

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – March 26, 2009

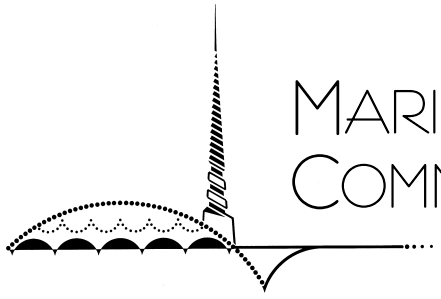
Hearing Officer Johanna Patri, AICP

Staff Present: Veronica Corella-Pearson, Planner
 Scott Greeley, Planner
 Neal Osborne, Planner

Joyce Evans, Recording Secretary

Reconvened at 9:03 A.M.
Adjourned at 9:31 A.M

March 26, 2009



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **JOHN AND EILEEN DONAHOE**

Application (type and number): Coastal Permit (CP 09-10), Design Review (DR 09-17)
and Variance (VR 09-4)

Assessor's Parcel Number: 195-041-14

Project Location: 142 Seadrift Road, Stinson Beach

For inquiries, please contact: Veronica Corella Pearson, Planner

Decision Date: March 26, 2009

DETERMINATION: Approved with Conditions

Minutes of the March 26, 2009, Deputy Zoning Administrator's hearing is attached specifying action and applicable conditions 1-24.

Marin County Community Development Agency

Johanna Patri, AICP,
Hearing Officer

C1. COASTAL PERMIT (CP 09-10), DESIGN REVIEW (DR 09-17) AND VARIANCE (VR 09-4): JOHN AND EILEEN DONAHOE

A proposal for the demolition of an existing, 2,167 square foot single-family residence and detached 2-car garage, and replacement with a new single-family residence that would be 3,021 square feet in size, with a 440 square foot garage. The proposed residence would have a maximum height of 35.9 feet above M.L.L.W (34 feet NGVD), as measured from the northern (front) elevation and would maintain the following setbacks to the nearest property line: 6 feet side (east), 29 feet, 6 inches rear (north), and 6 feet side (west). The residence would contain one habitable floor level and would be elevated above the base flood elevation to comply with FEMA flood control requirements. The four-bedroom, three and a half bathroom residence would be served by a new private septic system on site. A Variance from MCC Section 22.57.094.I(2) is required for the proposed maximum height of 35.9 feet above M.L.L.W. (34 feet NGVD), where 33 feet above M.L.L.W is the maximum height standard and for the proposed finished floor elevation of 22.4 feet above M.L.L.W, where 18 feet above M.L.L.W. is the maximum standard allowed by the C-RSPS-2.9 zoning district. Variance approval is also required from MCC 22.56.130.O.I(1) for deviation from the Sea Drift Subdivision maximum height limit of 15 feet above finished floor elevation. The applicant further proposes: 1) two decks on the south and central portion of the residence; 2) new landscaping; 3) new septic system; 4) new arbor; and 5) the removal of five trees that are from 5 inch to 12 inches in diameter. The subject property is located at **142 Seadrift Road, Stinson Beach**, and is further identified as **Assessor's Parcels 195-041-14**.

In response to the Hearing Officer, staff summarized the supplemental memorandum dated March 25, 2009, regarding three items that were not addressed in the Staff Report and Resolution, which included: a new 6 foot tall fence, a new wooden walkway at grade, and temporary silt fencing during construction. Staff noted that a Condition of Approval from the memo dated December 10, 2008 by the Department of Public Works was added in regards to the propane tank. On March 25, 2009 a letter from the neighbors at 140 Seadrift was received, dated March 24, 2009, regarding concerns with the height of the fence and potential privacy impacts. Staff modified Condition of Approval #7 to address the privacy concerns. All changes were made and reflected in the revised recommended resolution. In addition, prior to the hearing staff had received from the architect, Michael Mitchell, a section drawing depicting the residence as viewed from the beach side looking towards the proposed residence and the neighboring property at 140 Seadrift.

The public testimony portion of the hearing was opened.

Michael Mitchell, architect, spoke regarding the height of the fence and the rules and regulations of the Seadrift Association, which allow for a fence to be higher than 6 feet with neighbor agreement. He questioned Condition of Approval #7, stating that landscaping at 15 feet in height would be excessive, and would impact light and air. Mr. Mitchell stated that fencing around the height of 8 to 9 feet would be more appropriate and would adequately provide privacy screening.

Peter Trendell, neighbor, and co-owner of 140 Seadrift, spoke regarding concerns with privacy, the preference for a fence 9 feet in height, and the vegetation proposed near the beachfront.

Michael Mitchell, architect, stated that a nine foot fence would be acceptable, but anything greater would affect light and views. In response to the Hearing Officer, Mr. Mitchell, stated that the owner would be willing to locate the fence on the subject property.

The public testimony portion of the hearing was closed.

Staff concurs that a fence with lattice, that attained a maximum height of 9 feet would be appropriate, and should be shown on the plans.

The Hearing Officer approved the project with a condition of approval that would allow for a fence that attained a maximum height of 9 feet, on the subject property, and allowed additional landscaping in the future without permits.

The Hearing Officer concurred with staff's analysis and approved the Donahoe Coastal Permit, Variance, and Design Review, based on the Findings and subject to the conditions in the Resolution as modified.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 09-109

A RESOLUTION APPROVING WITH CONDITIONS

THE DONAHOE COASTAL PERMIT (CP 09-10), DESIGN REVIEW (DR 09-17), AND VARIANCE
(VR 09-4)

ASSESSOR'S PARCEL 195-041-14

142 SEADRIFT ROAD, STINSON BEACH

SECTION I: FINDINGS

- I. WHEREAS the applicant, Michael Mitchell, is applying on behalf of the owners, John and Eileen Donahoe, for Coastal Permit and Design Review approval for the demolition of an existing, 2,167 square foot single-family residence and detached 2-car garage, and replacement with a new single-family residence that would be 3,021 square feet, with a 440 square foot garage. The proposed residence would have a maximum height of 35.9 feet above M.L.L.W (34 feet NGVD), as measured from the northern (front) elevation and would maintain the following setbacks to the nearest property line: 6 feet side (east), 29 feet, 6 inches rear (north), and 6 feet side (west). The residence would contain one habitable floor level but would be elevated above the base flood elevation to comply with FEMA flood control requirements. The four-bedroom, three and a half bathroom residence would be served by a new private septic system on site. A Variance from MCC Section 22.57.094I(2) is required for the proposed maximum height of 35.9 feet above M.L.L.W. (34 feet NGVD), where 33 feet above M.L.L.W is the maximum height standard and for the proposed finished floor elevation of 22.4 feet above M.L.L.W, where 18 feet above M.L.L.W. is the maximum standard allowed by the C-RSPS-2.9 zoning district. Variance approval is also required from MCC 22.56.130.OI(1) for deviation from the Sea Drift Subdivision maximum height limit of 15 feet above finished floor elevation. The applicant further proposes: 1) two decks on the south and central portion of the residence; 2) new landscaping; 3) new septic system; 4) new arbor; 5) the removal of five trees that are from 5 inch to 12 inches in diameter; 6) a new 6 foot tall fence along the eastern property line, between 140 and 142 Seadrift, which would be constructed of Redwood; and 7) a new wooden walkway at grade that would extend for approximately 81 feet from the beachfront building setback along the eastern property line. The applicant is also proposing Best Management Practices to prevent erosion and sedimentation and disturbance to wildlife in the event that they may attempt to access the site.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing on March 26, 2009 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 Sections 15303, Class 3(a) because it entails construction of a new single-family residence on a previously-developed residentially-zoned parcel that would not result in any 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 because:
- A. The project is consistent with *CWP* natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
 - B. The project complies with *CWP* natural systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).
 - C. The project will not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - D. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on other lands adjacent to the project site, or impact corridors for wildlife movement (*CWP Policies BIO-2.3 and BIO-2.4*).
 - E. No wetlands or stream conservation areas will be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - F. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - G. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application review (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
 - H. The project design and improvements ensure adequate fire protection (*CWP Policy EH-4.1*), water for fire suppression (*CWP Policy EH-4.c*), defensible space, compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - I. The project as conditioned will minimize exterior lighting to reduce light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
 - J. The project will preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).

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

A. Water Supply:

The proposed project will result in the demolition of an existing single-family residence and the construction of a new single family residence on a lot that is already served by the Stinson Beach County Water District. Therefore, the project site already has a viable water source and the proposed project would not result in an increase in demand for water.

B. Septic System Standards:

The proposed new single-family residence would be served by a new on-site private septic system. This system has been reviewed by the Stinson Beach County Water District, which is the agency that has jurisdiction over reviewing septic systems in this area of Marin County. This agency has determined that the proposed new system would comply with all relevant standards.

C. Grading and Excavation:

The proposed project consists of the construction of a new single-family residence in the same general location as an existing single-family residence on a level site, therefore the structure will require minimal grading.

D. Archaeological Resources:

The proposed project is located within the Seadrift area of Stinson Beach. A review of the Marin County Archaeological Sites Inventory indicates that virtually the entire Stinson Beach area, including the subject property, is considered to be an area of high archaeological sensitivity. However, it is unlikely that the project would disturb cultural resources because the proposed project would result in the construction of a new single-family residence on an existing, previously-disturbed residential building site. In addition, a standard condition of approval has been applied to the project requiring that, in the event that cultural resources are uncovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate protection measures.

E. Coastal Access:

The subject property is a previously developed ocean-front parcel. Coastal access from the end of Seadrift Road is provided for with an open space area and a lateral access easement across the southern beach portion of the property between the mean high tide line and the existing rip rap boulders.

F. Housing:

The proposed project will replace an existing single-family residence and will have no impact upon the availability of affordable housing stock within the Stinson Beach community.

G. Stream and Wetland Resource Protection:

The proposed residence is not located within the vicinity of any streams or wetlands, and will therefore not result in any impact upon stream or wetland resources.

H. Dune Protection:

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

I. Wildlife Habitat:

A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property contains habitat for the Western snowy plover (*Charadrius alexandrinus nivosus*) and Myrtle's silverspot (*Speyeria zerene myrleae*). A Biological Assessment was provided and a site visit was conducted and it was found that the site does not contain suitable habitat and no special status species were observed. Therefore it was determined that the project is unlikely to adversely impact listed species. In addition the applicant is proposing protection measures that would be employed to protect wildlife in the event that they may attempt to visit the project site.

J. Protection of Native Plant Communities:

A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property contains habitat for the Coastal marsh milk-vetch (*Astragalus pycnostachyus var. pycnostachyus*), Lyngbye's sedge (*Carex lyngbyei*), Tiburon paintbrush (*Castilleja affinis ssp. neglecta*), San Francisco Bay Spineflower (*Chorizanthe cuspidata var. cuspidata*), Round-headed Chinese-houses (*Collinsia corymbosa*), Point Reyes bird's beak (*Cordylanthus maritimus ssp. paulustris*), and Blue coast gilia (*Gilia capitata ssp. chamissonis*). A Biological Assessment was provided and a site visit was conducted and it was found that the site does not contain suitable habitat for five of the above mentioned species, and the other species were not observed. Due to the lack of habitat, amount of existing disturbance, and the fact that no species were observed, it was determined that it is unlikely that the project would adversely impact listed species.

K. Shoreline Protection:

The proposed new residence meets the shoreline setback standards of the Seadrift community, and would be located in the general vicinity of the existing residence, and therefore would not impact any shoreline resources.

L. Geologic Hazards:

The project site is located within one mile of the San Andreas Fault Zone and would be subjected to strong ground shaking during a seismic event. The Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code. In addition, as a condition of approval, the applicant shall execute and record a waiver of liability holding the County, other governmental agencies,

and the public harmless of any matter resulting from the existence of geologic hazards or activities on the subject property.

M. Public Works Projects:

The proposed project will not affect any existing or proposed public works project in the area.

N. Land Division Standards:

No land division or property line adjustment is proposed as part of this project.

O. Visual Resources:

The proposed project entails construction of a new residence 35.9 feet above M.L.L.W. in the same general area as an existing single-family residence. The proposed new residence has been designed to be in keeping with the character of the Seadrift area while also complying with current FEMA BFE standards. The project has been reviewed by the local Seadrift Property Owner's Association for compliance with all local design standards and has been found consistent with those standards. In addition, the project will not impair or obstruct coastal views from any public street or public viewing location.

P. Recreation/Visitor Facilities:

The project will not have any impact upon recreation or visitor facilities.

Q. Historic Resource Preservation:

The project site is not located within any designated historic district boundaries as identified in the Marin County Historic Study for the Local Coastal Program. Additionally, completion of the proposed work will not affect or impact the character of the Seadrift community.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Design Review (Section 22.82.040I of the Marin County Code), which are made below:

A. The proposed development is consistent with the Marin Countywide Plan and any applicable community plan and local coastal program:

As noted in Section IV and V above, the project complies with all policies of the CWP and the findings required for Coastal Permit Application. In addition the project has received approval from the Seadrift Home Owners Association.

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

The project is consistent with this finding because the new residence and accessory structures would result in a structure with a height, mass, and bulk proportionately appropriate to the site and neighboring development, and has been reviewed and approved by the Seadrift Property Owners Association.

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

The project has been designed to be in the general location of the existing residence, proposes new landscaping, and will retain the existing fence and vegetation along the property lines to preserve privacy. Further the project will maintain the setback standards required by the Seadrift Association.

- D. The proposed development will not directly, or cumulatively, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way;**

The proposed project is located entirely within the subject parcel and as conditioned would not result in development that would impact future improvements to the surrounding properties.

- E. The proposed development will be properly and adequately landscaped with maximum retention of trees and other natural material;**

The proposed project would plant California native plants and would remove the minimum amount of trees necessary, and proposes construction which would meet the "Gold" rating under the New Home Green Building Residential Design Guidelines.

- F. The project will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design or juxtaposition. Adverse effects may include, but are not limited to, those produced by the design and location characteristics of:**

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

The residence incorporates colors and materials which are in keeping with the surrounding community and the residence is broken into smaller components and incorporates articulations and height changes which minimize mass and bulk. The applicant also makes use of the available understory space for the location of the garage, reducing the amount of development. Therefore, the project has been designed to minimize adverse visual effects related to design and building massing.

- 2. Drainage systems and appurtenant structures;**

All conceptual plans have been reviewed by the Department of Public Works and no appurtenant structures are proposed.

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

The residence will be located on a level parcel, and will be located within the location of the existing residence, and therefore will not require retaining walls or bulkheads.

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

The proposed project is located entirely on the subject parcel and would not be located within rights-of-way or affect the movement of people or vehicles.

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

As noted in B above, the project would not result in the loss of light, views, or privacy to adjacent residences.

G. The project contains features such as roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.

The applicant is proposing construction that would meet the Green Building Rating of "Gold," and the project would be required to meet Title 24 and Ordinance 3492. In addition the design of the project has been approved by the Seadrift Home Owners Association.

VII. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Variance (Section 22.86.052.4 of Marin County Code and Section 65906 of the California Government Code), as specified below:

A. 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 property owners in the vicinity and under identical zoning districts.

Special circumstances apply to the subject property and to many other ocean-front properties in the Seadrift Subdivision. The subject property is partially within the Federal Emergency Management Agency (FEMA) Special Flood Zone V4 which has a Base Flood Elevation (BFE) of 19 feet NGVD. Strict application of the zoning height standards for roof elevations (33 feet M.L.L.W., 31.14 feet NGVD), and MCC 22.56.130.OI(1) for deviation from the Sea Drift Subdivision maximum height limit of 15 feet above finished floor elevation, would severely limit the usable height of any new structures and would deprive the property owners of privileges enjoyed by other legal, non-conforming properties in the vicinity that were developed prior to the adoption of current FEMA BFE standards.

In order to not jeopardize Marin County's participation in the federal flood insurance program, it is necessary that the project be designed to conform to FEMA regulations regarding minimum Base Flood Elevations. Due to the fact that Marin County Code Section 22.57.094I requires a maximum finished floor elevation of 18 feet M.L.L.W. (16.14 feet NGVD) and the FEMA BFE is 19 feet NGVD, Variance approval is necessary for any new residences in this area to comply with the FEMA BFE standard.

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

This finding can be made to grant a Variance from the maximum height standard and for the finished floor elevation.

As proposed, the 35.9 feet M.L.L.W visible height would provide for one habitable floor level that complies with the minimum Base Flood Elevation allowed by FEMA regulations, and will be similar to others in the community that have been raised to meet FEMA requirements, and will be similar to the adjacent residence at 144 Seadrift Road. Furthermore, the proposed new residence will not interfere with the natural visual appearance of the beach and landscape. For these reasons, the project's maximum height will not have significant detrimental effects on the public welfare and surrounding properties.

In addition, the proposed finished floor elevation of 20.9 M.L.L.W (19 feet NGVD) exceeds the zoning standard of 18 feet M.L.L.W (16.14 feet NGVD), but will comply with the FEMA BFE. Therefore, the project's finished floor elevation will not be detrimental to the public welfare or surrounding properties.

C. 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.

This finding can be made to grant a Variance from the maximum height standards and can be made for a Variance from the finished floor height maximum.

Historically, Variances have been approved in this neighborhood for heights exceeding the maximum allowed by the C-RSPS zoning within the range of the proposed residence at the following addresses: 134, 162, 212, 358, and 320 Seadrift Road. Furthermore, a contemporary residence that complies with the current FEMA BFE standard of 19 feet NGVD could not be constructed without a Variance to the 18 feet M.L.L.W (16.14 feet) finished floor height maximum that is allowed by the C-RSPS zoning. Therefore, approval of the proposed Variance would not be a grant of special privilege that is inconsistent with the limitations placed upon other properties in the vicinity.

D. 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 the additional height would not authorize a use or activity that is not authorized by the governing C-RSPS zoning district. The Variance would authorize the construction of a single-family residence which exceeds the height standards, but which otherwise is consistent with the provisions of the zoning district.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Donahoe Coastal Permit (CP 09-10), Design Review (DR 09-17), and Variance (VR 09-4) subject to the following conditions:

Marin County Community Development Agency

1. Pursuant to Chapters 22.56I (Coastal Permit), 22.86I, (Adjustments and Variances), 22.82I (Design Review) of the Marin County Code, the Donahoe Coastal Permit (CP 09-10), Design Review (DR 09-17) and Variance (VR 09-4) approval is granted for the demolition of an existing, 2,167 square foot single-family residence, and replacement with a new single-family residence which will be 3,021 square feet, with a 440 square foot garage. The proposed residence will have a maximum height of 35.9 feet M.L.L.W, as measured from the northern (front) elevation. The structure would contain one habitable floor level but would be elevated above the base flood elevation so as to comply with FEMA flood control requirements. The four-bedroom, three and a half bathroom residence would be served by a new private septic system on site. The project is also approved for: 1) two decks on the south and central portion of the residence; 2) new landscaping; 3) new septic system; 4) new arbor; 5) the removal of five trees that are from 5 inch to 12 inches in diameter; 6) a new 9 foot high fence at the building and reduced to 6 feet in height along the eastern property line, between 140 and 142 Seadrift, which would be constructed of Redwood; and 7) a new wooden walkway at grade that would extend for approximately 81 feet from the beachfront building setback along the eastern property line. The property is located at 142 Seadrift Road, Stinson Beach on property further identified as Assessor's Parcel 195-041-14.
2. Plans submitted for a building permit shall substantially conform to plans identified as "Exhibit A" and entitled "Proposed New Home For: The Donahoe Family", prepared by Michael Mitchell Design and Draughting, dated October 14, 2008 and received October 10, 2008, with revisions received on March 15, 2009, and marked, and on file in the Marin County Community Development Agency, except as modified by the conditions listed herein.
 - a) Sheet 3 shall be revised to show the new fence with a maximum height of 9 feet above grade.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.
4. BEFORE 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.

5. 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 or flooding actions. The waiver of public liability shall be submitted to the Community Development Director for review and approval prior to recordation.
6. The applicant shall retain the services of a biologist to periodically monitor construction activities. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a letter confirming that the project complies with the applicable Biological Assessment Recommendations, shown on the Sheet 1, and BEFORE FINAL INSPECTION, the applicant shall provide a report from the biologist confirming that all recommendations were adhered to during construction.
7. BEFORE FINAL INSPECTIONS, the applicant shall install all proposed landscaping as per the approved plans. The applicant shall call for a Community Development Agency staff inspection of the landscaping and irrigation at least five working days prior to the anticipated completion of the project. Alternatively, the applicant may submit photo documentation demonstrating installation of said landscaping. Failure to pass inspection may result in withholding of final occupancy clearance and imposition of hourly fees for subsequent re-inspections.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide the Community Development Agency – Planning Division written confirmation that the Stinson Beach County Water District has reviewed and approved the project.
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 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays or the following holidays (New Year's Day, Presidents' Day, Memorial Day, July 4th, Labor 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 flashing, metal work and trim shall be an appropriately subdued, nonreflective color.
11. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.

12. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
13. The applicant shall ensure that all construction vehicles, equipment, and materials are stored on site and off the street so that pedestrians and vehicles can pass safely at all times.
14. The applicant shall ensure that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
15. 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 appropriate measures 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.
16. The proposed new residence shall not encroach beyond 177.74 feet from the front property line, in accordance with the recorded map for Phase 1 of the Seadrift subdivision.
17. 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 Donahoe Coastal Permit and Design Review, for which action is brought within the applicable statute of limitations.

Marin County Public Works Department, Land Development Division

Prior to Issuance of a Building Permit:

18. 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.
19. 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.

20. The project is in a Special Flood Hazard Zone-V4, as shown on the Flood Insurance Rate Map (FIRM Community-Panel Number 060173-0419 revised March 1, 1982). The County has determined the Base Flood Elevation to be 19.0-feet NGVD 1929. Therefore, all improvements shall meet the minimum requirements set forth in MCC §23.09.039 as shown below:
 - a. All new construction shall be located on the landward side of the reach of mean high tide.
 - b. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood elevation.
 - c. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation.
 - d. Fill shall not be used for structural support of buildings.
 - e. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.
 - f. The floodplain administrator shall obtain and maintain the following records:
 - i. Certification by a registered engineer or architect that a proposed structure complies with this chapter;
 - ii. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement. (Ord. 3293 § 13, 1999).
21. New construction within the Zone-V4 shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system in accordance with FEMA Technical Bulletin 5-93. A breakaway wall shall have a design safe loading resistance of not less than 10-pounds-per-square-foot and no more than 20-pounds-per-square-foot. Upon completion of construction and prior to final inspection by the Building and Safety Division, a registered professional engineer or architect shall certify to the county that the design and methods of construction to be used are in accordance with these requirements.
22. Provide approval from the Stinson Beach Water District for parking over the septic tanks.
23. Revise plans to show that the two resident spaces are independently accessible (one in the garage and one in the driveway). The guest spaces may be in tandem with the resident spaces, but cannot be in tandem with each-other.
24. The propane tank shall be securely anchored to resist floatation or lateral movement.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Donahoe Coastal Permit, Design Review, and Variance approval by March 15, 2011, by obtaining a building permit and substantially completing work as approved or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Agency Director approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.56.120I, 22.82.130I, and 22.86.070I of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m.** on April 2, 2009.

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 26th day of March 2009.

JOHANNA PATRI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary

**H1. USE PERMIT (UP 09-4) AND DESIGN REVIEW (DM 09-2):
MARIN MUNICIPAL WATER DISTRICT**

A proposal to consider the Marin Municipal Water District Design Review and Use Permit. The applicant, NSA Wireless, Inc is proposing to construct and operate a wireless telecommunications facility. The wireless antennas would be mounted to a 45-foot tall tree pole on the northeastern side of the property. The associated base station radio equipment cabinets will be placed in a 200-square-foot lease area also located on the northeastern side of the property. This 200-square-foot area is located within an overall lease area totaling 800 square feet. The project includes the installation and operation of new equipment and facilities. The subject property is located at **50 Creekside Drive, San Rafael**, and is further identified as **Assessor's Parcel 164-600-05**.

The Hearing Officer acknowledged additional e-mail comments dated March 24, 2009 from James Singleton regarding new plans submitted and a request for a continuance, and a memorandum from the Department of Parks and Open Space dated March 23, 2009, regarding concerns with no legal right for use of the fire road and the inconsistency of the proposal with MCOSD's Open Space Management Policy.

The public testimony portion of the hearing was opened.

James Raives, Department of Parks and Open Space, spoke regarding concerns with the access that is limited to use for the fire roads, and deed restrictions issues that will have to be resolved before the item can go forward.

The public testimony portion of the hearing was closed.

The applicant was present and agreed to a continuance.

The Hearing Officer determined that legal access would first need to be secured before the project could move forward. The Hearing Officer directed staff to work with the County and the applicant to determine whether legal access can be granted. She further noted that if the project comes back to the Deputy Zoning Administrator, a new public notice will be sent out.

The Hearing Officer continued the item to a date uncertain.

**H2. USE PERMIT (UP 09-5) AND DESIGN REVIEW (DR 09-3):
MARIN FRENCH CHEESE COMPANY/AMERICAN TOWER CORPORATION AND AT&T**

A proposal to consider a wireless telecommunications facility for American Tower Corporation with the capability of locating four different wireless telecommunications service providers. The proposal includes the installation of one telecommunications facility for AT&T Mobility. The proposal includes two options, either one 50-foot tall "stealth oak tree", or two 35-foot tall "stealth oak trees" on a hill approximately 650 feet west of Point-Reyes Petaluma Road. Associated equipment cabinets would be located within an 840 square foot lease area at the base of the "stealth oak tree or trees". The subject property is located at **7500 Red Hill Road, (aka Point Reyes – Petaluma Road), Petaluma**, and is further identified as **Assessor's Parcel 125-060-10**.

In response to the Hearing Officer, staff summarized the contents of his supplemental memorandum dated March 26, 2009, recommending:

- Access to the site by using existing driveways;
- Denial of the proposed driveway access because of potential impact to wetlands;
- Approval of the two 35-foot stealth "oak trees" for the antennas;

Additionally, staff recommended the following:

- Consideration of landscape screening on the eastern side with a five-year performance agreement;
- A performance agreement for removal of all telecommunications facilities on the site; and
- A revised radio frequency radiation study.

The public testimony portion of the hearing was opened.

The applicants, James Singleton and Rich Fenton, NSA Wireless representing American Tower Corporation (AT&T Mobility), asked to work with staff on the roadway issues. The applicant prefers a single, 50-foot tall tree instead of two 35-foot tall trees recommended for approval, and noted that Attachment 12 demonstrates that the trees will not be easily screened. Any landscaping must be drought tolerant. The antenna's (35-foot oak trees) would provide better coverage if moved 15 feet to 20 feet east closer to the road and off the ridge to also reduce visual appearance. The applicant prefers a staff level decision on the details of revised plans rather than a continuance of the hearing. The applicants are willing to work on the plan for a road that will work, including using the existing roads.

The public testimony portion of the hearing was closed.

The Hearing Officer continued the item to the hearing of April 16, 2009 to allow time for:

- The owner of the property to comment on all alternatives proposed;
- Staking of the lease area, site area, and actual tower location;
- Consideration of a landscaping plan, but uncertain landscaping will be required depending on visibility to be determined after staking;
- Submittal of a revised plan for the road that has been reviewed by Department Public Works staff, showing contours, access, average slope and length; and
- Staff to complete a site visit after staking the site.