

Marin County Community Development Agency

Alex Hinds, Director

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR BALL COASTAL PERMIT & VARIANCE

Item No:	H2.	Application No:	CP 08-__/VR08-14
Applicant:	Gary Ball and Diane Vonk	Owner:	Same
Property Address:	4 Cliff Street, Dillon Beach	Assessor's Parcel:	100-123-15
Hearing Date:	August 28, 2008	Planner:	Christine Gimmler

RECOMMENDATION:	Approve With Conditions
APPEAL PERIOD:	Ten calendar days to the Planning Commission
LAST DATE FOR ACTION:	May 4, 2005

PROJECT DESCRIPTION:

The applicant is requesting approval for the reconstruction of an existing fire damaged cottage on a 2,100 square foot property in the village area of Dillon Beach. As proposed, the 1,490 square foot residence would be approximately 1 foot lower than the existing roof ridge height (with a maximum height of 19.5 feet above grade at the downhill elevation) and would continue to maintain the following pre-existing setbacks from corresponding property lines: 9-feet, 6-inches from the western front property line (along Cliff Street), 1-foot from the northern side property line, 0-feet, 3-inches from the southern side property line, and 2-feet, 1-inches from the eastern rear property line. Proposed exterior materials include grey-stained cedar shingles and grey composition roof shingles. Also proposed is a new septic system to serve the residence.

GENERAL INFORMATION:

Countywide Plan:	C-SF4 (Coastal, Single Family Residential, 2 to 4 units per acre)
Zoning:	C-R-1:B-D (Coastal, Residential, Single-Family, 1,750 square foot minimum lot size)
Lot size:	2,100 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	Native and introduced landscaping material
Topography and Slope:	Gently sloping
Environmental Hazards:	None identified

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3 of the CEQA Guidelines because it entails the construction of a single family residence on an infill lot in a residential neighborhood that will not result in significant adverse environmental impacts on the environment.

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 600 feet of the subject property

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of the Marin Countywide Plan, the Local Coastal Program, Unit II, the Dillon Beach Community Plan, and Title 22 (Zoning) of the Marin County Code because it consists of the reconstruction of an existing fire-damaged residence which would provide housing opportunities in the community without adversely impacting coastal resources. As proposed, the structure would conform to governing standards regarding building height. In addition, Variance findings have been made to allow the proposed development to deviate from setback requirements under the governing zoning district.

PROJECT ANALYSIS:

Background

The 2,100 square foot subject consists of Lot 7 of Dillon Beach Subdivision No 2, recorded in 1911. According to Assessor's Records, the property has been developed with a residence since approximately 1922. Therefore, the existing residence was constructed almost 40 years before the first setback requirements for the property were enacted in 1961 with the adoption of Ordinance 1109, which applied the current R-1:B-D zoning development standards to the property. The subject property has been in the applicant's family for many years. Several years ago, the residence was damaged by a house fire, which also impacted the adjacent home located at 6 Cliff Street. As described above, the current application proposes the reconstruction of the fire-damaged residence. Although the finished floor elevation would be lifted by 1-foot, 9-inches to accommodate a second bedroom on the lower floor, the overall height of the structure would be lowered by approximately one foot and would continue to conform with the 20 foot height limit of the governing zoning. Variance approval is required to allow the residence to be reconstructed with its current non-conforming yard setbacks.

Variance Analysis

Special Circumstance

As noted previously, the 2,100 square foot subject parcel was created in its current size and shape in 1911. Although the shape of the property is not unusual, the parcel is smaller than a majority of the other properties in the same block, and the available building envelope for residential development is restricted by various setback requirements associated with the on-site leachfield system and the pre-existing location of the existing residence, which the applicant is proposing to reconstruct. Together, the relatively small size of the parcel and the requirement to develop a code compliant septic system would be considered a special physical circumstance which limits the development potential of the property in comparison with other properties in the vicinity which are larger in size. Although not a characteristic of the lot itself, the pre-existing siting of the existing residence, which was constructed prior to the adoption of building setback requirements, is also a unique circumstance which impacts the development of the site. The existing residence maintains a setback of approximately 9.5 feet from the front property line, where a front setback of 10 feet is required by the governing zoning. To minimize the number of setback encroachments required, conditions of approval require that the plans be modified to ensure that the reconstructed residence maintains a minimum setback of 10 feet from the front property line, as required by the zoning. However, staff finds that the strict application of the required side and rear setbacks would restrict the property owners ability to reconstruct the fire-damaged residence with substantially the same size and footprint as the existing residence.

Special Privilege

The granting of a Variance for the subject property would not constitute a grant of special privilege which is inconsistent with the limitations placed upon other nearby properties. Many of the existing homes in the Dillon Beach village area were constructed prior to adoption of the current zoning requirements, and therefore, are legal non-conforming with respect to yard setbacks. In addition, as shown in the following table, review of Planning Department records indicates that the County has granted a number of other Variance applications on similarly zoned properties in the area for setback encroachments.

Setback Variances Granted for Properties in the Vicinity of the Subject Parcel

<i>Assessor's Parcel Number</i>	<i>Property Address</i>	<i>Approved Setback</i>
<i>100-123-17</i>	<i>8 Cliff</i>	<i>2.5 feet (side yard)</i>
<i>100-122-01</i>	<i>91 Ocean View</i>	<i>8 feet (front yard) 3 feet (rear yard)</i>
<i>100-133-03</i>	<i>64 Ocean View</i>	<i>0 foot (side yard)</i>
<i>100-152-05</i>	<i>41 Ocean View</i>	<i>1 foot (front yard) 2 feet (side yard)</i>
<i>100-131-01</i>	<i>51 Park</i>	<i>2 foot (front yard)</i>

Consequently, approval of the proposed Variance would not be inconsistent with previous County actions in the community. Overall, the proposed Variance would allow for the reconstruction of a residence on the footprint of the existing home on the property, and would not result in development which is inconsistent with the location, size, height, or floor area of other residences in the vicinity under identical zoning.

Public Detriment

The granting of the Variance would not be detrimental to the public welfare because the requested setback variances would not significantly impact the views, light, or privacy currently enjoyed by adjacent properties. The owner of the Paolini residence at 56 Beach Avenue, immediately east of the project site, has expressed concerns that the proposed project would adversely impact views from her kitchen and back patio (see Attachment 13). However, these concerns are more related to the height of the structure, which is well within the required limit, than the reduced setbacks which are the subject of this Variance. As noted previously, the applicant proposes to increase the finished floor elevation of the residence by 1-foot, 9-inches to accommodate a second bedroom below the main floor. However, the existing roof pitch would also be lowered, which would result in an overall maximum height reduction of approximately one foot (compared to the existing condition). As proposed, the highest roof ridge of the residence would range in height from 15 feet above grade toward the rear property line, to a maximum of 19.5 feet above grade at the downhill front elevation. Therefore, the residence would be well within the 20 foot height limit required by the governing zoning. In addition, the plans submitted by the applicant indicate that the Paolini kitchen window sill height would range from 0.5 to 1.5 feet above the height of the roof over the nearest portion of the Ball residence. Therefore views from these windows out toward the ocean would be maintained. To minimize view impacts, the applicant reduced the main roof pitch from 3/12 to 2.5/12 (with a further reduction to 1.3/12 over the bedroom wing) and lowered the finished floor elevation of the house by 6 additional inches (see Attachment 12). Finally, it should be noted that the primary orientation of the Paolini residence is to the south across Beach Avenue and to the southwest across the property at 2 Cliff Street. Overall, staff finds that the reduction or elimination of the setback encroachments which are the subject of this variance would not materially affect the extent to which the project impacts views from the Paolini residence. Based on these factors, findings can be made that the granting of the requested setback Variances would not result in adverse impacts to the public welfare or surrounding properties.

RECOMMENDATION:

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

- Attachments:
1. Proposed Resolution recommending conditional approval of the Ball Coastal Permit/Variance
 2. Environmental Document
 3. Location Map
 4. Assessor's Parcel Map
 5. Site Plan
 6. Floor Plans
 7. Elevations
 8. Floor Plan
 9. Sections
 10. Department of Public Works memo, 4/17/08
 11. Environmental Health Services memo, 3/13/08
 12. Email from Rick Kadello, received 6/5/08
 13. Letter from Judy Paolini, received 8/5/08

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING WITH CONDITIONS
THE BALL COASTAL PERMIT/VARIANCE

ASSESSOR'S PARCEL 100-123-15
4 CLIFF STREET, DILLON BEACH

SECTION I: FINDINGS

- I. WHEREAS the applicant is requesting Coastal permit and Variance approval for the reconstruction of an existing fire damaged cottage on a 2,100 square foot property in the village area of Dillon Beach. As proposed, the 1,490 square foot residence would be approximately 1 foot lower than the existing roof ridge height (with a maximum height of 19.5 feet above grade at the downhill elevation) and would continue to maintain the following pre-existing setbacks from corresponding property lines: 9-feet, 6-inches from the western front property line (along Cliff Street), 1-foot from the northern side property line, 0-feet, 3-inches from the southern side property line, and 2-feet, 1-inches from the eastern rear property line. Proposed exterior materials include grey-stained cedar shingles and grey composition roof shingles. Also proposed is a new septic system to serve the residence. The subject property is located at 4 Cliff Street, Dillon Beach, and is further identified as Assessor's Parcel 100-123-15.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 28, 2008, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 of the CEQA Guidelines because it entails the construction of a single family residence on an infill lot in a residential neighborhood that will not result in significant adverse environmental impacts on the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan and Dillon Beach Community Plan because it consists of the reconstruction of an existing single family residence on a developed lot which conforms to governing standards regarding building height and floor area ratio. In addition, Variance findings have been made to allow the proposed development to deviate from the setback requirements under the governing zoning district.
- 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:

Water service to the subject property would be provided by the California Water Service Company (formerly the Coast Springs Water Company). Conditions of approval require that the applicant comply with all requirements of the water company prior to final inspection.

B. Septic System Standards:

The Marin County Environmental Health Services Division (EHS) has reviewed and approved plans for a septic system to serve the residence. Conditions of approval require that the applicant comply with all EHS requirements regarding construction and installation of the new system prior to occupancy of the residence.

C. Grading and Excavation:

The proposed residence has been designed to utilize the same footprint as the existing structure on the site. Therefore, excavation work associated with the new residence would be very 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. The proposed project is not likely to disturb cultural resources because grading would be limited. However, in the unlikely event that cultural resources are uncovered during site preparation, conditions of approval require that all work 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 a developed residential lot within the village area of Dillon Beach and is not located between the sea and the first public road or adjacent to a coastal area identified by the Local Coastal Program, Unit I, where public access is desirable or feasible. Furthermore, the site does not contain any tidelands or submerged lands subject to the Public Trust doctrine.

F. Housing:

The proposed reconstruction of a small single family residence would not alter the existing availability of housing stock in the Dillon Beach community.

G. Stream Conservation Protection:

The subject parcel does not contain any streams or watercourses subject to the streamside conservation policies of the Marin Countywide Plan.

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 Natural Resources Map for Unit II of the Local Coastal Program indicates that the subject property may be located in an area of sensitive wildlife resources. In addition, review of the California Natural Diversity Data Base maps, prepared by the State Department of Fish and Game, indicates that the subject property is located in a habitat area for sensitive animal species including the Bumblebee scarab beetle (*Lichnanthe ursina*) and the San Bruno elfin butterfly (*Callophrys mossi bayrens*). However, it is unlikely that any of these species occur on the project site given its small size, lack of suitable habitat, developed character, and proximity to human activity. Based on these factors, reconstruction of the existing residence would not alter or disturb potential wildlife habitat for any sensitive species.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare and endangered plants. In addition, review of the Natural Diversity Data Base Maps on file with the Marin County Community Development Agency reveals that the subject property is not located in the habitat area for any rare or endangered plant species.

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. Furthermore, the proposed single family residence will require an approved building permit and shall be inspected to ensure compliance with the Uniform Building Code. 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.

O. Visual Resources:

No adverse impact to visual resources would result from construction of the project. The proposed residence is not located in a significant public view corridor along the beach and the height and size of the structure is consistent with the previous residence that existed on the site and compatible with the character of existing development in the area. 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 not located within any historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Variance (Section 65906 of the California Government Code, Section 22.86.025 of the Marin County Code,) as specified below.

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

The 2,100 square foot subject parcel was created in its current size and shape in 1911. Although the shape of the property is not unusual, the parcel is smaller than a majority of the other properties in the same block, and the available building envelope for residential development is restricted by various setback requirements associated with the on-site leachfield system and the pre-existing location of the existing residence, which the applicant is proposing to reconstruct. Together, the relatively small size of the parcel and the requirement to develop a code compliant septic system would be considered a special physical circumstance which limits the development potential of the property in comparison with other properties in the vicinity which are larger in size. Although not a characteristic of the lot itself, the pre-existing siting of the existing residence, which was constructed prior to the adoption of building setback requirements, is also a unique circumstance which impacts the development of the site. The existing residence maintains a setback of approximately 9.5 feet from the front property line, where a front setback of 10 feet is required by the governing zoning. To minimize the number of setback encroachments required, conditions of approval require that the plans be modified to ensure that the reconstructed residence maintains a minimum setback of 10 feet from the front property line, as required by the zoning. However, the strict application of the required side and rear setbacks would restrict the property owners ability to reconstruct the fire-damaged residence with substantially the same size and footprint as the existing residence.

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

The granting of the Variance would not be detrimental to the public welfare because the requested setback variances would not significantly impact the views, light, or privacy currently enjoyed by adjacent properties. The owner of the Paolini residence at 56 Beach Avenue, immediately east of the project site, has expressed concerns that the proposed project would adversely impact views from her kitchen and back patio (see Attachment 13). However, these concerns are more related to the height of the structure, which is well within the required limit, than the reduced setbacks which are the subject of this Variance. As noted previously, the applicant proposes to increase the finished floor elevation of the residence by 1-foot, 9-inches to accommodate a second bedroom below the main floor. However, the existing roof pitch would also be lowered, which would result in an overall maximum height reduction of approximately one foot (compared to the existing condition). As proposed, the highest roof ridge of the residence would range in height from 15 feet above grade toward the rear property line, to a maximum of 19.5 feet above grade at the downhill front elevation. Therefore, the residence would be well within the 20 foot height limit required by the governing zoning. In addition, the plans submitted by the applicant indicate that the Paolini kitchen window sill height would range from 0.5 to 1.5 feet above the height of the roof over the nearest portion of the

Ball residence. Therefore views from these windows out toward the ocean would be maintained. To minimize view impacts, the applicant reduced the main roof pitch from 3/12 to 2.5/12 (with a further reduction to 1.3/12 over the bedroom wing) and lowered the finished floor elevation of the house by 6 additional inches (see Attachment 12). Finally, it should be noted that the primary orientation of the Paolini residence is to the south across Beach Avenue and to the southwest across the property at 2 Cliff Street. The reduction or elimination of the setback encroachments which are the subject of this variance would not materially affect the extent to which the project impacts views from the Paolini residence. Based on these factors, findings can be made that the granting of the requested setback Variances would not result in adverse impacts to the public welfare or surrounding properties.

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

The granting of a Variance for the subject property would not constitute a grant of special privilege which is inconsistent with the limitations placed upon other nearby properties. Many of the existing homes in the Dillon Beach village area were constructed prior to adoption of the current zoning requirements, and therefore, are legal non-conforming with respect to yard setbacks. In addition, as described in the staff report, the County has granted a number of setback Variances on similarly zoned properties in the area. Consequently, approval of the proposed Variance would not be inconsistent with previous County actions in the community. Overall, the proposed Variance would allow for the reconstruction of a residence on the footprint of the existing home on the property, and would not result in development which is inconsistent with the location, size, height, or floor area of other residences in the vicinity under identical zoning.

4. The granting of a variance for the property does not authorize a use or activity which is not otherwise expressly authorized by the particular zoning district regulations governing such property.

The granting of a Variance for construction of a single-family residence would authorize a use or activity which is principally permitted under the governing C-R-1:B-D zoning district.

SECTION II: CONDITIONS OF PROJECT APPROVAL

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

Marin County Community Development Agency, Planning Division

1. Except as modified by these conditions, the Ball Coastal Permit 08-1 and Variance 08-14 is approved for the reconstruction of an existing fire damaged cottage on the 2,100 square foot subject property. As approved, the 1,490 square foot residence will be approximately 1 foot lower than the existing roof ridge height (with a maximum height of 19.5 feet above grade at the downhill elevation) and will maintain the following setbacks from corresponding property lines: 10 feet from the western front property line (along Cliff Street), 1-foot from the northern side property line, 0-feet, 3-inches from the southern side property line, and 2-feet, 1-inches from the eastern rear property line. Approved exterior materials include grey-stained cedar shingles and grey composition roof shingles. Also approved is the installation of a new septic system to serve the residence. The subject property is located at 4 Cliff Street, Dillon Beach, and is further identified as Assessor's Parcel 100-123-15.
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, "Cottage Reconstruction for the Gary Ball family," prepared by Kadello & Larsen Architects, submitted June 8, 2008, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the plans shall be revised to show a minimum front setback of 10 feet to the western property line (along Cliff Street).
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 Design Review conditions of approval as notes.
5. 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.
6. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front, side and rear 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 the front, side and rear property lines based on the approved setbacks as shown on the Building Permit plans.
7. 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.

8. 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.
9. 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 5:00 p.m., Monday through Friday, and 9:00 a.m. and 4:00 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 4th, 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. 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.
10. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
11. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
12. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
13. 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.

14. 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.
15. 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

16. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:
 - A. A registered Civil Engineer or Architect shall design the site retaining walls, drainage, and grading plans. Plans must have the engineer's or architect's signature and stamp.
 - B. A separate Building Permit is required for site retaining walls with a height of more than 4' (or 3' when back fill area is sloped or has a surcharge). Submit structural calculations signed and stamped by the design engineer.
 - C. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.
 - D. An encroachment permit shall be required for construction within the right-of-way and is subject to final review and approval by the Road Commissioner.
 - E. Note on the plans that the Design Engineer 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 prior to final inspection. Certification letters shall contain the address, assessor's parcel number and building permit number as required by the Building and Safety Division.

Environmental Health Services

17. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall comply with all requirements of Environmental Health Services staff related to the approved Sewage Disposal Permit #08-04.

California Water Service Company

18. BEFORE FINAL INSPECTION, the applicant shall comply with all requirements of the California Water Service Company related to water service to the approved residence.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Ball Coastal Permit/Variance approval by securing a Building Permit for the construction of the approved work and substantially completing the approved work by August 28, 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 September 5, 2008.

SECTION IV: ACTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 28th day of August, 2008.

JOHANNA PATRI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary