



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR  
PASTERNAK USE PERMIT**

Item No:	H1.	Application No:	UP 09-20
Applicant:	Mark Pasternak	Owner:	Mark Pasternak
Property Address:	200 and 210 Road to Ranches, Nicasio	Assessor's Parcels:	121-070-66, 68, and 64
Hearing Date:	June 25, 2009	Planner:	Curtis Havel

<b>RECOMMENDATION:</b>	<b>Approve With Conditions</b>
<b>APPEAL PERIOD:</b>	<b>10 working days to the Planning Commission</b>
<b>LAST DATE FOR ACTION:</b>	<b>August 4, 2009</b>

**PROJECT DESCRIPTION:**

The applicant and property owner, Mark Pasternak, is proposing to amend an existing Use Permit for an agriculturally-related educational day camp at the Devil's Gulch Ranch located at 200/210 Road to Ranches in Nicasio. The project applicant is proposing the following activities at the Devil's Gulch Ranch:

- (1) A week-long, overnight camping program for up to 50 individuals ranging in ages from 6 to 18 years old. The overnight portion of the camp would operate from June 14 until August 14 – a total of 9 weeks, for 6 days a week;
- (2) Year-round day camps with a maximum of 20 participants a day with up to eight overnight camping events; and,
- (3) Presentation of up to eight events/open houses a year for the promotion of agriculturally related land uses at the ranch (such as "Outstanding in the Field" and other events which rely on the products being grown and harvested at the ranch).

The applicant has indicated that the educational camping operation would have an adult staff counselor-to-camper ratio of one adult to every five campers. The project applicant specified that the total number of staff overseeing the camp program would vary consistent with the total number of campers enrolled in that week's particular program.

The applicant proposes to drop-off and pick-up students at the Nicasio Square Baseball Field (Assessor's Parcel 121-080-08). The applicant has also indicated that an additional staging area is available at the LaFranchi Ranch (Assessor's Parcel 121-050-41). Transportation to Devil's Gulch Ranch from the drop-off/pick-up location will be provided by a hay wagon pulled by a tractor, and one additional van. In the event of an emergency, students would be transported to and from the site via private vehicles. Transportation to and from the ranch during events/open houses would be provided by tour vans, buses, and occasionally hay wagon.

The project includes proposals to utilize portable toilets for sewage disposal (1 unit per 20 people), two portable showers for regular hygiene, and reliance upon the existing water system at the property for potable water. The applicant has indicated that breakfast, lunch and dinner for a maximum of 60 people would be provided by a mobile food facility.

The proposed overnight camping area is located on a disturbed plateau within 100 feet of Devil's Gulch Creek. No new permanent structures or signage are proposed as part of the project.

**GENERAL INFORMATION:**

Countywide Plan: AG2 (Agricultural, one unit per 10 to 30 acres)  
Zoning: ARP-30 (Agricultural, Residential, Planned District, one unit per 30 acres maximum density)  
Lot size: Approximately 75 acres  
Adjacent Land Uses: Agriculture and rural residential  
Vegetation: Native and cultivated vegetation  
Topography and Slope: Varied – steeply to moderately sloped  
Environmental Hazards: None identified

**ENVIRONMENTAL REVIEW:**

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because it entails uses that are consistent and complementary with existing agricultural land uses, would not result in significant amounts of grading, would not require any tree removal, and would locate the proposed activities in areas previously disturbed by agricultural activities.

**PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. Correspondence received in response to this Use Permit application will be discussed further in the *Project Analysis* section below.

**PLAN CONSISTENCY:**

The proposed project is generally consistent with the goals and policies of the Marin Countywide Plan and the Design Guidelines for the Nicasio Planning Area. Please refer to the plan consistency findings contained in Section IV of the attached resolution.

**PROJECT BACKGROUND:**

Devil's Gulch Ranch is an approximately 75-acre property in Nicasio that is developed primarily with agricultural land uses and supported by various accessory and residential land uses. The property is accessed through a private gate at Road to Ranches from Nicasio Valley Road (the gate is west of/across from the Nicasio Valley Square area next to the Nicasio Land Company office). The primary land use established on the property is agricultural in nature and includes the following activities: viticulture; crop farming; and livestock grazing and production including sheep, horses, rabbits, pigs, and chickens.

A Use Permit was approved in 2004 and renewed in 2006 to allow the operation of a summer day camp at the ranch during the months of June through August. The camp participants, ranging in age from 6 to 18 years old, spend Monday through Friday (9:00am to 4:30pm) on a working ranch and are introduced to topics such as basic animal care, gardening, and general environmental education. The Use Permit was approved because it allows for the diversification of agriculturally related land uses at the property, and provides opportunities for individuals to learn more about agricultural activities in Marin County, thereby furthering support for agricultural endeavors in Marin County in a manner that is compatible with the existing and future land uses in the vicinity. The Use Permit for the day camp is valid until 2011.

## **PROJECT ANALYSIS:**

The applicant is proposing to amend the existing Use Permit by (1) extending the day camp to operate year-round with up to eight overnight outings, (2) initiating a week-long overnight camping program from June 14 through August 14, and (3) to allow for the presentation of eight annual events at the ranch to promote goods produced at the ranch. Both the day camp and overnight camp would continue to utilize the previously approved pick-up/drop-off location in Nicasio Square, and the LaFranchi Ranch would be utilized in instances where a greater number of vehicles would be required to be parked for a temporary period of time (such as during a promotional event).

Staff has received letters from the Nicasio Land Owners Association, Nicasio Design Review Board, LaFranchi Homeowners Association, Kathleen and Joseph Jolson, Greg Lee, Natalie Lewis, and David and Alisa Perticone expressing opposition to the project and raising concerns about the following topics: traffic; overall residential density; fire protection; privacy; student safety; land use incompatibility; water supply; and sewage disposal. These issues are discussed further below.

### *Traffic*

Commentors have expressed concerns that the proposed changes will increase the number of vehicles travelling along Road to Ranches to a level that would be incompatible with the current residential and agricultural uses in the vicinity. Concerns have also been expressed about potential impacts to roadway stability and congestion in the Nicasio Square area due to increases in traffic related to the proposed changes.

The Marin County Code does not establish traffic limitations for agricultural operations. Agricultural operations experience fluctuations in traffic levels throughout the year based on harvest periods. Since the agricultural land uses are diversified at the Devil's Gulch Ranch, traffic levels are likely to be more consistent on a year-round basis. The level of service (LOS) experienced currently in the Nicasio Square area (as well as on the ranch) is LOS A (insignificant traffic levels).

The project applicant provided staff with information regarding amounts of traffic travelling to and from the ranch as it pertains to regular ranch operations and with respect to special events at the ranch (please see Attachment 14). While commentors have requested that a traffic study be submitted to analyze the potential impacts of traffic to and from the ranch, DPW staff found that overall level of traffic in this area does not rise to a level of significance that would require this type of study.

Commentors have also expressed concerns about the safety of drivers heading to the ranch, and the stability of the roadway leading to the ranch. The Marin County Code establishes road width standards for the construction of new roads/driveways serving agricultural and residential land uses. The Devil's Gulch Ranch has been in existence since the early 1970's. The existing road provides legal access to the ranch. The behavior of drivers on the road is a private matter and the Marin County Community Development Agency does not have jurisdiction on this issue.

In conclusion, it is important to note that Road to Ranches serves four other working ranches (Tomasini, Percy, Rathman/Wick, and Braumbaum) and several other residences in the vicinity. Although traffic levels will increase in relation to the proposed activities at the ranch, the amounts of traffic will not result in extended periods of congestion that would require additional studies or traffic mitigation measures to be incorporated into the project. Furthermore, the existing driveway leading to Devil's Gulch Ranch is a private roadway and is adequate to serve the property as verified by the Department of Public Works. Issues related to fire safety and access are discussed below.

### *Staff housing*

Commentors have expressed concerns about the location and adequacy of living quarters on the site for ranch staff members and agricultural workers. Specifically, neighbors have reported that mobile trailers have recently been brought onto the site which would appear to provide additional housing.

Pursuant to Chapter 22.08 of the Marin County Code, the ARP-30 zoning district allows for a residential density of one unit per thirty acres. Additional density may be allowed in instances where the residential development would be accessory to and in support of agricultural activities on the property.

Devil's Gulch Ranch currently has five legally permitted residential dwelling units. Community Development Agency (CDA) staff visited the ranch to verify the existence of these units and to inspect whether other unpermitted units were present at the ranch. Staff did not find any additional dwelling units beyond the five permitted residential units. However, staff did note the presence of four additional mobile trailers. The project applicant indicated that these trailers are used to satisfy Occupational Safety and Health Administration (OSHA) requirements; specifically that farm workers be provided shelter from the elements during their snack and lunch breaks. Staff observed that these trailers were not permanently connected to electricity, water supply, or sewage disposal systems. The presence of the mobile homes on the property do not count towards residential density because they are not being used as permanent dwelling units.

A number of questions were raised about the accommodations to be provided for additional staff brought to the ranch to assist with the overnight camping program. The project applicant has indicated that adult counselors would stay in tents especially designated for adults in the camping area. This would be a temporary arrangement for the duration of the camping season and would not be counted towards the overall residential density for the property.

In conclusion, staff found that the residential units at the ranch did not exceed what is legally permitted, and that any additional housing would be temporary in connection with the overnight camping program and therefore not in excess of the permitted residential density allowed on the property.

### *Fire Protection*

Residents have expressed concerns about the ability of the Marin County Fire Department to access the site in the case of a major conflagration, particularly with respect to the narrow driveway leading to Devil's Gulch Ranch. Concerns have also been expressed about whether an adequate water supply is available in the event of a fire at the ranch.

The Use Permit application was sent to the Marin County Fire Department (MCFD) for their review and comment. The MCFD performed a site inspection at Devil's Gulch Ranch. The MCFD found that the project met their minimum requirements, particularly with respect to access (please refer to Attachment 10). While staff recognizes that many local residents are concerned about potential fire threats, the MCFD has reviewed this project and verified that Devil's Gulch Ranch has satisfied requirements related to fire prevention and fire safety.

## *Privacy and Noise*

Commentors have expressed concerns about potential impacts to privacy and noise due to vehicles travelling along Road to Ranches. Neighbors are concerned that the driveway's elevation in relation to their yards results in a loss of privacy because the inhabitants of the vehicles heading up to Devil's Gulch Ranch will be able to see into their yards and homes.

Devil's Gulch Ranch has been in existence since the early 1970's. Since that time, access to the ranch has been provided by the existing driveway. This is not a new condition, and local property owners in the area are familiar with the ranch and the driveway. While staff recognizes that the project will result in an increase in the number of vehicles travelling to and from the site, there will not be any additional impacts to privacy than those that already exist.

Staff also recognizes that there will be a temporary increase in noise due to the additional traffic. However, it is temporary in nature and will not significantly impact the overall characteristics of the area. Many of the vehicles that currently travel to and from the ranch are large vehicles producing a temporary noise event that is audible from nearby locations. However, the traffic will continue to produce only temporary noise events and not an ongoing noise event that would disrupt the auditory characteristics of the vicinity.

The project applicant has indicated that events at the ranch will not be amplified. Because the activities associated with the overnight camping program and/or the special events are located in a topographical depression at the ranch at least 1,100 feet from the nearest residence, it is unlikely that noises from activities associated with this project would be audible from off-site locations.

In conclusion, the project will not result in significant increases in noise, or disturbances to the auditory characteristics of the area because the noise events associated with vehicles are temporary in nature. Additionally, the proposed project is located in a topographically depressed area within Devil's Gulch Ranch, thereby minimizing any noise disturbances to off-site locations. Finally, the events at the ranch will not utilize amplification, further minimizing any noise that may occur on the property.

## *Student Safety*

Commentors have expressed concerns about the method of transporting camp participants from the pick-up/drop-off area to the ranch using a hay wagon. Commentors have also questioned whether the camp will meet general safety regulations and expressed concerns about use of the reservoir on the ranch as a swimming area.

A number of commentors have expressed concerns about the safety of using a hay wagon to transport camp participants to Devil's Gulch Ranch from the pick-up/drop-off site in the Nicasio square. The Marin County Development Code does not contain regulatory standards regarding use of hay wagons for transportation to and from a site along a private road. While the use of a hay wagon may not seem safe to local residents, it is ultimately the responsibility of the camp participants and their guardians to decide whether they choose to participate in the programs offered by Devil's Gulch Ranch.

The proposed swim area at Devil's Gulch Camp must comply with the Organized Camp Regulations as stated in the California Code of Regulations, Title 17, Section 30741. Furthermore, organized camps (including camps with swimming pools) are subject to the California Code of Regulations (CCR) Title 17, Subchapter 6: Organized Camps and the California Health and Safety Code – Division 13, Part 2.3: Camps (please refer to Attachments 8 and 9).

To ensure compliance with Organized Camp Regulations established by the State of California, Environmental Health Services staff has recommended the following conditions of approval:

- The proposed swim area at Devil's Gulch Camp must be inspected and approved by the Marin County Environmental Health Division prior to use for the season, for compliance with the Organized Camp Regulations as stated in the California Code of Regulations, Title 17, Section 30741. Soundings of the water depth and determinations of obstruction must be made prior to approval for operation. At least one lifeboat or equivalent water safety device, the posting of visible and legible safety signs, and at least one certified lifeguard per 25 campers in the water, must be maintained while the Camp is in operation and the swim area is available for recreation. Additionally, Devil's Gulch Camp shall operate the proposed swim area in accordance with their approved Camp Waterfront Program Operating Procedures.
- As an Organized Camp, Devil's Gulch Camp shall operate in accordance with the California Code of Regulations (CCR) Title 17, Subchapter 6: Organized Camps and the California Health and Safety Code – Division 13, Part 2.3: Camps.

The project applicant has submitted information demonstrating his awareness of these requirements and methods of compliance (please see Attachments 8 and 14).

#### *Land Use Compatibility*

Commentors have expressed concerns that the addition of yearly events would be commercial in nature and would be the first step in establishing a hospitality-based land use on the property that would be incompatible with the surrounding residential and agricultural land uses. Concerns have also been expressed that there has not been enough information provided for consideration in a timely fashion.

Table 2-1 of Section 22.08.030 of the Marin County Code indicates that "Educational Tours" are a permitted land use in ARP zoning districts subject to Master Plan and Precise Development Plan approval. However, Chapter 22.44 (Master Plans and Precise Development Plans) establish criteria where a Master Plan and Precise Development Plan can be waived to a lesser entitlement, such as a Use Permit.

Agricultural operations throughout Marin County are known to have occasional events at their ranches and farms to promote their goods and educate the public about agricultural resources present in Marin County. Typically, these events do not require Master Plan or Use Permit approvals due to the infrequent and limited nature of these events. The project description of the Pasternak Use Permit was expanded to include special events at Devil's Gulch Ranch due to the regularity of events, and because surrounding residents had expressed questions about whether the primary land use is commercial or agricultural in nature. This project qualifies for a Master Plan Waiver: a Use Permit is a more appropriate means to regulate the proposed uses at Devil's Gulch Ranch because the events on the ranch occur with regularity on an annual basis as advertised/promoted on the Devil's Gulch Ranch website ([www.devilsgulchranch.com](http://www.devilsgulchranch.com)).

The project applicant is proposing eight special events consisting of dinners or lunches featuring agricultural products produced at Devil's Gulch Ranch. The educational content of the events generally include a tour of the ranch, observation of the production centers of the ranch (such as the vineyards, barns and pastures), and a forum where questions are answered about food production. The meals included with these events would be prepared by professional caterers/chefs.

The project applicant provided the following response to staff's inquiry about the nature and content of the events proposed to be held at the Devil's Gulch Ranch:

The 8 "events" we are proposing to be included in the use permit at the request of CDA would be lunches or dinners using our agricultural products (wine from our grapes, our rabbit, pork, lamb, asparagus). It has always been our understanding that these sort of events to promote a farm's agricultural products were part of normal agricultural operations, and in fact, encouraged by the County of Marin in an effort to help keep agriculture viable through diversification and direct marketing. These events all include a tour of our ranch with Mark and/or Myriam for the opportunity to see the vineyards and the barns and pastures where we raise our animals. People get the opportunity to see for themselves where the food they will be eating comes from, how it is raised, and ask questions. The meals will be prepared by professional caterers/chefs who will also show and explain, why and how they use our products. This brings in immediate income from the products used for the event, as well as creating future demand for our products at markets and restaurants. We have a commercial, viable agricultural operation, and as such these events are of a commercial nature. This is not boutique agriculture, nor landscaping. We are selling and promoting our agricultural products. While we are very hospitable, there is no commercial hospitality going on here apart from promoting our agricultural products. Every event that we have had on our ranch (with the obvious exception of private parties at our house) has been to promote our agricultural products. There has never been, nor will there be, any amplified voices, entertainment nor music. There will be no more than 4 large events that could have up to 175 people each. For these, vans would provide transportation from Nicasio Valley Rd. These 4 events could start as early as noon and go as late as 10pm, but would not be over 6 hours long in any case. The remaining 4 smaller events would be less than 50 people, and would have them driving to our ranch in private vehicles.

The project applicant has further clarified that the year round day camps would accommodate a maximum of 20 campers, and would be offered during the work week (M-F) for holidays, school breaks, and after school. The proposed maximum number of days per year, apart from the weeklong overnight summer camps, would be 120 days. The "occasional overnights" are proposed to be no more than 8 single nights per year with no more than 20 people.

The project applicant also provided this information regarding four of the larger eight events proposed to be held at Devil's Gulch Ranch:

No more than 4 times per year I have a larger dinner event to promote my agricultural products. Some of these events may also be fundraisers for various non profit groups in West Marin (MALT, Papermill Creek Children's Corner, Marin Organic, KWMR, etc) who are vital to our agriculture industry. These may be in my vineyard, in which case they are limited to 160 participants. Parking is done on Nicasio Valley Rd, North of the town of Nicasio, with a 30 passenger shuttle running from Randy Lafranchi's pumpkin patch driveway. Two shuttles each make 3 trips with arriving guests from 4-5pm, and then 3 trips again between 9-10pm with the departing guests. Water and food is provided by caterers (they buy my meat, asparagus and wines produced from my grapes) who also rent portable toilets, tables, dishes, etc. The event starts at 4pm and finishes before 10pm. There is no music or entertainment. If the event is in my house, it is limited to 30 participants, who arrive in their own private cars. Food is provided by caterers (who buy my products for the dinner). We use my domestic water and my toilets in my house.

Commentors have expressed concerns that this information was presented too late in the process. The additional information provided by the project applicant was provided in response to a letter written to the Code Enforcement Division of the CDA in response to allegations that illegal commercial events were occurring at the Devil's Gulch Ranch. As discussed earlier, typically these types of events are not

subject to permit requirements. However, due to the frequency and regularity of these events, staff has asked the project applicant to include them in this Use Permit application. The additional information was included in the legal public notice, and staff has received multiple comment letters regarding this aspect of the project. While surrounding residents may be opposed to the eight yearly events, their submittal of letters commenting on this aspect of the proposed project is an indication that adequate time was provided to review the information.

Although commentors have expressed concerns that the proposed project would result in a hospitality-based type business being conducted at Devil's Gulch Ranch, the project applicant has not proposed activities nor provided any information that would indicate that the primary agricultural land use would or has substantially changed. The proposed activities would be accessory to, and in support of, the primary agricultural land uses currently occurring at the Devil's Gulch Ranch. The proposed project would provide members of the public exposure to the niche agricultural markets that are sustaining agricultural activities in West Marin, thereby furthering the importance of supporting local agriculturists and the continued economic viability of the County's agricultural industry.

### *Water Supply*

Commentors have expressed concerns about water availability and usage at the ranch, particularly with respect to drought conditions and impacts to nearby property owners. Concerns have been raised that the project applicant has drawn the well down to an unsustainable level in the past, and that the continued practices of water usage will adversely affect other properties.

The project applicant provided Environmental Health Services (EHS) staff with well production data over a period of 10 years. This information was reviewed to determine Public Water System requirements relating to Maximum Day Demand (MDD) and Peak Hourly Demand (PHD) for the well and storage capacities. The MMD and PHD were calculated using worst case estimates of flow rate and demand to evaluate the combination of a well and reservoir system. The project applicant has proposed storage tanks to provide 7,800 gallons for domestic use, and use of the reservoir for irrigation.

Staff from EHS determined that the water sources and storage capacities were adequate to meet the added demands of the increased camp operations. This conclusion was based on historic production data, exaggerating the expected demand from the camp, underestimating available flow and underestimating available storage capacity. Additionally, the project shall be required to obtain a permit for a public water system that meets the following system design requirements:

- Addition of a 5,000 gallon storage tank which meets NSF Standard 61 for water contact materials;
- Installation of flow meters with totalizers (that can record total volume used) installed to track total water use from the well and to the domestic system; and,
- Installation of a certified RPP backflow prevention device to protect the domestic water lines from irrigation water pumped to the vineyards.

Although commentors have expressed concerns about water supply (and in one case provided a well report from 2001), no evidence has been provided that the water usage at the Devil's Gulch Ranch is adversely affecting other properties in the area. In conclusion, EHS staff has determined that adequate water is available to serve the proposed project subject to acquiring a permit to operate a public water system.



## *Sewage Disposal*

Commentors have expressed concerns whether adequate facilities exist to safely dispose of wastewater and sewage effluent during camp operation.

The proposed project was reviewed by EHS staff for compliance with applicable local and State regulations. Based upon review conducted by EHS, it has been determined that the restroom facilities, sinks, showers and food facility plumbing must be plumbed to an approved septic system. This determination was based on the following factors: (1) the California Code of Regulations; (2) the increased scope of the amended use; (3) the goal of lessening the impact on the environment; and (4) for public health and safety considerations.

In an effort to balance regulatory requirements with the needs of agriculturally-related projects, EHS has agreed to allow the use of portable toilets and portable showers for one season. However, the operator shall decide by April 1, 2010 whether to pursue the installation of an approved septic system for the organized camp use. If the operator decides against the installation of an approved septic system, the overnight camps shall be discontinued, reverting back to day camps during the limited summer months only, consistent with the previously approved Use Permit. If the operator decides to pursue the installation of an approved septic system, action must begin immediately towards this goal and an approved septic system must be installed and finalized by May 1, 2011.

Devil's Gulch Camp must begin the process of testing and soil investigations and permit application for an on-site sewage disposal system by April 1, 2010. If Devil's Gulch Camp complies with this time line, the use of portable toilets and portable showers will be allowed for the 2010 season. To ensure that the project safely disposes of effluent until a permanent septic system can be installed, the following standards have been proposed by EHS staff:

- One portable toilet and one portable shower must be provided for every 15 campers and staff;
- The portable toilets and showers must be serviced at a minimum of once a week; and,
- Receipts of the service and pumping of the toilet and shower units must be submitted to the Marin County Environmental Health Services Division every two weeks.

If Devil's Gulch Camp fails to meet the above time lines, the camp will not approved for operation by Marin County Environmental Health. Furthermore, camp operations may be suspended if there is a violation of the water quality standards and/or the wastewater disposal requirements.

If the project applicant meets the requirements established by EHS, portable toilets and showers are allowed to be used during the first two years (2009 and 2010) of the camp's operation. The project applicant will be required to install an on-site sewage disposal system by the third season of the camp's operation in compliance with Chapters 18.06 and 18.07 of the Marin County Code and the Marin County Regulations for Design, Construction and Repair of Individual Sewage Disposal Systems. In conclusion, conditions of approval recommended by EHS will ensure that wastewater and sewage effluent will be disposed of safely.

## Conclusion

The proposed project is consistent with policies in the Countywide Plan pertaining to diversification of agricultural operations. The project will diversify agricultural uses at Devil's Gulch Ranch by complementing traditional agriculture uses, thereby helping to ensure the continued economic viability of the county agricultural industry, and providing increased food security. Furthermore, the project will

raise the level of public awareness and understanding of Marin County agriculture, including its ecological, economic, open space, and cultural value, and its importance to local food security. The project will contribute to the community character because it will preserve the open character of the area and ultimately enable an agricultural operation to stay viable through marketing diversification and education.

## **RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Pasternak Use Permit 09-20.

1. Proposed Resolution recommending approval of the Pasternak Use Permit 09-20
2. CEQA Exemption
3. Location Map
4. Assessor's Parcel Maps (2)
5. Partial Site Plan
6. Aerial Photos (2)

**The following attachments were provided to the Deputy Zoning Administrator only.** They are available for public review at the Community Development Agency, Planning Division during regular business hours: Monday through Friday, 8:00 am to 4:00 pm.

7. Pasternak Use Permit Renewal (UP 04-31), October 16, 2006
8. Devil's Gulch Educational Services Health-Care and Safety Policies and Procedures, received March 23, 2009
9. Laws and Regulations Relating to Organized Camps, 2008
10. Electronic mail from Scott Alber, Marin County Fire Marshal, May 27, 2009
11. Marin County Environmental Health Services Transmittals (2), May 20, 2009
12. Letters (2) from Marin Municipal Water District, March 13 and February 26, 2009
13. Department of Public Works, Land Use and Water Resources Memorandum, March 4, 2009
14. Correspondence from Mark Pasternak, June 18 through April 1, 2009
15. Electronic mail from Greg Lee, June 17, 2009
16. Electronic mail from Ron Campout, June 16, 2009
17. Letters from Lafranchi Homeowners Association, received June 14, 2009 and undated
18. Letters from Nicasio Design Review Board, June 14, June 12 and March 4, 2009
19. Letter from Natalie Lewis, received June 12, 2009
20. Letter from Nicasio Land Owners Association, June 12, 2009
21. Letter from Connie Kronlokken, June 11, 2009
22. Letters (3) from Kathleen and Joseph Jolson, June 5, May 13, and May 6, 2009
23. Letter from Don Starnes, June 2, 2009
24. Letter from Lynne Frame, May 26, 2009
25. Letter from Molly Fuller, May 26, 2009
26. Letter from Jack McLaughlin, May 25, 2009
27. Letter from Marv Downey, May 23, 2009
28. Letter from David Pease, May 23, 2009
29. Letter from Marin County Farm Bureau, received May 22, 2009
30. Letter from David Mease, May 14, 2009
31. Letter from Marin Agricultural Land Trust, May 7, 2009
32. Letter from David and Alisa Perticone, May 6, 2009
33. Letter from UC Cooperative Extension, May 6, 2009
34. Letters (7) from Trout Unlimited, received April 16, 2009
35. Petition Form-Letters (14) supporting project, received February 23, 2009
36. Letter from "A Concerned Parent," February 7, 2009

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING THE PASTERNAK USE PERMIT  
ASSESSOR'S PARCELS 121-070-66, -68 AND -64  
200 AND 210 ROAD TO RANCHES, NICASIO

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**SECTION I: FINDINGS**

- I. WHEREAS Mark Pasternak has submitted a Use Permit application to amend an existing Use Permit for an agriculturally-related educational day camp at the Devil’s Gulch Ranch located at 200/210 Road to Ranches in Nicasio. The project applicant is proposing the following activities at the Devil’s Gulch Ranch:
  - A. A week-long, overnight camping program for up to 50 individuals ranging in ages from 6 to 18 years old. The overnight portion of the camp would operate from June 14 until August 14 – a total of 9 weeks, for 6 days a week.
  - B. Year-round day camps with a maximum of 20 participants a day with occasional overnight camping.
  - C. Presentation of up to eight events/open houses a year for the promotion of agriculturally related land uses at the ranch (such as “Outstanding in the Field” and other events which rely on the products being grown and harvested at the ranch).

The applicant has indicated that the educational camping operation would have an adult staff counselor-to-camper ratio of one adult to every five campers. The project applicant specified that the total number of staff overseeing the camp program would vary consistent with the total number of campers enrolled in that week’s particular program.

The applicant proposes to drop-off and pick-up students at the Nicasio Square Baseball Field (Assessor’s Parcel 121-080-08). The applicant has also indicated that an additional staging area is available at the LaFranchi Ranch (Assessor’s Parcel 121-050-41). Transportation to Devil’s Gulch Ranch from the drop-off/pick-up location will be provided by a hay wagon pulled by a tractor, and one additional van. In the event of an emergency, students would be transported to and from the site via private vehicles. Transportation to and from the ranch during events/open houses would be provided by tour vans, buses, and occasionally hay wagon.

The project includes proposals to utilize portable toilets for sewage disposal (1 unit per 20 people), two portable showers for regular hygiene, and reliance upon the existing water system at the property for potable water. The applicant has indicated that breakfast, lunch and dinner for a maximum of 60 people would be provided by mobile food facility.

The proposed overnight camping area is located on a disturbed plateau within 100 feet of Devil’s Gulch Creek. No new permanent structures or signage are proposed as part of the project. The subject property is located at 200 and 210 Road to Ranches, Nicasio, and is further identified as Assessor's Parcels 121-070-66, -68 and -64.

- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on June 25, 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 Section 15301, Class 1 because it entails uses that are consistent and complementary with existing agricultural land uses, does not result in significant amounts of grading, does not require any tree removal, and locates the activities in areas previously disturbed by agricultural land uses.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan and the Development and Design Guidelines for the Nicasio Planning Area for the reasons listed below.
  - A. The project complies with the AG2 (Agricultural, 1 unit per 10 to 30 acres) Land Use Designation as it would authorize activities that are accessory and incidental to the primary agricultural land uses existing at the property (CWP Policy CD-8.5 and Community Development Map 7.9).
  - B. The project will raise the level of public awareness and understanding of Marin County agriculture, including its ecological, economic, open space, and cultural value, and its importance to local food security (CWP Policy AG-2.10).
  - C. 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).
  - D. The project will diversify agricultural uses at Devil's Gulch Ranch by complementing traditional agriculture uses, thereby helping to ensure the continued economic viability of the county agricultural industry, and providing increased food security (CWP Policy AG-2-3).
  - E. The Marin County Fire Marshal confirmed that the project ensures adequate fire protection, has adequate water available for fire suppression and provides adequate access for emergency vehicles (CWP Program EH-4.c).
  - F. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works.
  - G. Staff from the Environmental Health Services Division (EHS) of the Community Development Agency has confirmed that adequate water is available to for the activities at Devil's Gulch Ranch (CWP Goal WR-3).
  - H. The project does not locate any new, permanent development within 100 feet of a wetlands or stream conservation areas (CWP Policies BIO-3.1 and CWP BIO-4.1).
  - I. 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).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that, in accordance with the conditions of approval, the Mandatory Findings for a Use Permit per Section 22.48.040 of the Marin County Code can be made for the following reasons:

- A. The educational day camp, week-long educational overnight camp, and ongoing fundraising/social events are allowed as conditional uses within the governing ARP-30 (Agricultural, Residential, Planned District, one unit per 30 acres maximum density) subject to the granting of a Use Permit;
- B. The proposed use is consistent with the Countywide Plan and the Development and Design Guidelines for the Nicasio Planning Area for reasons discussed in Section IV above;
- C. The proposed project is categorically exempt from the California Environmental Quality Act for the reasons discussed in Section III above;
- D. The operating characteristics of the week-long overnight camp, educational day camp, and series of eight annual events are compatible with existing and future land uses in the vicinity because the project as a whole is accessory and incidental to the agricultural uses on the subject property and other properties in the vicinity. The project would not disrupt other agricultural and residential uses in the community because the properties in the vicinity are agriculturally zoned, the activities at the project site would be of a temporary nature, and the daily educational activities and events would take place entirely on the 75-acre subject property;
- E. The proposed use would enhance the character of the zoning district in which the project is located because the week-long overnight camp, educational day camp, and eight annual events would be supportive of agricultural activities in the vicinity and would enhance the economic viability of agricultural uses on the property; and,
- F. The granting of 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 because the project would not be visible from off-site locations, will not require any tree removal on the subject property, and will ensure proper disposal of wastewater and sewage. The applicant will be required to provide information indicating that permission has been granted to utilize the proposed pick-up and drop-off areas. Finally, the proposed project will provide the community with a service that furthers agricultural education of individuals in Marin County.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Pasternak Use Permit 09-20 subject to the following conditions:

### Marin County Community Development Agency, Planning Division

1. Pursuant to Marin County Code Section 22.48.040, the Pasternak Use Permit 09-20 approval permits the amendment of an existing Use Permit to include the following activities at the Devil's Gulch Ranch:
  - A. A week-long, overnight camping program for up to 50 individuals ranging in ages from 6 to 18 years old. The overnight portion of the camp would operate from June 14 until August 14 – a total of 9 weeks, for 6 days a week;
  - B. Year-round day camps accommodating a maximum of 20 participants ranging in ages from 6 to 18 years old along with no more than 8 single overnight camping events a year; and,

- C. Presentation of up to eight events/open houses a year for the promotion of agriculturally related land uses at the ranch (such as "Outstanding in the Field" and other events which rely on the products being grown and harvested at the ranch). Parking for these events shall be on private property.

This Use Permit supersedes the previous Use Permit 04-31 that was issued in 2004 and renewed in 2006. However, if the operator decides against the vesting of this Use Permit approval, the project shall revert back to day camps during the limited summer months consistent with the previously approved Use Permit. The subject property is located at 200 and 210 Road to Ranches, Nicasio, and is further identified as Assessor's Parcels 121-070-66, -68 and -64.

2. PRIOR TO OPERATION OF CAMP ACTIVITIES OR OTHER EVENTS, the applicant shall provide documentation to the Community Development Agency demonstrating that he has liability insurance for the activities or other events.
3. PRIOR TO OPERATION OF CAMP ACTIVITIES OR OTHER EVENTS, the applicant shall provide documentation to the Community Development Agency demonstrating that adequate off-site parking is available, and that permission has been granted in writing for use of the off-site parking areas.
4. No signage has been proposed or approved as part of this project. Any future signage must comply with Chapter 22.28 of the Marin County Code.
5. In the event that the terms of this Use Permit approval are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood, or be detrimental to the public welfare or injurious to the property or improvements in the neighborhood, this Use Permit may be revoked or suspended pursuant to Marin County Code, Chapter 22.120.
6. 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 Pasternak Use Permit 09-20, 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.
7. 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. Minor modifications to the operating conditions may be approved administratively by the Community Development Agency Director following consultation with the Nicasio Design Review Board and the Nicasio Land Owners Association. Additionally, the Community Development Agency reserves the right to conduct periodic compliance reviews over the life of the Use Permit. Major modifications shall require an amendment to the Use Permit.

Department of Public Works, Land Development

8. BEFORE ISSUANCE OF A BUILDING PERMIT AND/OR COMMENCEMENT OF CAMP ACTIVITIES OR OTHER EVENTS, the applicant shall provide pertinent design information as specified below for review and approval.

- A. The applicant shall demonstrate compliance with ADA/Accessibility requirements for the drop-off and pick-up area(s).
- B. The portable restrooms, mobile food facility and shower facilities shall be relocated to be no closer than 50 feet from any creek or natural watercourse.
- C. The applicant shall submit Building Permit applications for retaining walls on the property identified by staff during a site visit on June 16, 2009.

### Marin County Environmental Health Services

#### *Water*

- 9. Devil's Gulch Camp must obtain and maintain a valid permit to operate a public water system from the Marin County Environmental Health Division. The water system shall be maintained and operated in compliance with California Safe Drinking Water Act as specified in the California Water Code and the California Health and Safety Act. The Camp will not be approved for operation until the public water system is approved and a valid permit is issued. Camp operations may be suspended if there is a violation of the Water Code standards.

#### System design requirements:

- A. Add a 5,000 gallon storage tank. Tanks shall meet NSF Standard 61 for water contact materials.
- B. Flow meters with totalizers (that can record total volume used) installed to track total water use from the well and to the domestic system. Meters should meet AWWA certification and installation standards. Install one meter, rated to 50 gpm, at the well head. Install a flow meter with totalizer to monitor water use of the domestic water system. Flow meters are requirements of the California Waterworks Standards.
- C. A certified RPP backflow prevention device installed to protect the domestic water lines from irrigation water pumped to the vineyards.

#### *Food Service Facilities*

- 10. Devil's Gulch Camp must obtain and maintain a valid permit to operate a food facility from the Marin County Environmental Health Division. No food preparation or food service shall occur at Devil's Gulch Camp until a valid permit is issued. The food facility must be operated in compliance with the California Retail Food Code. A condition of maintaining a valid food facility permit is the entrance and inspection of the food facility during the facility's hours of operations and other reasonable times.

#### *Recreational Health*

- 11. The proposed swim area at Devil's Gulch Camp must be inspected and approved by the Marin County Environmental Health Division prior to use for the season, for compliance with the Organized Camp Regulations as stated in the California Code of Regulations, Title 17, Section 30741. Soundings of the water depth and determinations of obstruction must be made prior to approval for operation. At least one lifeboat or equivalent water safety device, the posting of visible and legible safety signs, and at least one certified lifeguard per 25 campers in the water, must be maintained while the Camp is in operation and the swim area is available for recreation.

Additionally, Devil's Gulch Camp shall operate the proposed swim area in accordance with their approved *Camp Waterfront Program Operating Procedures*.

12. As an Organized Camp, Devil's Gulch Camp shall operate in accordance with the *California Code of Regulations (CCR) Title 17, Subchapter 6: Organized Camps* and the *California Health and Safety Code – Division 13, Part 2.3: Camps*.

#### *Sewage Disposal*

13. Devil's Gulch Camp will be allowed the use of portable toilets and portable showers for the 2009 season. One portable toilet and one portable shower must be provided for every 15 campers and staff. The portable toilets and showers must be serviced at a minimum of once a week. Receipts of the service and pumping of the toilet and shower units must be submitted to the Marin county Environmental Health Services Division every two weeks. A fee of \$220 for oversight and review must be paid prior to camp operations (2 hours @ \$110).
14. Devil's Gulch Camp must begin the process of testing and soil investigations and permit application for an on-site sewage disposal system by April 1, 2010. If Devil's Gulch Camp complies with this time line, the use of portable toilets and portable showers will be allowed for the 2010 season.
15. An approved on-site sewage disposal system must be installed and "finalized" for wastewater disposal at the Devil's Gulch Camp by May 1, 2011. The on-site sewage disposal system will be sized for the maximum amount of campers and staff on-site at any one time, and for food service. The on-site sewage disposal system shall comply with the Marin County Code 18.06 and 18.07 and the *Marin County Regulations for Design, Construction and Repair of Individual Sewage Disposal Systems*.
16. If Devil's Gulch Camp fails to meet the above time lines, the camp will not approved for operation by Marin County Environmental Health. If the operator decides against the installation of an approved septic system, the overnight camps shall be discontinued, reverting back to day camps during the limited summer months consistent with the previously approved Use Permit.
17. Camp operations may be suspended if there is a violation of the water quality standards and/or the wastewater disposal requirements.

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

NOW, THEREFORE BE IT RESOLVED that the Pasternak Use Permit 09-20 is hereby approved. The applicant must vest this approval by commencing the uses approved in this Use Permit consistent with the requirements and timelines established by the conditions of approval, or all rights granted in this approval shall lapse, unless the applicant applies for an extension at least 10 days prior to the expiration date above and the Community Development Agency Director approves it. An extension may be granted for cause pursuant to Section 22.56.050 of the Marin County Code. Commencement of the use shall constitute vesting.

This Use Permit is subject to a permit compliance review at the end of the first year of operation subject to payment of hourly compliance fees. The review shall be conducted by the Community Development Agency and other associated public agencies. Failure to comply with the conditions of approval of this resolution could result in revocation or suspension of the approved Pasternak Use Permit 09-20, in accordance with the terms and provisions of Chapter 22.120 of the Marin County Code.



This permit may be revoked or modified by the Board of Supervisors in accordance with the terms and provision of Marin County Code Section 22.120.30, if any one of the following findings can be made: (1) The permit was obtained by misrepresentation or fraud; (2) One or more of the conditions of the permit have not been met; or (3) The improvement/use allowed by the permit is detrimental to the public interest, health, safety, convenience, or welfare of the County or constitutes a nuisance. Notwithstanding any other provisions of the Marin County Development Code, this Use Permit shall expire if the use is abandoned or ceases to operate for a two year period or greater.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County 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 July 10, 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 25<sup>th</sup> day of June, 2009.

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JEREMY TEJIRIAN, AICP  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary