceed a height of 16 feet, 9-inches above grade. The two-story element is limited in overall size, less than 16 feet wide as viewed from adjoining properties, and would have a maximum height of 23 feet, 9-inches. The shed roof forms over the one story elements slope down as they approach the side property line, to reduce the apparent height from the Zell and Livak parcels, and a second floor deck area has been eliminated to reduce privacy impacts on the neighbors. Photographs of the story poles taken from the backyards of neighboring properties indicates that the structures would not unreasonably block existing views of the ridge. With respect to overall square footage, the development would result in a total floor area ratio of less than 17 percent on the 14,369 square foot property, which is consistent with prevailing FAR's in the vicinity. For example, Marin County Assessor's records indicate an average floor area ratio of 23.7 percent for the 20 developed properties surveyed along Calle del Resaca and Calle del Onda (with floor area ratios ranging from 8 to 44 percent). Finally, several commenters object to the fact that the total square footage of the development is distributed between two residential units and would prefer that only one single family residence be constructed. However, County policies generally encourage multiple units which are smaller in size over one larger residence. Overall staff finds that the proposed project would be compatible with development in the vicinity and would not result in view or privacy impacts which are inconsistent with what what should reasonably be anticipated given the size of properties in the vicinity and the development standards applicable to the subject and surrounding properties.

**Fencing within stream conservation areas:** As shown on the submitted plans, the applicant is proposing to fence the subject property with 6-foot high wood fencing except between the banks of Easkoot Creek where it crosses the property. Since the plans were submitted, the applicant has clarified that all fencing would maintain a minimum 1-foot gap above grade for drainage purposes. In his letter, a Stinson Beach Village Association member questions whether fencing is permitted within stream conservation areas. The intent of Countywide Plan stream conservation policies related to this issue is to discourage fencing that would prevent wildlife access to the riparian habitat within

the stream conservation area. However, as noted in the Initial Study, the primary wildlife species of concern in this area are the fish and amphibian species which could potentially use the creek channel as a migratory corridor. Since no fencing would be located within the creek channel, the biologist did not identify the proposed site fencing in the vicinity of the residence or along Highway One as something which would adversely impact the habitat value of the site, or otherwise restrict wildlife access in this stream conservation area. However, fencing in the vicinity of streams is also subject to regulation through Title 24 of Marin County Code, which is administered by the Department of Public Works. Public Works staff have indicated that the applicant's earlier proposal to construct a wood and masonry fence along Highway One (to reduce traffic noise) would not be permitted since it would be considered a permanent structure located within 20 feet of the creek bank. In addition, any other fencing within 20 feet of the creek bank would be subject to review and approval of the Department of Public Works as part of the final drainage plan for the site.

**Archaeological resource impacts:** Marin County resource maps indicate that the subject property is located in an area of high archaeological sensitivity. Therefore, there may be undiscovered archeological resources on the site which could be discovered during grading or construction on the site. Accordingly, the Initial Study for the project includes standard mitigation measures which require that if any resources are encountered during site preparation or construction activities, construction work be stopped until a registered archaeologist assesses the site and submits a report which identifies appropriate conditions to protect the site and any resources (see Section 14 of the Initial Study). In response to the Negative Declaration, the Native American Heritage Commission submitted a letter recommending that, in addition to the mitigation measures identified in the Initial Study, the County should require that a certified archaeologist and a culturally affiliated Native American be present to monitor all ground-disturbing activities. Therefore, the recommended conditions of approval have been modified to include this additional requirement.

#### **RECOMMENDATION:**

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

- Attachments:
1. Proposed Resolution recommending approval of the Negative Declaration of Environmental Impact for the Sutton Coastal Permit/Use Permit
  2. Proposed Resolution recommending conditional approval of the Sutton Coastal Permit/Use Permit
  3. Sutton Negative Declaration of Environmental Impact and Initial Study
  4. Aerial Photo (general vicinity)
  5. Aerial Photo (project site)
  6. Building Footprint Map
  7. Project Plans:
    - Site Plan
    - Elevations (north)
    - Elevations (south)
    - Elevations (east)
    - Elevations (west)
    - Floor Plan – Primary Residence
    - Floor Plan – Primary Residence (upper floor)
    - Floor Plan – Secondary Residence
  8. Department of Public Works, Land Development Division memorandum, January 17, 2008
  9. Stinson Beach County Water District letter, March 3, 2008
  10. Stinson Beach County Water District letter, January 7, 2008
  11. Stinson Beach Village Association letter, February 13, 2008
  12. Jim and Belinda Zell letter, February 15, 2008
  13. Sierra Club Marin Group letter, April 16, 2007
  14. Tony Lewis letter, April 16, 2007



15. James and Lynette Sutton letter, December 13, 2007

*The following attachments include correspondence received subsequent to circulation of the Negative Declaration of Environmental Impact and Initial Study. These attachments as well complete project plans, submitted reports, and correspondence related to previous versions of the project, are available for review at the Community Development Agency between the hours of 8:00 a.m. and 4:00 p.m. daily.*

16. Stinson Beach County Water District letter, July 28, 2008 (w/attached septic permit, October 29, 2007)
17. National Park Service, Golden Gate National Recreation Area letter, July 31, 2008
18. Native American Heritage Commission letter, July 14, 2008
19. Sierra Club letter, July 28, 2008
20. Stinson Beach Village Association letter, July 30, 2008
21. Michael Lemont and Steven Trifone letter, July 30, 2008
22. Tony Lewis letter, July 29, 2008
23. Bruce Wachtell letter, July 29, 2008
24. Jim Zell letter, July 28, 2008
25. Elizabeth Sapanai letter, July 28, 2008
26. Madlyn Stein letter, July 30, 2008
27. Robert Carrigan letter, July 22, 2008
28. Michael Mitchell letter, July 29, 2008, with attachments and photos
29. Michael Mitchell letter, July 23, 2008, also signed and submitted separately by 8 residents including: Belinda and Jim Zell, Robert Carrigan, Donald Melder, Peggy Larson, Nancy Barnett, Virginia & Webster Otis, Thomas Stern, Anne, LS, Suzanne and Jud Foster, and Crispin Livak (with additional handwritten comments on signature page, attached)
30. Richard Peterson letter, July 30, 2008
31. Lynette and James Sutton letter, August 3, 2008

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

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

A RESOLUTION ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE SUTTON COASTAL PERMIT/USE PERMIT ASSESSOR'S PARCELS 195-162-45 and 46 3715 SHORELINE HIGHWAY, STINSON BEACH

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- I. WHEREAS Lynette and James Sutton are requesting Coastal Permit and Use Permit approval to demolish an existing 1,896 square foot residence that straddles Easkoot Creek (formerly Elwood's Bar and Restaurant) and construct a new 1,649 square foot residence and 748 square foot secondary unit and an associated septic system on the subject property at the corner of Shoreline Highway and Calle del Arroyo in Stinson Beach. As part of the project, all four historic lots comprising Assessor's Parcels 195-162-45 and -46 (formerly 195-162-39) would be merged into one building site. The northern half of the property is traversed by Easkoot Creek, a designated blue line stream. Due to the property's size and shape, almost the entire parcel is located within the designated 100-foot wide stream conservation area for this creek. The new residence, secondary unit, and septic system are proposed to be constructed on the southern half of the 14,369 square foot site, with a minimum setback of 50 feet to the top of creek bank. A riparian planting plan is also proposed along the creek. The proposed primary residence would attain a maximum height of 23 feet, 6-inches above grade and the proposed secondary unit would attain a maximum height of 16-feet, 9-inches above grade. Proposed development would maintain the following setbacks from corresponding property lines: 14 feet from the east front property line along Calle del Onda (zero feet from the carport), 6 feet from the southern side property line, 14 feet from the western rear property line along Calle del Resaca, and 2 feet from the nearest portion of the northern side property line (along Calle del Arroyo). Proposed exterior building materials include clear cedar siding and standard seam zinc roofing. The subject property is located at 3715 Shoreline Highway, Stinson Beach, and is further identified as Assessor's Parcels 195-162-45 and -46.
- II. WHEREAS the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project which determined that potential impacts relating to all topical issues are avoided or mitigated to a point where no significant effects would occur because revisions in the project plans have been made by or agreed to by the applicant and there is no evidence that the project as revised may have a significant effect on the environment.
- III. WHEREAS the Marin County Environmental Coordinator determined that based on the Initial Study, a Negative Declaration of Environmental Impact was required for the project pursuant to CEQA.
- IV. WHEREAS on June 30, 2008 a Negative Declaration was 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 hearing date to consider approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.
- V. WHEREAS after the close of the public review period on July 29, 2008, the Marin County Deputy Zoning Administrator conducted a public hearing on August 14, 2008, to receive public testimony on the adequacy of the Negative Declaration for approval.
- VI. WHEREAS, the Marin County Deputy Zoning Administrator has reviewed and considered the information contained in the Initial Study, Negative Declaration and comments and responses thereto.

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby makes the following findings:

1. Notice of the public review period and hearing on the Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
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 for the project consists of the Initial Study, Negative Declaration document, and supporting information incorporated by reference therein.
4. The Negative Declaration was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County EIR process.

LET IT BE FURTHER RESOLVED that the Marin County Deputy Zoning Administrator hereby grants the Negative Declaration of Environmental Impact for the Sutton Coastal Permit/Use Permit 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 III: DECISION**

GRANTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 14th day of August 2008.

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JOHANNA PATRI, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING WITH CONDITIONS THE SUTTON COASTAL PERMIT/USE PERMIT  
ASSESSOR'S PARCELS 195-162-45 and 46  
3715 SHORELINE HIGHWAY, STINSON BEACH

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**SECTION I: FINDINGS**

- I. WHEREAS Lynette and James Sutton are requesting Coastal Permit and Use Permit approval to demolish an existing 1,896 square foot residence that straddles Easkoot Creek (formerly Elwood's Bar and Restaurant) and construct a new 1,649 square foot residence and 748 square foot secondary unit and an associated septic system on the subject property at the corner of Shoreline Highway and Calle del Arroyo in Stinson Beach. As part of the project, all four historic lots comprising Assessor's Parcels 195-162-45 and -46 (formerly 195-162-39) would be merged into one building site. The northern half of the property is traversed by Easkoot Creek, a designated blue line stream. Due to the property's size and shape, almost the entire parcel is located within the designated 100-foot wide stream conservation area for this creek. The new residence, second unit, and septic system are proposed to be constructed on the southern half of the 14,369 square foot site, with a minimum setback of 50 feet to the top of creek bank. A riparian planting plan is also proposed along the creek. The proposed primary residence would attain a maximum height of 23 feet, 6-inches above grade and the proposed secondary unit would attain a maximum height of 16-feet, 9-inches above grade. Proposed development would maintain the following setbacks from corresponding property lines: Zero feet from the east front property line along Calle del Onda (at the carport), 6 feet from the southern side property line, 14 feet from the western rear property line along Calle del Resaca, and 2 feet from the nearest portion of the northern side property line (along Calle del Arroyo). Proposed exterior building materials include clear cedar siding and standard seam zinc roofing. The subject property is located at 3715 Shoreline Highway, Stinson Beach, and is further identified as Assessor's Parcels 195-162-45 and -46.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 14, 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 has reviewed and considered testimony in favor of and against a proposed Negative Declaration and finds, subject to the recommended conditions of project approval contained herein, that this project will not result in any potential, significant environmental impacts, and qualifies for a Negative Declaration of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County CEQA process.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because, as modified by conditions of approval and mitigation measures, the project would not: 1) adversely impact special status species or substantially change the diversity of the existing vegetation and wildlife habitat; 2) result in significant impacts to existing drainage facilities, or expose people or property to significant flood hazards; 3) cause significant impacts on existing, available public services and utilities, such as water supply, police and fire protection, solid waste disposal, sewage disposal, and schools; 4) result in significant grading or tree removal; or 5) result in a significant increase in the number of vehicle trips or traffic congestion that would alter existing levels of service in the area. In addition, the proposed project would significantly increase the property's conformance with stream

conservation policies by removing an existing structure spanning the creek, replacing it with development which provides a minimum creekbank setback of 50 feet, and providing a riparian planting plan which would supplement existing riparian vegetation and improve creek function with respect to habitat value, water quality, and flood control.

- V. 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,) as specified below.

**A. Water Supply:**

The subject property is within the service area of the Stinson Beach County Water District, which has indicated that water service will be available to serve the proposed development.

**B. Septic System Standards:**

The Stinson Beach County Water District has reviewed the proposed project and has approved plans for a septic system to serve the development. Conditions of approval require that the applicant comply with all District requirements regarding construction and installation of the new system prior to occupancy of the residence.

**C. Grading and Excavation:**

The subject property is level. Therefore, excavation work associated with construction of proposed development would be limited and would be reviewed by Public Works Department, Land Use and Water Resources Division staff to ensure that it is the minimum grading necessary to accommodate the project.

**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. Conditions of project approval require that, in the event that cultural resources are uncovered during site preparation, all work shall be stopped immediately, and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate mitigation measures.

**E. Coastal Access:**

The subject property is not located adjacent to the shoreline and is not sited in an area identified by the Local Coastal Program, Unit I, where public coastal access is desirable or feasible.

**F. Housing:**

The proposed project consists of the construction of a modestly-sized single family residence and small secondary unit which would increase the availability of housing stock in the Stinson Beach community.

**G. Stream Conservation Protection:**

With the exception of the far southwest corner, the entire property is sited within the stream conservation area of Easkoot Creek. However, the proposed project would significantly increase the property's conformance with stream conservation policies by removing an existing structure spanning the creek, replacing it with development which provides a minimum creekbank setback of 50 feet, and providing a riparian planting plan which would supplement existing riparian vegetation and improve creek function with respect to habitat value, water quality, and flood control.

#### **H. Dune Protection:**

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

#### **I. Wildlife Habitat:**

The biological assessment prepared for the project site indicates that the property is located in an area of sensitive wildlife resources, including two federally-listed species of fish noted above (Steelhead and Coho salmon), two species of amphibians (the federally-listed threatened California red-legged frog and the Foothill yellow-legged frog), two bird species (Saltmarsh common yellowthroat and San Pablo song sparrow), one mammal (Point Reyes mountain beaver), and one reptile (Northwestern pond turtle). However, recommended mitigation measure and conditions of project approval would ensure that potential project impacts to special status species which may use the creek channel as a migratory corridor (particularly the federally listed Steelhead, Coho Salmon, and Red-legged frog) are reduced to a less-than-significant level, both individually and cumulatively.

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

The biological assessment prepared for the project site did not detect any special status plants on the property and the report concludes that no special status plants are likely to occur on the site or be impacted by the project.

#### **K. Shoreline Protection:**

The subject property is not located along a shoreline and the project does not include construction of any shoreline protective works that would alter natural shoreline processes.

#### **L. Geologic Hazards:**

The subject property is not located within the delineated boundaries of the San Andreas Fault zone. However, the subject property is located approximately one mile from the San Andreas Fault and would be subjected to strong ground shaking during a proximate seismic event. The proposed structures will require an approved building permit and shall be inspected to ensure compliance with the Uniform Building Code and recommendations of the geotechnical engineer. Pursuant to Marin County Code Section 22.56.130(L.1.a), a condition of project approval will require the property owner to execute and record a waiver of public liability holding the County, other governmental agencies, and the public harmless because of losses due to geologic hazards.

#### **M. Public Works Projects:**

No public works projects have been proposed in conjunction with this application.

#### **N. Land Division Standards:**

No land division is proposed as part of this project and the four historic lots comprising the property would be merged into one building site as part of the project.

#### **O. Visual Resources:**

No adverse impact to visual resources would result from construction of the project. The proposed project is not located in a significant public view corridor along the beach and the height and size of the proposed structures are consistent with that of existing development in the area. Within the constraints imposed by the location of Easkoot Creek, the residence has been designed to minimize impacts on existing views of Bolinas Ridge currently enjoyed by adjacent neighbors to the south, as well as their privacy and light. In accordance with Marin County Code Section 22.56.130(O), a recommended condition of approval requires that all new utility lines serving the project be placed underground.

**P. Recreation/Visitor Facilities:**

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

**Q. Historic Resource Preservation:**

The project site is located outside of the historic preservation boundaries for Stinson Beach as identified in the Marin County Historic Study for the Local Coastal Program, and the existing structure on the property does not have historic or architectural significance.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Use Permit (Section 22.88.020(3) of the Marin County Code for the reasons listed below.

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

1. Pursuant to Marin County Code, the proposed two-family residential project is a conditionally permitted land use within the governing C-H-1 zoning district.
2. The proposed project would allow for the replacement of an existing dilapidated residence which spans Easkoot Creek and an outdated septic system located in close proximity to the creek with new residential structures of a similar size and an up-to-code septic system located as far as possible from the creek bank (with a setback of 50 or more feet for the residence and 75 or more feet for the septic system).
3. Department of Public Works staff have determined that adequate on-site and on-street parking exists to serve the proposed development and have reviewed and approved a preliminary drainage plan for the site. In addition, the project would not result in a significant increase in the number of vehicle trips or traffic congestion that would alter existing levels of service in the area or entail expansion of public roads, flood control projects, or utility services.
4. Adequate water and septic service to the site would be provided in compliance with requirements of the Stinson Beach County Water District.
5. The proposed project includes a riparian planting plan which would supplement existing riparian vegetation along Easkoot Creek and improve the creek functions with respect to habitat value, water quality and flood control.

6. The proposed replacement of an existing residence with a new primary residence and secondary unit would be consistent with existing moderate density residential development in the vicinity, and would not result in adverse impacts to historic structures, visual resources, public views of the coast, or unreasonable privacy or view impacts to surrounding neighbors.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Sutton Coastal Permit/Use Permit subject to the following conditions:

### Marin County Community Development Agency, Planning Division

1. Except as modified by these conditions, the Sutton Coastal Permit 06-31 and Use Permit 08-9 is approved for the demolition of an existing 1,896 square foot residence and the construction of a new 1,649 square foot residence and 748 square foot secondary unit and an associated septic system on the subject property. As approved, the structure would not exceed a maximum height of 23 feet, 6 inches above existing grade, would result in a floor area ratio of 17 percent, and would be located with the following setbacks to corresponding property lines: 14 feet from the east front property line along Calle del Onda (zero feet at the carport), 6 feet from the southern side property line, 14 feet from the western rear property line along Calle del Resaca, and 2 feet from the nearest portion of the northern side property line (along Calle del Arroyo). The subject property is located at 3715 Shoreline Highway, Stinson Beach, and is further identified as Assessor's Parcel 195-162-45.
2. Plans submitted for a Building Permit shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A, "Sutton Residence, 3715 Highway One, Stinson Beach," prepared by Pfau Architecture, submitted December 18, 2007, with revised elevations submitted April 29, 2008, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit for review and approval of the Community Development Director final proposed exterior building material and color samples. All flashing, metal work and trim shall be treated or painted an appropriately subdued, nonreflective color.
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 Coastal Permit/Use Permit conditions of approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revised the plans for review and approval of the Community Development Director to show a minimum setback of 6 feet from the southern side property line for all portions of the residential structures, including the carport, and to show that all site fencing shall maintain a minimum open "gap" of one foot from grade for drainage purposes.
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a request for voluntary merger of the four historic lots comprising the subject property, which shall be recorded prior to issuance of a building permit.
7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic actions.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a signed Statement of Conformance demonstrating that the project qualifies for a "Certified" or better rating under the Marin Green Home: New Home Green Building Residential Design Guidelines. The Building Permit shall



include specifications demonstrating compliance with all construction-related measures that are used to meet the “Certified” or better rating.

9. 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.
10. Prior to any construction-related disturbance of the Easkoot Creek stream channel and banks including removal of vegetation, a qualified biologist shall conduct a preconstruction survey of the site to ensure that no special-status species are occupying the site. If special-status species are observed within the project site or immediate surroundings, these areas shall be avoided until the animal(s) has (have) vacated the area, and/or the animal(s) shall be relocated out of the project area by a qualified biologist upon approval by the California Department of Fish and Game and the U.S. Fish and Wildlife Service. In addition, the site shall be surveyed periodically during construction to ensure that no aquatic and terrestrial species are being impacted by construction activities. The biologist shall also monitor to ensure water quality standards are being met and debris is not entering the aquatic habitat. A report documenting the findings shall be prepared and submitted by the biologist for review and approval by the Community Development Agency, Planning Division. PRIOR TO ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall demonstrate that the required preconstruction survey has been conducted
11. Prior to any work in the stream, if water is present and dewatering is deemed necessary, a dewatering and species protection plan shall be prepared by a qualified biologist in consultation with California Department of Fish and Game and US Fish and Wildlife Service staff, which would include a set of procedures and protective measures to follow during the dewatering process. PRIOR TO ISSUANCE OF GRADING PERMITS and prior to any work in the stream, the applicant shall demonstrate that a dewatering and species protection plan has been prepared and submitted if dewatering is deemed necessary
12. Demolition of the existing residence spanning the creek shall occur under the supervision of a qualified biologist to ensure that the following recommendations are followed. The existing structure shall be dismantled by hand. During demolition, workers should not enter the creek and work should be completed from the top of bank. All debris should be removed immediately and no materials should be allowed to enter the creek. Temporary construction fencing or similar material should be placed across the creek (perpendicular to the channel) immediately up and downstream of the existing structure to catch any accidental debris from floating into surrounding aquatic habitats. The material should be of large enough mesh size to allow aquatic species to swim through. Stakes to hold up the temporary material should be placed at the top of the banks and not within the active channel. If existing concrete foundation piers cannot be removed without resulting in disturbance and sedimentation, they should be cut off at ground level with the underground portion allowed to remain in place. PRIOR TO ISSUANCE OF A DEMOLITION PERMIT, the applicant shall demonstrate that a qualified biologist will be present during removal of the structure spanning the creek to ensure that recommended deconstruction measures are followed.
13. If any demolition or construction activities are proposed during the critical breeding period for migratory birds (mid-March to mid-August), work areas with suitable breeding habitat shall be surveyed by a qualified biologist prior to the commencement of demolition or construction-related activities. If active nests are encountered, those areas plus a buffer area designated by the biologist shall be avoided until the nests have been vacated. The buffer area should be 50 feet for small song birds and 75 feet for larger birds (raptors, owls, etc). PRIOR TO ISSUANCE OF A DEMOLITION PERMIT OR GRADING OR BUILDING PERMITS between mid-March and mid-August, the applicant shall demonstrate that a preconstruction survey of work areas with suitable habitat has been conducted by a qualified biologist and that appropriate buffer areas around any active nests have been established.

14. BEFORE ISSUANCE OF A BUILDING PERMIT, the Easkoot Creek replanting plan proposed by Prunuske Chatham shall be incorporated into the project plans for review and approval of the Community Development Agency Director. The Restoration Planting Plan shall indicate areas of planned non-native plant removal, including instructions for non-native/invasive plant removal and replacement with native species. PRIOR TO FINAL INSPECTION, the applicant shall submit verification from Prunuske Chatham or the consulting biologist certifying that all proposed plantings have been installed in accordance with the approved riparian planting plan.
15. BEFORE FINAL INSPECTION, the applicant shall enter into a riparian vegetation maintenance agreement with the Community Development Agency that is secured by a financial deposit that is equivalent to one and one-half times the value of the labor and materials for vegetation included in the Easkoot Creek planting plan. The agreement shall be for a period of three years from the date of occupancy, during which time the applicant shall agree to maintain the riparian vegetation in a healthy and vigorous condition. At the end of the three-year maintenance period, any specimen which has not survived or is in poor or declining health, as determined by the Community Development Agency staff, shall be replaced with a specimen with a comparable size.
16. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the all 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. Alternatively, the applicant may submit a written (stamped) confirmation from a licensed land surveyor or qualified civil engineer confirming the property line markers and the building setbacks to property lines based on the approved setbacks as shown on the Building Permit plans.
17. BEFORE APPROVAL OF THE UNDERFLOOR INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification prepare and submit a written (stamped) survey or certification to the Planning Division confirming that the building's finish floor elevation conforms to the floor elevation that is shown on the approved Building Permit plans, based on a benchmark that is noted on the plans. Alternatively, the applicant may request that the Building and Safety Inspection staff conduct a laser level survey to verify compliance with this condition.
18. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification submit a written (stamped) building height survey confirming that the building conforms to the roof ridge elevations that are shown on the approved Building Permit plans, based on a benchmark that is noted on the plans. Alternatively, the applicant may install a story stud that clearly indicates the maximum building height through height increments that are marked on the stud and preapproved by the Building and Safety Inspection staff before installation or request that the Building and Safety Inspection staff measure the plate heights for conformance with the approved plans.

19. BEFORE APPROVAL OF THE FRAMING INSPECTION, the applicant shall submit documentation from the project engineer or “as-built” service, to be approved by the Chief Building Inspector, confirming that the floor area of the building conforms to the floor area that is shown on the approved Building Permit plans. A registered engineer or “as-built” service must stamp and wet sign this verification. Alternatively, the applicant may request that the Building and Safety Inspection staff verify the floor area based on measurement marks on the subfloor and second/third floor framing.
  
20. A certified archaeologist and a culturally affiliated Native American shall be present to monitor all ground-disturbing activities. In the event that any human remains, artifacts, or other indicators of prehistoric or historic use of the parcel are encountered during site preparation or construction activities on any part of the project site, all work at the vicinity of the discovered site shall stop and the project sponsor shall contact the Marin County Environmental Coordinator immediately. If human remains are encountered, the County Coroner must also be contacted. The archaeologist, in consultation with the Federated Indians of Graton Rancheria, shall assess the site and shall submit a written evaluation to the Agency Director advancing appropriate conditions to protect the site and the resources discovered, including monitoring of all subsequent site work by a Native American monitor from the Federated Indians of Graton Ranch or other designated tribal representative. State law designates procedures should human remains be encountered. If the remains are deemed to be Native American and prehistoric, the Coroner must contact the Native American Heritage Commission so that a "Most Likely Descendant" can be designated. No work at the site may recommence without approval of the Agency Director. If it is determined that a prehistoric site exists the following shall be implemented:
  - (a) No future development activity shall take place at or in close proximity to the prehistoric site within the development area;
  - (b) The historical site(s) shall be filled to protect the resources there;
  - (c) No additional excavation shall occur at these locations other than to remove surface organic material; and
  - (d) The applicant may be required to submit a revised project to protect the resource(s). No further work at the site may recommence without approval of the CDA staff. All future development of the site must be consistent with findings and recommendations of the archaeological assessment including Appendix A, Monitoring Procedures, of the May 2001, “Archaeological Evaluation”, prepared by Archaeological Resources Service, as approved by the CDA staff.
  
21. All construction activities shall comply with the following standards:
  - A. Except for such non-noise generating activities, including but not limited to, painting, sanding, and sweeping, construction activity is only permitted between the hours of 7:30 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 or the following holidays (New Year’s Day, Martin Luther King Day, Presidents’ Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Veteran’s Day, Thanksgiving, Christmas). If the holiday falls on a weekend, the prohibition on noise-generating construction activities shall apply to the ensuing weekday during which the holiday is observed. Loud noise-generating construction-related equipment (e.g. backhoes, generators, jackhammers) can be maintained, operated, or services at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. 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.
22. 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.
23. 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 approved project, 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.
24. 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: New Home Green Building Residential Design Guidelines.
25. Only those trees shown on the site plan as proposed to be removed, if any, may be removed. No other existing trees on the subject property shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent reasonably safety hazards to people and property.
26. 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 Division

27. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:
- A. Provide scales on all plans.
- B. Prior to framing inspection and when construction is finished, a FEMA elevation certificate prepared by a professional engineer, surveyor or architect shall be submitted to DPW
- C. Onsite waste-disposal system shall be located so as to avoid impairment and prevent waste-disposal discharge during flooding.
- D. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes foundation walls, joists, insulation, or other material that extend below the BFE.
- E. No portion of any structure shall extend beyond the property boundaries (including footings, rooflines and fences).

- F. As per November 2, 2006 letter by Prunuske Chatham, a biological observer shall supervise demolition of the building spanning the creek to help assure that no aquatic and riparian resources are significantly impacted by the demolition activities. This requirement shall be incorporated into the plan.
- G. All encroachments, including but not limited to fill/excavation, new construction, substantial improvements, fencing and other developments are prohibited within the floodway.
- H. 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.
- I. All fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic forces on exterior walls by allowing the entry and exit of floodwater. Designs for meeting this requirement must be certified by either a registered civil engineer or architect. Provide calculations and detail showing how the enclosed area floor is designed to automatically equalize hydrostatic floor forces (venting requirement is 1-sq-inch per 1-sq-foot, vents placed a maximum of 1-foot above grade.
- J. Provide information on the plans showing that all electrical heating, ventilation, plumbing, and air conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulation within the components during conditions of flooding, especially any underneath the floor joist elevation in Zone A1.
- K. 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.
- L. The proposed compost filter berm is not acceptable as an erosion control measure. The compost berm itself may pose a pollution source. Remove the proposed compost berm along Easkoot Creek from the plans and incorporate industry-standard temporary erosion control measures.
- M. No solid structures shall be built within 20-ft of the top-of-bank of Easkoot Creek. This may include the "block" portion of the proposed 7-ft high wood and block fence.
- N. Submit an Erosion and Siltation Control Plan. Include special precautions/protection measures for Easkoot Creek during demolition activities.
- O. The Easkoot Creek re-planting plan proposed by Prunuske Chatham shall be incorporated into the plans. Include on the plans instructions to remove non-native/invasive plant species from the project site and to re-vegetate with native trees, shrubs and herbs. The Restoration Planting Plan shall indicate areas of planned non-native plant removal.
- P. For post construction re-vegetation survivability, a monitoring and maintenance plan shall be included within the plans.
- Q. Provide drainage plan for area around the residence.
- R. An encroachment permit shall be required for work within the road right-of-way of Calle Del Arroyo.
- S. Revise plans to show the on-site 2<sup>nd</sup> Unit Parking for the 2<sup>nd</sup> unit, rather than "Guest" parking.

- T. The surface of the all on-site parking areas shall be concrete, asphalt or other hardscape material (i.e. pervious paving blocks), except for driveway approaches from County-maintained roads. The area the driveway approach for the 2<sup>nd</sup> unit shall be paved with asphalt between the property line and the edge of pavement of Calle Del Arroyo.
  - U. The two parking spaces along Calle Del Onda meet the guest parking requirements. However, being within the right-of-way, they cannot be dedicated to any individual property. Removing the word “guest” will suffice.
  - V. Indicate on plans the type of surface for the parking areas. All parking shall be surfaced with all-weather materials.
  - W. Construction, if any, within the Highway One right-of-way shall require Encroachment Permit approval from the California Department of Transportation.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall follow Best Management Practices (BMP) by submitting a Stormwater Runoff Pollution Control Plan that addresses both interim (during construction) and final (post construction) stormwater pollution control measures. Permanent BMP’s may include, but are not limited to, sediment basins, infiltration trenches, grassed swales, filter strips and buffers, oil/water separators, and site and landscaping management procedures. The plan should incorporate applicable recommendations contained in the Botanical and Biological Resource Surveys prepared by Prunuske Chatham, Inc and 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 the Stormwater Runoff Pollution Prevention Plan prior to issuance of a Building Permit.

Stinson Beach County Water District

- 29. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall comply with all requirements of the Stinson Beach County Water District regarding water and septic service to approved development.

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

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Sutton Coastal Permit/Use Permit approval by securing a Building Permit for the construction of the approved work and substantially completing the approved work by August 14, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Community Development Director approves it. An extension of up to four years may be granted for cause pursuant to Marin County Code Section 22.56.050 provided the applicant has made application and paid appropriate fees.

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, Room 308, Civic Center, San Rafael, no later than 4:00 p.m. on August 21, 2008.

**SECTION IV: ACTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 14th day of August, 2008.

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JOHANNA PATRI, AICP  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary