

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES**  
**Marin County Civic Center, Room #328 - San Rafael**  
**MEETING – October 16, 2008**

Hearing Officer      Johanna Patri, AICP

Staff Present:        Scott Greeley, Planner  
Christine Gimmler, Senior Planner

Joyce Evans, Recording Secretary

Convened at 9:10 A.M.  
Adjourned at 11:08 A.M.

**October 16, 2008**

# Marin County Community Development Agency

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Alex Hinds, Director

## NOTICE OF DECISION

Applicant's Name: Cooley Crawford  
Application (type and number): Use Permit Renewal (EX 09-2)  
Assessor's Parcel Number: 125-120-03  
Project Location: 0 Mt. Burdell, Novato  
For inquiries, please contact: Scott Greeley, Planner  
Decision Date: October 16, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the October 16, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-9.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer

**C1. USE PERMIT RENEWAL (EX 09-2): COOLEY A. CRAWFORD**

A proposal requesting renewal of a telecommunications Use Permit. This will authorize the continued operation of the telecommunications facility atop Mount Burdell. From this location KTLN broadcasts the digital channel DT 47 and analog station TV 68. No changes to the facilities are being considered at this time. The subject property is located at **0 Mt. Burdell, Novato**, and is further identified as **Assessor's Parcel 125-120-03**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report.

The applicant was present and had no questions on the Conditions of Approval.

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

The Hearing Officer concurred with staff's analysis and approved the Cooley Use Permit Renewal, based on the Findings and subject to the Conditions in the Resolution.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 08-  
A RESOLUTION APPROVING THE COOLEY USE PERMIT RENEWAL  
0 MOUNT BURDELL, NOVATO  
ASSESSOR'S PARCEL 125-120-03

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**SECTION I: FINDINGS**

- I. WHEREAS, KTLN, the applicant, is seeking a Use Permit renewal which will authorize the continued operation of the television broadcasting facility atop Mount Burdell. From this location KTLN broadcasts the digital channel DT 47 and analog station TV 68. No changes to the facilities are being considered at this time. **The subject property is located at 0 Mount Burdell in Novato, and is further identified as Assessor's Parcel 125-120-03.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing October 16, 2008, to consider the merits of the project and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 of the CEQA Guidelines because it entails continuing a previously permitted use with no new expansion and would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
  - A. The project would be consistent with the AG1 (Agriculture, 31-60 acre minimum lot size) land use designation;
  - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. (CWP Policies Noise Policies NO-1.2, NO-1.3);
  - C. The project has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-3.1, EH-4.1, Community Design Policies DES-4.1, DES-5.1);
  - D. The project will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (Environmental Quality Policies EQ-2.19, EQ-2.20, Environmental Hazards Policy EH-8.6);
  - E. The project will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the Novato Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers. (CWP Policies, Environmental Quality Policy EQ-3.9);

- F. No wetlands or stream conservation areas will be affected by the project (CWP Policies, Biological Resources BIO-3.1, BIO-4.1);
  - G. The project will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1, BIO-1.3, BIO-2.1);
  - H. The project will preserve community character (CWP Policies, Open Space OS-1.2, Agriculture and Food AG-1.6, Community Design DES-1.2, DES-4.c)
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Use Permit Renewal (Section 22.48.040 of the Marin County Code) as specified below.

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

The proposed project is a permitted conditional use for the A-60 zoning district and complies with all other applicable provisions of the Use Permit ordinance.

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

The proposed project complies with the policies and permitted uses for the AG1 land use designation of the Countywide Plan.

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

The proposed project has been determined to be Categorically Exempt from CEQA per Section 15301, Class 1 of the CEQA Guidelines because it entails no new expansion of the already permitted facilities.

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

The existing telecommunications facility sits atop Mount Burdell and is well concealed from view due to the parcel size, exterior colors utilized, and the satisfaction of the landscaping requirements made part of the original Use Permit conditions. No changes or additions have been proposed.

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

The proposed project is to renew a use permit for an existing facility. No changes in use or additions have been proposed. The proposed use is permitted with a Use Permit in the A-60 zoning district and mitigation measures to conceal the facility with location, landscaping, and exterior coloring to have it blend with its location were made part of the original Use Permit Conditions of Approval.

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

The project is located at the top of Mount Burdell in Novato. The adjacent properties are parklands and similarly zoned, large lot, low density agriculturally-based properties. No changes or additions have been proposed to the telecommunications facility. The project has been determined to have no potential health risks based on its location, coupled with the type of telecommunications facilities which do not result in the generation of hazardous levels of non-ionizing electromagnetic radiation. Additionally, these facilities can be utilized to provide information during emergencies.

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

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

1. The project shall substantially conform to plans identified as "Exhibit A.1," entitled, "Mount Burdell Telecommunications Facility Marin County," consisting of nine sheets prepared by Kenneth E. Carr & Associates, Civil Engineering Services, dated June 26, 1997 and received July 25, 2008, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. No trees shall be removed from the project site other than those identified for removal on the originally Planning Commission approved, October 12, 1992 landscape plan without prior authorization from the Planning Director.
3. All on-site tree trimming, cropping, and similar activities shall be conducted only under the on-site inspection of a licensed landscape architect or certified arborist.
5. All utility connections and extensions serving the project shall be installed underground.
6. Exterior lighting shall be directed downward, and located and/or shielded so as not to cast glare on nearby properties.
7. 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 approval of the project, for which action is brought within the applicable statute of limitations.
8. 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.
9. Approval of the Mount Burdell Telecommunications Facility Use Permit and Design Review shall expire ten years from the date of project approval. Interim compliance inspections shall be conducted by the Planning Director in three and six years from project approval.

**SECTION III: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on **October 30, 2008.**

**SECTION IV: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 16<sup>th</sup> day of October 2008.

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JOHANNA PATRI  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary

# Marin County Community Development Agency

Brian C. Crawford, Director

## NOTICE OF DECISION

Applicant's Name: Jamie Sutton

Application (type and number): Coastal Permit (CP 06-31), and Use Permit (UP 09-8),

Assessor's Parcel Number: 195-162-45, and -46

Project Location: 3715 Shoreline Highway, Stinson Beach

For inquiries, please contact: Christine Gimmler, Senior Planner

Decision Date: October 16, 2008

**DETERMINATION: Approved with Conditions**

Minutes of the October 16, 2008, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-32.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer



**H2. A. NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT:  
SUTTON COASTAL PERMIT (CP 06-31) AND USE PERMIT (UP 09-8)  
B. SUTTON COASTAL PERMIT (CP 06-31) AND USE PERMIT (UP 09-8)**

A proposal requesting 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, a new 748 square foot residence 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. Easkoot Creek is a blue line stream that traverses the northern half of the parcel. 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 residences, 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 1649 square foot residence would attain a maximum height of 23 feet, 6-inches above grade and the proposed 748 square foot residence 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). The property address is **3715 Shoreline Highway, Stinson Beach, California 94937**, and is further identified as Assessor's Parcels **195-162-45 and -46 (formerly 195-162-39)**.

The Hearing Officer acknowledged additional comment letters from staff dated October 10, 2008, with attached correspondence from the Stinson Beach Water District and Marin County Department Public Works, a fax from Michael Mitchell dated October 15, 2008 and an e-mail received this morning from the Sierra Club.

In response to the Hearing Officer, staff summarized her memo dated October 10, 2008 in response from the Stinson Beach Water District regarding the drainage plans and an updated Resolution. The letter from Michael Mitchell dated October 15, 2008 concerns the County's requirement allowing no additional development or increase in impervious surfaces within the Stream Conservation Area (SCA) on three projects of his. She stated she has not reviewed the e-mail received this morning from the Sierra Club.

The Hearing Officer stated that the E-mail from the Sierra Club expressed concerns with proposed improvements within the 50 foot Stream Conservation Area (SCA) and long term creek protection requirements

The Hearing Officer noted for the record that the proposal in front of her today is not a continuation of an existing legal, nonconforming use or structure, whereby no additional impervious surfaces are allowed, no additional square footage is allowed. The proposal is the demolition of a legal, nonconforming structure, thereby making the property a vacant parcel, or in this case two legal, vacant parcels that are required to be merged into one legal, vacant parcel.

Michael Mitchell submitted to the Hearing Officer, three photos: two showing story poles with netting down and not accurate location as to distance from top of bank and one showing location of fire hydrant.

The public testimony portion of the hearing was opened.

Jamie Sutton, owner, Peter Frau, architect and Geraldine Green spoke in favor of the project including:

- Making accommodations for the additional parking spot;
- Plans to use permeable surfaces where possible; and
- A modest, green home is being considered and should be applauded.

Michael Mitchell, Tony Lewis, Ed Schmidt, Stinson Beach Water District, Jim Zell, Elizabeth Spaniani (letter), Rich Sousa, Engineer for the Stinson Beach County Water District, Scott Tye, Stinson Beach Village Association, (County of Marin Surfrider), and Don Anderson spoke regarding their concerns with:

- Commercial zoning for a residential project;
- Increase in impervious surfaces by 20% on the site as it stands;
- The Lowery project (2 Calle del Embarcadero) had to get a Variance and the same standards should apply to this project;
- The front, closest corner to the creek was not 50 feet from the top of the creek bank which could set a precedent for other projects;
- Stinson Beach Water District has never granted a Variance for a septic system in the Stream Conservation Area (SCA) and made an agreement with the applicant to have nothing in the 50 foot area;
- An appeal will be filed if structures are left in the 50 foot Stream Conservation Area (SCA);
- Compromises have been made to allow the Suttons to construct a home in the flood plain;
- Sewage discharge limits are not being met by the number of bedrooms;
- The flow is 100 gallons average, not to exceed 150 gallons per day;
- The National Ocean and Atmospheric Administration (Gulf of the Farrolones) was not consulted on the project;
- Lack of an EIR review that was requested by the Stinson Beach Village Association;
- The Bolinas Lagoon Task Force Study Restoration Project and the US Court of Appeals reports should have been used as guides for construction next to water; and
- The health of the creek should be the first consideration.

Scott Tye submitted a drainage plan that he highlighted for clarity, showing where the water exists. He noted that three feet is tidal and six feet is flooding that occurs in the winter.

Jamie Sutton, owner, responded that he understands the strong feelings about the property and noted that:

- He purchased the property because of his love of the creek flowing on it;
- He attempted to make the project economical, but is now facing overruns;
- The best environmental experts were retained to decide the best way to restore the creek;
- Impervious surfaces were thought out and much of the old asphalt is going to be torn out to direct the water away from the neighbors;
- Every attempt has been made to adhere to the different standards for pervious surfaces; and
- Many meetings were attended with the Stinson Beach County Water District and the Stinson Beach Village Association to create a project that would satisfy all requirements.

The public testimony portion of the hearing was closed.

The Hearing Officer noted that the project has been designed to meet FEMA development standards and flooding episodes, regulations that are administered by the Marin County Department of Public Works and construction details will be reviewed through the building permit process.

In response to the Hearing Officer, staff stated that the Regional Water Quality Board had received a copy of the Initial Study for review and did not send in any comments. She spoke to Blair Allen after the first hearing to confirm that they had no written comments. The California Coastal Commission is also on our mailing list and did not comment on the project.

In response to the Hearing Officer, Berenice Davidson, Department of Public Works, stated that her staff had reviewed the drainage plan and had e-mailed their requirements on October 9, 2008. They are willing to work with the applicants for acceptable guidelines to divert drainage into the creek. She further stated that the Department of Public Works will not allocate parking in the right-of-way for exclusive use and the fire hydrant can not be blocked.

In response to the Hearing Officer, staff acknowledged that Condition of Approval #15 states that before the permit is issued and before final inspection, the restoration plan must be in place.

The Hearing Officer directed staff to add to Condition of Approval #13:” During demolition, a qualified biologist will be present at all times to insure that recommended deconstruction measures are followed.

In response to the Hearing Officer’s concerns that the structure in built with an absolute 50-foot Stream Conservation Area (SCA). Staff suggested modifying Condition of Approval #17 to state that in addition to a survey of all property lines, the licensed land surveyor or civil engineer shall verify that the foundation of the structure(s) is setback a minimum of 50 feet from the top of bank. She further noted that the site plan submitted for building permits is prepared by a licensed engineer showing where the top of bank and the 50-foot SCA are located. The story poles may have been constructed without the benefit of a surveyor.

The Hearing Officer noted that she will abide by the Countywide Plan policies as to what is allowed within an SCA and all structures and site disturbances shall be removed from the Stream Conservation Area (SCA) including fences, decks, and propane enclosure .

The Hearing Officer directed staff to Modify Finding IV (CWP Policies) to include specific Countywide Plan policies contained in the Negative Declaration listed as A, B, C etc.

Condition 1 Add: Driveways shall be permeable surfaces and all improvements shall be removed from the 50-foot SCA with no encroachments into the 50-foot SCA buffer zone.

Condition 28T. second sentence; The area of the driveway approach for the second residence shall be a pervious surface acceptable to DPW between the property line and the edge of pavement of Calle Del Arroyo. and references to the second unit will be removed.

Add to Condition of Approval #23: The utility post at the front of the property shall be removed, prior to final inspection, unless written verification is received from the utility company that the utility pole cannot be removed.”

New Condition of Approval #27 – ‘BEFORE FINAL INSPECTION of the creek restoration project and the first residence, the applicant shall record against the title of the property a Private Stream Conservation Area (SCA) Agreement with an Exhibit prepared by staff with the following provisions:

- a. Current and future owners are prohibited from removing existing healthy landscaping and trees within the delineated Stream Conservation Area (SCA) without County approval.
- b. Structures and/or site disturbance is prohibited within the Stream Conservation Area without County approval.
- c. The current owners or future owners(s) are prohibited from using toxic pesticides or herbicides within the Stream Conservation Area (SCA) that could result in the discharge of toxic materials into surface, ground waters or the creek.

The Hearing Officer noted for the record that the property is zoned C-H-1. In accordance with Marin County Interim Development Code Title 22I for the Coastal Zone, Section 22.57.113i, allows one family, two family and multiple residential dwellings within the C-H-1 zoning district with Use Permit approval and subject to all FEMA, parking, and other County regulations. Rezoning of this property could take place during the Local Coastal Program updates and development code amendments and rezoning classifications within the Coastal Zone, which are being developed at this time.

Add new Finding V and renumber accordingly: Whereas the Marin County Deputy Zoning Administrator finds that the project as modified with Conditions of Approval is consistent with the pertinent policies of the Stinson Beach Community Plan for the reasons outlined below:

- A. The project will not adversely affect the neighborhood view shed or watershed;
- B. The project site is served by the existing roadway network;
- C. The project will not result in adverse effects to the health of Easkoot Creek;
- D. The project will be served by water service and an on-site sewage disposal system approved by the Stinson Beach Water District;
- E. The project will not adversely impact the surrounding built environment relative to off-site views from adjacent properties, privacy for the subject and surrounding properties, and building design, siting, height, mass and bulk

The Hearing Officer questioned a memo from the Department of Public Works dated January 17, 2008 – DZA Attachment #8, that made reference to onsite wastewater disposal systems avoiding impairment and prevent waste water discharge during flooding. Staff clarified that the language is from FEMA, but the sewage district handles the monitoring. The Hearing Officer stated that this Condition of Approval shall go into the Stinson Beach County Water District conditions. The District shall be responsible for monitoring the flow of the onsite sewage disposal system so as to avoid waste disposal discharge into the creek during flooding. Ed Schmidt, the District Manager, concurred with this condition.

The Hearing Officer added to Condition of Approval #1, “No balcony or decks are allowed off of the second story element and no space will be converted to kitchens with additional plumbing without County approval.

Add Condition of Approval: “BEFORE ISSUANCE OF BUILDING PERMIT for any of the improvements, the Notice of Decision will be recorded against the title of the property by the Community Development Agency staff.”

Add (to Condition of Approval 28Q and 5) prior to issuance of the building permit, the design engineer shall provide calculations, references, model studies, reports, watershed topography, and other pertinent information as deemed necessary by DPW. Analyses used in the design shall be based upon the one hundred-year storm in accordance with Marin County Code Title 24 Section VI. Drainage Facilities.

The Hearing Officer approved the Resolution adopting the Sutton Negative Declaration of Environmental Impact.

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

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 08-151

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 16th day of October 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 08-152

A RESOLUTION APPROVING WITH CONDITIONS THE SUTTON  
COASTAL PERMIT/USE PERMIT/DESIGN REVIEW  
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 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, a new 748 square foot residence 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 residences 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 1,649 square foot residence would attain a maximum height of 23 feet, 6-inches above grade and the proposed 748 square foot residence 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 duly noticed public hearings on August 14, September 11, 2008, and October 16, 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. Specifically, the proposed project is consistent with Marin Countywide Plan policies related to the following issues:

- A. **Stream Conservation Area Protection** (CWP Policy BIO-4.1) – 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. 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,
- B. **Protection of Riparian Systems** (CWP Policies BIO-4.4, 4.7, and 4.8) - The proposed project would improve the hydraulic capacity and natural function of Easkoot Creek as it traverses the subject property by removing an existing structure which spans the creek and thereby replacing impervious surface with pervious surface. All existing riparian vegetation along Easkoot Creek would be retained and the project proposes a riparian planting plan which would revegetate previously disturbed portions of the creek banks with native riparian vegetation. Accordingly, the project would increase the amount and quality of riparian vegetation on the site.
- C. **Species and Habitat Preservation** (CWP Policies BIO-2.2 and 2.4) – Subject to recommended mitigation measures, the proposed project would not adversely impact special-status species and communities. In addition, 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. Therefore, the project would be consistent with policies related to protection of special status species and wildlife linkage and movement corridors.
- D. **Avoidance of Hazards** (CWP Policies EH-2.1, 2.3, and 3) - Project design measures would avoid or minimize potential impacts related to soil stability and seismicity. In addition, the proposed project has been designed to conform with FEMA requirements intended to keep improvements above flood hazard levels. Therefore, the proposed project would not cause

impacts that expose people or property to geologic hazards such as earthquakes, ground failure, or liquefaction or water related hazards such as flooding.

- E. **Erosion Control** (CWP Policies WR-2.3 and BIO-4.15) – Geotechnical investigations and a hydrological assessment were completed to evaluate the project with respect to erosion, sedimentation, and drainage systems. Subject to recommended mitigation measures resulting from these studies, the proposed project would avoid adverse impacts related to soil erosion from excavation, grading, and increased human activity.
- F. **Protection of Visual Resources** (CWP Policy DES-4.1) - The visual resources of the subject property would not be adversely impacted because the project would result in residential development that is compatible with single-family residences in the community and the proposed density is consistent with the density standards of the Countywide Plan. The development has been designed to conform to applicable zoning and community plan requirements for maximum height, architectural style, color, and materials to ensure that it harmonizes with existing community standards for new development. Within the constraints imposed by the location of Easkoot Creek, the project 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. Finally, standard conditions of approval would ensure that proposed and required landscaping intended to screen new development and minimize impacts on the overall visual character of the site is installed prior to occupancy of the structure.
- G. **Protection of Archaeological Resources** (CWP Policy HAR-1.3) - The existing structure on the project site proposed for demolition has not been identified as having historic value. Since the project is located in a mapped area of high archeological sensitivity, the project incorporates mitigation measures which would ensure that the proposed project would result in less-than-significant impacts to archaeological resources.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the project, as modified by conditions of approval, is consistent with the pertinent policies of the Stinson Beach Community Plan for the reasons outlined below:

- A. The project will not adversely affect the neighborhood view shed or watershed;
- B. The project site is served by the existing roadway network;
- C. The project will not result in adverse effects to the health of Easkoot Creek;
- D. The project will be served by water service and an on-site sewage disposal system approved by the Stinson Beach Water District; and
- E. The project will not adversely impact the surrounding built environment relative to off-site views from adjacent properties, privacy for the subject and surrounding properties, and building design, siting, height, mass and bulk.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve 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 two modestly-sized residences 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.

- VII. 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 two smaller residences 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.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Design Review per Marin County Code Section 22.82.040 for the reasons listed below.

The project is consistent with the required findings cited above because the project would result in structures of a height, mass and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of two residences on the property would conform to a conditionally-permitted use in the C-H-1 zoning district which governs the subject property and would be situated solely on the subject property. The project has been designed to maintain existing drainage patterns on the property and would not result in extensive grading, excavation, tree removal, or other adverse physical effects on the natural environment. Although the residential structures would be visible from the adjacent properties, 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 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 (which range from 8 to 44 percent, with an average floor area ration of 23.7 percent for the 20 developed properties surveyed along Calle del Resaca and Calle del Onda). 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. Overall, 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. Based on these factors, the proposed project would be consistent with the mandatory findings for Design Review.

## 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/Design Review 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 structures 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 and -46.
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 revise the plans for review and approval of the Community Development Agency Director as follows:
  - a. Show a minimum setback of 6 feet from the southern side property line for all portions of the residential structures, including the carport,.
  - b. All site fencing shall maintain a minimum open "gap" of one foot from grade for drainage purposes.
  - c. The floor plans shall be revised to eliminate all deck or balcony areas on the second story element.
  - d. Parking areas shall be constructed using permeable surface materials acceptable to DPW.
  - e. All improvements shall be removed from the 50-foot SCA with no encroachments into the 50-foot SCA buffer zone, including fencing.

- f. No additional kitchens shall be installed within the structures without review and approval of the Marin County Community Development Agency and Stinson Beach County Water District
6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit for review and approval of the Community Development Agency Director and Department of Public Works staff a revised site plan which provides one additional on-site parking space to serve the smaller residence by widening the indicated parking area by a minimum of 2-feet, 8-inches (for a total width of 17 feet). Alternative on-site parking layouts may also be considered subject to County review and approval
  7. 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. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the subject property shall be 2 Calle del Onda.
  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. 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.
  10. 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.
  11. 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
  12. 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

13. 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. DURING DEMOLITION, a qualified biologist will be present at all times to ensure that recommended deconstruction measures are followed.
14. 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.
15. 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.
16. 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.
17. 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 the top of creek bank 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 and the top of bank based on the approved setbacks as shown on the Building Permit plans.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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. Consistent with the applicants voluntary offer, the utility pole along the Calle del Arroyo frontage shall be removed prior to final inspection, unless written verification is received from the utility company that the pole cannot be removed.
24. 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.
25. 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.

26. 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.
27. BEFORE FINAL INSPECTION of the creek restoration project and the first residence, the applicant shall record against the title of the property a Private Stream Conservation Area (SCA) Agreement with an Exhibit prepared by staff with the following provisions:
  - a. Current and future owners are prohibited from removing existing healthy landscaping and trees within the delineated Stream Conservation Area (SCA) without County approval.
  - b. Structures and/or site disturbance is prohibited within the Stream Conservation Area without County approval.
  - c. The current owners or future owners(s) are prohibited from using toxic pesticides or herbicides within the Stream Conservation Area (SCA) that could result in the discharge of toxic materials into surface, ground waters or the creek.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, the Notice of Decision shall be recorded against the title of the property by the Community Development Agency staff.
29. 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

30. 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 a final drainage plan for the property including the following modifications: 1) all roof drainage shall be collected and drained away from the foundation and cannot be piped directly into the street or the creek; 2) provide a 5% grade for a minimum of 10-feet from the foundations to direct drainage away from the structures, consistent with the new 2007 Building Code; 3) the drainage plan shall be internally consistent with the site plan and architectural

plans; 4) proposed construction outside the property lines shall be removed from the plans. Prior to issuance of Building Permit, the design engineer shall provide calculations, references, model studies, reports, watershed topography, and other pertinent information as deemed necessary by DPW. Analysis used in the design shall be based upon the one hundred year storm in accordance with Marin County Code Title 24, Section VI, Drainage Facilities.

- R. An encroachment permit shall be required for work within the road right-of-way of Calle Del Arroyo.
  - S. Revise plans to show a minimum of two on-site parking spaces for each of the two residential units. .
  - T. The surface of the all on-site parking areas shall be permeable except for driveway approaches from County-maintained roads. The area the driveway approach for the western unit shall be a pervious surface acceptable to DPW 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.
31. 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**

32. 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, including review and approval of the final drainage plan for the property. The District shall be responsible for monitoring the flow of the on-site sewage disposal system so as to avoid waste disposal discharge into the creek during flooding.

**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/Design Review approval by securing a Building Permit for the construction of the approved work and substantially completing the approved work by October 16, 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 October 23, 2008.

**SECTION IV: ACTION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 16th day of October, 2008.

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JOHANNA PATRI, AICP  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary