

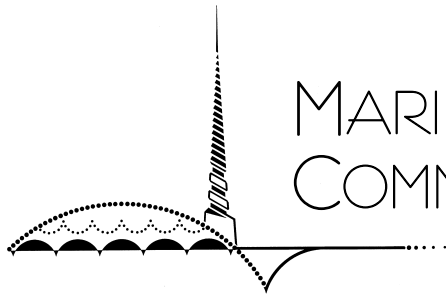
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – September 17, 2009

Hearing Officer Jeremy Tejrjian, AICP
 Johanna Patri, AICP, Consulting Planner

Staff Present: Kristina Tierney, Planner
 Scott Greeley
 Veronica Corella Pearson, Planner

Joyce Evans, Recording Secretary

Convened at 9:05 A.M.
Adjourned at 10:36 P.M.



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **ALEX KADRIE AND MICHAEL SHAND**

Application (type and number): Variance (VR 10-1)

Assessor's Parcel Number: 177-291-39

Project Location: 11 Lillard Lane, Woodacre

For inquiries, please contact: Kristina Tierney, Planner

Decision Date: September 17, 2009

DETERMINATION: Approved with Conditions

Minutes of the September 17, 2009, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-9.

Marin County Community Development Agency

Jeremy Tejirian, AICP
Hearing Officer

C1. VARIANCE (VR 10-1): ALEX KADRIE AND MICHAEL SHAND

KT

A proposal to resolve the side set back requirement of an existing deck that is currently encroaching the property of Michael Shand (APN 172-291-27). The applicant submitted application for a Lot Line Adjustment (LL 09-13) using the existing fence as the proposed property line. A Variance is required because the existing deck is located approximately 30 inches from the proposed property line, whereas a side setback of 12 feet would be required by the R1-B3 zoning district. The applicant is proposing to reduce the size of the existing deck to maintain a minimum of 5 feet setback from the proposed property line. The subject property is located at **11 Lillard Lane, Woodacre**, and is further identified as **Assessor's Parcel 172-291-39**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report. She asked that Condition of Approval 10, regarding a Waiver of Public Liability for geologic actions, be deleted.

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

The Hearing Officer concurred with staff's analysis and approved the Shand/Kadrie Variance, based on the Findings and subject to the conditions in the revised Resolution.

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 09-133

A RESOLUTION APPROVING THE KADRIE VARIANCE
11 LILLARD LANE, WOODACRE
ASSESSOR'S PARCEL 172-291-39

SECTION I: FINDINGS

- I. WHEREAS Alex and Janeth Kadrie submitted a Variance application to allow an existing deck to encroach into the eastern side property line. The existing deck does not comply with the side yard setback standards required by the R1:B3 zoning district and is located a minimum of 30 inches from the eastern side property line. As modified the deck would maintain a minimum 5 foot setback from the eastern side property line. Variance approval is required because the deck would be located as close as 5 feet from the side property line where 12 feet is normally required by the R1:B3 zoning district. The property is addressed as 11 Lillard Lane in Woodacre, and can be further identified as Assessor's Parcel number 172-291-39.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on September 17, 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 15305, Class 5 because the construction of a minor addition to an existing single family residence 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 for the following reasons:
 - A. The project would comply with the SF-4 land use designation (single family residential) and R1:B3 zone district regulations with approval of the proposed Variance to setbacks.
 - B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
 - C. 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.
 - D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

- E. The project would minimize soil disturbance and maximize retention of natural vegetation.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the San Geronimo Valley Community Plan because:
 - A. The proposed project would retain the residential character that is representative of the San Geronimo Valley community.
 - B. The proposed project would not involve any removal of vegetation and trees.
 - C. The project would not require any grading.
- VI. WHEREAS the Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Variance (Section 22.54.050 of Marin County Code and Section 65906 of the California Government Code), as specified below:

A. There are special circumstances applicable to the property (e.g. locations, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

The steep slope of the lot and the lot shape constitute special circumstances so that strict application of the side yard setback requirements would deny the property owner privileges enjoyed by other property owners in the vicinity. The chevron shape of the side of the lot constrains development on the side of the residence it faces. As a result of the steep slope, this living area is located on the second story of the residence, thus requiring that any directly accessible outdoor living area also to be elevated. The Variance would allow the applicants to maintain a modest amount of outdoor living space adjacent to their living room and kitchen. In addition, the existing deck is already non-conforming with regard to current setback standards, and the proposed Variance would facilitate the side yard setback to be increased from 30 inches to 5 feet. The majority of residences in the area enjoy the ability to create outdoor living space in the side yard and therefore granting the Variance would allow the property owners to enjoy the existing privileges of the neighbors.

B. That granting the Variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

The granting of the Variance would allow the property owner to maintain their attached deck, a use that is authorized by the governing R1:B3 zoning district.

C. That granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.

The proposed alteration to the deck would increase the existing eastern side yard setback and allow the owners to maintain a modest amount of outdoor living area, a use that is consistent with development patterns in the area. The shape and slope of the property make it extremely difficult for the property owners to utilize their side yard on the second story, where the primary living area is located, and many of the neighboring properties currently enjoy such conditions. Were another parcel to face similar topographic and shape limitations, it would receive similar considerations. Therefore, the proposed Variance would

not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

D. That granting the Variance will not be detrimental to the public interest, health, safety, conveniences, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The surrounding neighborhood is developed with a mix of single-family homes of various sizes and styles. The proposed deck modifications would be compatible with the character of this area, and increase the eastern side yard setback, giving the neighbors additional privacy. Therefore, the granting of the Variance will not be detrimental to the public interest, health, safety, conveniences, or welfare. Further, the proposed setback would be consistent with building code requirements.

VII. SAN GERONIMO WATERSHED STREAM CONSERVATION AREA MORATORIUM (Board of Supervisors Ordinance 3485)

The proposed project is exempt from the Moratorium on Development in Stream Conservation Areas in the San Geronimo Valley watershed per Interim Urgency Ordinance 3485 because the proposed development would not increase the construction footprint within a Stream Conservation Area (SCA) and would not add more than 500 square feet of development within the SCA.

SECTION II: CONDITIONS OF PROJECT APPROVAL

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

Community Development Agency – Planning Division

STANDARD CONDITIONS

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," and received July 14, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. 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 VR 10-1 conditions of approval as notes.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call out the approved building setbacks on the Building Permit plans indicating the minimum side yard, the distance of the building from the nearest property line at the closest point.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit verification to the Planning Department that LL 09-13 has vested by recording a Record of Survey, plat map, or diagram with revised legal descriptions.

5. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.
6. All construction activities shall comply with the following standards:
 - a. 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 and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. 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.
 - c. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
7. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.
8. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the

approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

9. BEFORE BUILDING FINAL, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the side property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify deck setbacks and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used by the Building and Safety Inspection staff to definitely measure building setbacks. Alternatively, the applicant may submit a written (stamped) confirmation from a licensed land surveyor or qualified civil engineer confirming the property line markers and the building setbacks to the side property lines based on the approved setbacks as shown on the Building Permit plans.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by obtaining a Building Permit for the approved work and substantially completing all approved work by March 17, 2010, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050 of the Marin County Code.

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 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on October 1, 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 17th day of September, 2009.

JEREMY TEJIRIAN
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary

**H1. COASTAL PERMIT (CP 09-7) AND DESIGN REVIEW (DM 09-16):
KRISTINA PHIPPS**

A proposal to construct a detached 136 square foot office and a detached 620 square foot guest dwelling, along with a 6 foot high fence. The office area would attain a maximum height of approximately 12 feet and the guest dwelling would attain a maximum height of 15 feet. The office would maintain the following approximate setbacks from corresponding property lines or road right of way edge: **front** (northwest) 13 feet 6 inches, **rear** (southeast) 69 feet, **side** (northeast) 2 feet, and **side** (southwest) 99 feet. The guest dwelling would maintain the following approximate setbacks from corresponding property lines or road right of way edge: **front** (northwest) 56 feet, **rear** (southeast) 3 feet, **side** (northeast) 3 feet, and **side** (southwest) 88 feet. The property is in a C-RSP-1 zoning district. The subject property is located at **125 Bay View Way, Inverness**, and is further identified as **Assessor's Parcel 112-254-07**.

In response to the Hearing Officer, staff summarized the contents of a supplemental memorandum dated September 17, 2009, containing a revised resolution and the receipt of a "Sun First!" Solar Shading Analysis presented at the hearing separately, not part of the memorandum, of the structure from a neighbor. Issues covered included changes to the language used in the revised resolution regarding "Water Supply", "Housing," "Wildlife Habitat" and "Visual Resources. In addition, due to a clerical error, the Inverness Public Utilities District was not transmitted to, and Conditions of Approval 21 and 22 were added which required the District to review, and the applicant must comply with all other requirements of the Inverness Public Utilities District. The vesting date should also be modified from May 28th to September 17, 2011. Although staff did have knowledge of the analysis being worked on beforehand, he has not had time to review the "Sun First!" Solar Shading Analysis submitted this morning.

The Hearing Officer questioned Condition of Approval 4 (a) regarding the ten foot setback from the leach field. The word "maximum" should be changed to "minimum regarding the relocation of the guest dwelling.

The public testimony portion of the hearing was opened.

Robert Kelley, architect, spoke regarding finding a compromise solution to move the project forward including:

- His inexperience with planned districts zoning caused a misunderstanding of the need for setbacks;
- The guest house may be too large and he is willing to reduce the size by 20%;
- A minimum wall height requirement has been met and the house is as low to the ground as possible to keep the character of the neighborhood;
- Siting of the buildings took privacy of the neighbors into effect;
- The office was moved up to four feet as allowed for the septic system; and
- The guest house would have an average of a ten foot setback to maximize the privacy for the neighbors.

George Phipps, owner, asked for an opportunity to speak after the neighbors speak.

Ellen Shehadeh, neighbor, spoke regarding her concerns with privacy and light. She refereed the data presented by Sun First and appreciates the Phipps willingness to reduce the size of the guest house. She is confused by the average ten foot setback and asked for other options for the placement of the houses.

David Bennett, spoke regarding the solar aspects of the neighbors property and the applicants property. The sun angle of 30 degrees in March and April and the 15 foot height and the distance to the story poles to show how much shadow is cast. He discussed the height of the story poles and asked for a low strung structure in keeping with the rural atmosphere of the area.

Paul Korhummel, friend of the applicant, spoke regarding concerns with the proximity of the office building to the guest house. He supports the concept of attaching it to the garage and would appreciate a compromise.

Robert Kelly, applicant, spoke regarding:

- The use of the garage as a weekend residence;
- The need for more space for storage in the garage;
- The placement of the office without any windows on their side to appease the privacy of the neighbors;
- Removal of substantial brush and oaks prior to development of the lot that brought light to the neighbors property; and
- The house will be well screened and excessive shading of the neighbor's house is caused by the tall trees.

George Phipps and David Bunnett noted that the shade analysis is not an expert opinion and should be taken at face value.

The public testimony portion of the hearing was closed.

Staff noted that he can not comment on the relocation of the guest house without seeing drawings and stands by his current recommendations.

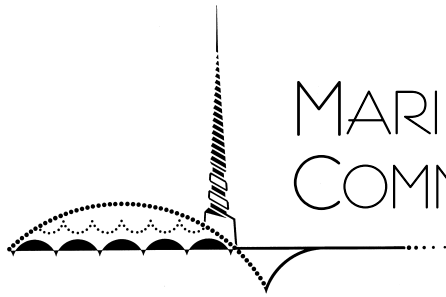
The hearing officer, after making a site visit, made the following comments:

- Neighborliness is important and many buildings in the area are very close to or on the property line, but structures close to the property line is not an entitlement;
- Coastal Permit and Design Review standards are used;
- She expressed concerns with the size of the guest house and the quality of the design, setbacks, mass and bulk;
- Accessory structures are allowed by scattered with the square footage exceeding the size of the primary residence; and
- She expressed concerns with the lack of clustering and maxing out the placement of the structures up to the property lines.

The Hearing Officer can not approve the project as presented today and hesitates making changes to the structures that may not be what the property owners want.

The owner asked if she approved the ten foot setback, could they shrink the building 20% of the square and cubic footage and get approved today.

After further discussion, the Hearing Officer continued the item to the hearing of October 1, 2009 to allow the applicant time for an alternate plan.



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **GAIL AND CHERYL BAR-OR
JOHN MANISCALCO AND MARY TUSLAK**

Application (type and number): Land Division (SD 07-5) and Coastal Permit (CP 08-50)

Assessor's Parcel Number: 119-122-24

Project Location: 30 Knob Hill Road, Point Reyes Station

For inquiries, please contact: Veronica Corella-Pearson, Planner

Decision Date: September 17, 2009

DETERMINATION: Approved with Conditions

Minutes of the September 17, 2009, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-13.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

- H2. A. **NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT:
BAR-OR LAND DIVISION (SD 07-5) AND COASTAL PERMIT (CP 08-50)**
 B. **BAR-OR LAND DIVISION (SD 07-5) AND COASTAL PERMIT (CP 08-50)**

Hearing proposing to divide Assessor's Parcel 119-122-24, (historic lots 25 and 26 of Map No.1 Point Reyes Lands Co., R.M.Bk 4. P.30). The applicant is proposing to divide the Assessor's Parcel into two lots that would be 3.53 acres (Parcel 1) and 6.77 acres (Parcel 2) in size. Parcel 1 would retain the existing residence and Parcel 2 would retain all existing equestrian facilities, and would construct a new dwelling unit within the northern barn. The applicant proposes a Conservation Area that would encompass all of Tomasini Creek and the existing pond, and would protect the lands within 100-feet from the top of bank and the edge of the pond, and 50 feet outward from the edge of riparian vegetation. The Conservation Area would total 5.3-acres in size and would preserve approximately 2.0-acres in Parcel 1, and approximately 3.3-acres in Parcel 2. The Conservation Area would be protected from future development. All existing facilities and improvements would remain. The barn and stables to the north of the dressage arena would be converted to a dwelling unit. Access to both parcels would be from Knob Hill Road. Parcel 2 would be granted a 23-foot wide access and utility easement through Parcel 1 that would be approximately 185-feet in length. Sanitary service would be provided by individual on-site sewage disposal. A section on the eastern portion of Parcel 1 would be reserved for a new mound septic system, which would be approximately 60-feet long and 50-feet wide, and used exclusively by Parcel 1. Parcel 2 would continue to use the existing septic system and leachfield in the southwest corner of the proposed lot that is approximately 85-feet long and 35-feet wide. Water is currently provided to the site by North Marin Water District and construction of new water service facilities are not required. No vegetation or tree removal is proposed. The property address is **30 Knob Hill Road, Point Reyes Station**, and is further identified as Assessor's Parcel **119-122-24**.

In response to the Hearing Officer, staff summarized the contents of the supplemental memorandum dated September 16, 2009 regarding letters from the State Clearinghouse and Planning Unit, and the Point Reyes Village Association, drafted by Bridger Mitchell and Michael Mery. The letters raised concerns with the prior development on the property and the impacts of the existing equestrian facility, created before there were zoning codes and a Use Permit was not required.

The Hearing Officer asked if the single family residence and the second unit on Parcel One were two housing units. Staff concurred that the proposal was for creating a single family dwelling converted from the existing barn. The Hearing Officer noted that she would like to add some changes to the vesting section to include wording that would state that the applicant must vest in the Building Permit for the dwelling unit and substantially completing work by September 17, 2011.

The applicants, Gail and Cheryl Bar-Or and John Maniscalco and Mary Tuslak, were not present.

Dale White, White and Prescott, representing the applicant, spoke regarding clarification of the added Condition of Approval regarding the first unit on Parcel 2. He asked to file the Parcel map before the Building Permit and noted that there is no Second Unit proposed on Lot 1. Neither the Second Unit nor the studio was ever constructed on Lot 1.

Bridger Mitchell spoke regarding the conforming use determination noted in the staff report and asked for information on Section 22.78.060(i) regarding a conforming use as existed. He further discussed the changes in the use for the equestrian facilities and what the primary use was for parcel 1, conditions on the pre 1970 use and the non-permanent occupancy of the residences.

The Hearing Officer noted that the equestrian center was zoned ARP at the time and was permitted as a principal permitted use. Staff clarified that no changes were made to the facilities in 2000 and the existing structures from 1970 still stand.

In response to the Hearing Officer, staff noted that at the time the restriction on the number of horses was placed, the horses would be located in the arena or in the barn and would have the same amount of land even if the size of the new lot is going to be reduced. Additionally, in regards to the conformance of the use, the equestrian facility will maintain its use and the number of horses may be reduced.

The Hearing Officer noted that the proposed 550 square foot residence would have part of the barn converted to a residence and would be the primary residence.

The public testimony portion of the hearing was closed.

Discussion followed on a conservation area agreement verses an easement. After speaking to County Council, the Hering Officer noted that there will be a Parcel Map and as long as it is recorded on the Parcel map, it will run with the land and is enforceable. As long as the language is on a recorded map that runs with the land, the Hearing Officer is comfortable in staying with the area agreement.

The Hearing Officer approved the Resolution granting the Negative Declaration.

The hearing Officer approved the project with the following modifications to the Resolution:

- SECTION 1: FINDINGS IV. (B): Strike the deed restriction;
- SECTION 1: FINDINGS IV. (C): add, "Condition of Approval #5 (Mitigation Measure G.1) also requires the applicant to record a Conservation Area Agreement that would inform future landowners of the development restrictions.";
- SECTION 2: CONDITIONS OF PROJECT APPROVAL (1): add, "Parcel 2 will retain all existing equestrian facilities and is approved for a new dwelling unit to not exceed 750 square feet in size, within the location of the northern barn";
- SECTION 2: CONDITIONS OF PROJECT APPROVAL (3): add, "or it shall be recorded concurrently with the Parcel Map.";
- SECTION 2: CONDITIONS OF PROJECT APPROVAL (5): add, "PRIOR TO RECORDATION OF THE PARCEL MAP, the owner shall record a Conservation Area Agreement with the County of Marin that shall stipulate that construction and vegetation removal within the protected area, except for the removal of diseased or dead vegetation, non-native vegetation, and for fire protection with an approved Vegetation Management Plan (VMP) shall be prohibited."; and

- SECTION 3: VESTING AND APPEAL RIGHTS: add, “of State law pursuant to Section 20.34.040. The applicant must vest the Bar-Or Coastal Permit, by September 17, 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 of the Marin County Code.”

The Hearing Officer directed staff to do a global search of the findings for deed restriction.

The Hearing Officer adopted the Negative Declaration of Environmental Impact for the Bar-Or project.

The Hearing Officer approved Bar-Or Coastal Permit and Land Division, based on the Findings and subject to the Conditions as set for the in the modified Resolution.

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 09-134

A RESOLUTION GRANTING A MITIGATED NEGATIVE DECLARATION

OF ENVIRONMENTAL IMPACT

FOR THE BAR-OR COASTAL PERMIT AND LAND DIVISION

30 KNOB HILL ROAD, POINT REYES STATION

ASSESSOR'S PARCEL 195-223-24

* * * * *

SECTION 1: FINDINGS

- I. WHEREAS, Gal and Cheryl Bar-Or, and Mary Tesluk and John Maniscalco, have submitted an application for a Coastal Permit and Land Division application. The project is a proposal to divide an existing 10.3-acre property into two lots and construct a new 750 square foot dwelling unit within the northern barn on proposed Parcel 2. The applicants and joint-owners, Gal and Cheryl Bar-Or and John Maniscalco and Mary Tesluk, have applied for Land Division approval to divide Assessor's Parcel 119-122-24, (historic lots 25 and 26 of Map No.1 Point Reyes Lands Co., R.M.Bk 4. P.30). The applicant is proposing to divide the Assessor's Parcel into two lots that would be 3.53 acres (Parcel 1) and 6.77 acres (Parcel 2) in size. Parcel 1 would retain the existing residence and Parcel 2 would retain all existing equestrian facilities, and would construct one new dwelling unit within the northern barn. The applicant proposes a Conservation Area that would encompass all of Tomasini Creek and the existing pond, and would protect the lands within 100-feet from the top of bank and from the edge of the pond, and 50 feet outward from the edge of riparian vegetation. The Conservation Area would total 5.3-acres in size and would preserve approximately 2.0-acres in Parcel 1, and approximately 3.3-acres in Parcel 2. The Conservation Area would be protected from future development. All existing facilities and improvements would remain. The barn and stables to the north of the dressage arena would be converted to a dwelling unit. Access to both lots would be from Knob Hill Road. Parcel 2 would be granted a 23-foot wide access and utility easement through Parcel 1 that would be approximately 185-feet in length. Sanitary service would be provided by individual on-site sewage disposal. A section on the eastern portion of Parcel 1 would be reserved for a new mound septic system parcel, which would be approximately 60-feet long and 50-feet wide, and used exclusively by Parcel 1. Parcel 2 would continue to use the existing septic system and leachfield in the southwest corner of the proposed parcel that is approximately 85-feet long and 35-feet wide. Water is currently provided to the site by North Marin Water District and construction of new water service facilities are not required. No vegetation or tree removal is proposed. The property is located at 30 Knob Hill Road, Point Reyes Station, and is further identified as Assessor's Parcel 195-233-24.

- II. WHEREAS, the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project and it was determined that potential impacts are avoided or mitigated to a point where clearly no significant effects would occur, and there is no evidence that the project may have a significant effect on the environment.

- III. WHEREAS, the Marin County Environmental Coordinator has determined that, based on the Initial Study, a Mitigated Negative Declaration of Environmental Impact is required for the project pursuant to the California Environmental Quality Act (CEQA).

- IV. WHEREAS, on August 6, 2009, an Initial Study and proposed Mitigated Negative Declaration of Environmental Impact were completed and distributed to agencies and interested parties to commence a 30-day public review period for review and comment on the Mitigated Negative Declaration, and a Notice of the public review period and Marin County Deputy Zoning Administrator hearing date to consider granting final approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.
- VI. WHEREAS, after the close of the 30-day public review period on September 17, 2009, the Marin County Deputy Zoning Administrator reviewed and considered the information contained in the draft Mitigated Negative Declaration, and Initial Study.

SECTION 2: ACTION

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

1. Notice of the initial public review period and hearing on the Mitigated Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
2. All individuals, groups and agencies desiring to comment on the Mitigated Negative Declaration were given the opportunity to address the Marin County Deputy Zoning Administrator.
3. The Mitigated Negative Declaration of Environmental Impact for the project consists of the Negative Declaration, Initial Study, responses to comments, and all supporting information incorporated by reference therein.
4. The Mitigated Negative Declaration of Environmental Impact was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County's CEQA process.

LET IT BE FURTHER RESOLVED that the Marin County Deputy Zoning Administrator hereby grants the Mitigated Negative Declaration of Environmental Impact for the Bar-Or Coastal Permit and Land Division application as an adequate and complete environmental document for purposes of approving the project and declares that the Mitigated Negative Declaration has been completed and considered in conjunction with the comments thereto, in compliance with CEQA, the State CEQA Guidelines, and the County's CEQA process.

SECTION 3: DECISION

GRANTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of September 2009.

JOHANNA PATRI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 09-135

**A RESOLUTION APPROVING WITH CONDITIONS
THE BAR-OR COASTAL PERMIT (CP 08-50) AND LAND DIVISION (LD 08-3)**

30 KNOB HILL ROAD, POINT REYES STATION

ASSESSOR'S PARCEL 119-122-24

SECTION 1: FINDINGS

- I. WHEREAS, Gal and Cheryl Bar-Or, and Mary Tesluk and John Maniscalco, have submitted an application for a Coastal Permit and Land Division application. The project is a proposal to divide an existing 10.3-acre property into two lots and construct a new 750 square foot dwelling unit within the northern barn on proposed Parcel 2. The applicants and joint-owners, Gal and Cheryl Bar-Or and John Maniscalco and Mary Tesluk, have applied for Land Division approval to divide Assessor's Parcel 119-122-24, (historic lots 25 and 26 of Map No.1 Point Reyes Lands Co., R.M.Bk 4. P.30). The applicant is proposing to divide the Assessor's Parcel into two lots that would be 3.53 acres (Parcel 1) and 6.77 acres (Parcel 2) in size. Parcel 1 would retain the existing residence and Parcel 2 would retain all existing equestrian facilities, and would construct one new dwelling unit within the northern barn. The applicant proposes a Conservation Area that would encompass all of Tomasini Creek and the existing pond, and would protect the lands within 100-feet from the top of bank and from the edge of the pond, and 50 feet outward from the edge of riparian vegetation. The Conservation Area would total 5.3-acres in size and would preserve approximately 2.0-acres in Parcel 1, and approximately 3.3-acres in Parcel 2. The Conservation Area would be protected from future development. All existing facilities and improvements would remain. The barn and stables to the north of the dressage arena would be converted to a dwelling unit. Access to both lots would be from Knob Hill Road. Parcel 2 would be granted a 23-foot wide access and utility easement through Parcel 1 that would be approximately 185-feet in length. Sanitary service would be provided by individual on-site sewage disposal. A section on the eastern portion of Parcel 1 would be reserved for a new mound septic system parcel, which would be approximately 60-feet long and 50-feet wide, and used exclusively by Parcel 1. Parcel 2 would continue to use the existing septic system and leachfield in the southwest corner of the proposed parcel that is approximately 85-feet long and 35-feet wide. Water is currently provided to the site by North Marin Water District and construction of new water service facilities are not required. No vegetation or tree removal is proposed. The property is located at 30 Knob Hill Road, Point Reyes Station, and is further identified as Assessor's Parcel 195-233-24.
- II. WHEREAS, the Marin County Deputy Zoning Administrator held a duly noticed public hearing on September 17, 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 reviewed and considered testimony in favor of, and against, a proposed Mitigated Negative Declaration and determined, subject to the conditions of project approval contained herein, that this project will not result in any potentially significant environmental impacts, and qualifies for a Mitigated Negative Declaration

of Environmental Impact in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County's CEQA process.

- IV. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
- A. The project is consistent with all applicable policies regarding species and habitat preservation (Policy BIO-1.1; Policy BIO-1.3; and Policy BIO-2.4) because the project proposes a Conservation Area that will protect all land that is of high value to wildlife and Condition of Approval #5 (Mitigation Measure G.1) requires that the applicant record a Conservation Area Agreement that would inform future landowners of the development restrictions.
 - B. The project is consistent with Policy BIO-3.1, which requires development to avoid wetland areas so that the existing wetlands and upland buffers are preserved and opportunities for enhancement are retained and to establish a Wetland Conservation Area (WCA) for jurisdictional wetlands to be retained, which includes the protected wetland and associated buffer area. All lands that meet this definition will be protected within the Conservation Area which will be protected under Condition of Approval #5 (Mitigation Measure G.1) that requires the applicant to record a Conservation Area Agreement that would inform future landowners of the development restrictions.
 - C. The project is consistent with Policy BIO-4.1, which requires that development be restricted in the Stream Conservation Area since the Conservation Area would encompass all areas that are 100-feet from the edge of the Tomasini Creek, and 50-feet outward from the outer edge of woody riparian vegetation, and land that extends 100-feet from the southerly edge of the pond. No new development would be allowed within the Conservation Area, which would be consistent with the WCA and SCA policies of the CWP. Condition of Approval #5 (Mitigation Measure G.1) also requires the applicant to record a Conservation Area Agreement that would inform future landowners of the development restrictions.
 - D. The project is consistent with all policies regarding the avoidance of erosion and sedimentation (Policy WR-2.3 and Policy BIO-4.15) since the project does not propose any changes to the existing drainage, or propose the removal of vegetation, or new construction that may result in soil erosion. The project will comply with standard Building Permit procedures that require that a project not result in adverse erosion or sedimentation and ensure compliance with MCC 23.18 (Ordinance 3486).
 - E. The project is consistent with all policies regarding the avoidance of hazards (Policy EH-2.1, Policy EH-2.3, and Policy EH-3) since the project would not result in hazardous conditions related to geophysical issues because the subject property is not located within an Earthquake Study Zone and no active faults were identified on the property, and any future development would require Building Permit approval to insure that it is designed in compliance with the recommended construction practices identified in the Geotechnical Report prepared by Earth Science Consultants.
 - F. The project is consistent with all policies regarding the protection of structures from fire (Policy 4.1) since standard building permit requirements would ensure that any future development would incorporate fire protection measures into construction.
 - G. The project is consistent with all policies regarding the protection of visual resources (Policy DES-1.2, and Policy DES-4.1) since the project site is currently developed and the

proposed Conservation Area would preserve the majority of the area that is undisturbed, therefore resulting in future development being clustered within the area of existing development, and preserving the open character of the northern portion of the parcel. Further, the proposed project would protect all lands that have high habitat value for wildlife, and does not propose any new development, other than the construction of a new dwelling unit within the northern barn, therefore preserving its existing visual quality and scenic quality of the natural environment.

H. The project is consistent with all policies regarding the reduction of greenhouse gas emissions and protection of the atmosphere (Policy AIR-4.1) since the proposed project would not result in potentially significant impacts on air quality relating to greenhouse gas emissions with implementation of development standards for energy conservation and use of renewable energy systems in future development applications.

V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Point Reyes Community Plan because:

A. The proposed project is consistent with the mandatory findings and objectives of the Point Reyes Station Community Plan as specified below:

The project is located within the Point Reyes Station Planning Area Boundary, as shown in Appendix A of the Point Reyes Station Community Plan.

B. Encourage small-scale agriculture and agriculture-related land uses, home occupations and cottage industries throughout the Planning Area.

The proposed project does not propose agricultural activities, nor would it inhibit future agricultural related activities, home occupations, or cottage industries. Currently the property contains barns, corrals and stables that could be used in the future for the rearing of livestock on Parcel 2.

C. Encourage diversity in lot sizes and building densities in the Planning Area as a whole and within each zoning district (subject to the district's minimum lot size requirements).

The proposed project would result in two new lots that would be 3.53 and 6.77 acres in size, which meets the minimum lot size requirement of the C-R-A:B-3 (Coastal, Residential Agriculture, minimum lot size 20,000 square feet) and would add to the diversity in lot sizes within the vicinity.

D. Encourage development of additional affordable housing for persons employed locally.

The project would create 2 new lots that could provide affordable housing for persons that are locally employed.

E. New commercial or residential construction shall be compatible in scale (bulk and height), style and social character with the existing visual character of the community.

Existing development on the site conforms to the visual character of the community. The construction of a new dwelling unit within the existing barn would be reviewed at the

building permit stage to ensure that the design standards of the C-R-A:B-3 zoning district would be met.

- F. Improvements such as roads, driveways, parking areas and residential and commercial lighting should be compatible with the rural environment. For example, the use of gravel instead of asphalt as cover for parking areas is encouraged. Outdoor lighting shall serve for safety of ingress and egress but shall not detract from the enjoyment of the natural nightscape.**

The project does not propose new roads, parking areas, or lighting and there would be no negative impacts to the existing ingress and egress, or to the natural nightscape.

- G. Landscaping proposals should be evaluated carefully in terms of the long-range effect on the natural and built environment of the immediate neighborhood, especially in the Downtown area, and on the Planning Area as a whole. The requirement of wind breaks shall be discontinued and the effect of any proposed wind breaks (at maturity) on sunlight, coastal views, and traffic safety (visibility) taken into account. New wind breaks along Highway 1 should be prohibited to preserve coastal views. The Point Reyes Station Landscaping Guide should be used for information and as a guide.**

The project does not propose any new landscaping, and the existing natural vegetation within the Conservation Area will be protected.

- VI. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Coastal Permit approval pursuant to the requirements and objectives of the Local Coastal Program, Unit II (§22.56.130I of the Marin County Code) as described below.

- A. Water Supply:**

A letter from the North Marin Water District dated August 21, 2008 indicated that the applicant has an approved service connection, and construction of new service facilities are not required for the project.

- B. Septic System Standards:**

The project has been reviewed by Environmental Health Services, and it was determined that the plans provided for the proposed new septic system on Parcel 2 is adequate, and that prior to Parcel Map approval, the applicant is to apply for an onsite sewage disposal system and inspection of the existing septic system.

- C. Grading and Excavation:**

No grading or excavation is proposed.

D. Archaeological Resources:

Archaeological Resource Service conducted a Cultural Resources Evaluation of the entire parcel on October 6, 2008 and determined that there are no significant cultural resource on the property, no cultural resources will be affected by the project, and no further archaeological investigation on this property is warranted.

E. Coastal Access:

The subject property is not located between the sea and the first public road or adjacent to a coastal area identified by the Local Coastal Program, Unit II, where public access is desirable or feasible. During a routine site visit, staff found no evidence of historic public use on the property, and that the property is not located near any tidelands or submerged lands subject to the public trust doctrine.

F. Housing:

The proposed project would increase the availability of housing stock in Point Reyes Station because one additional dwelling unit would be allowed on Parcel 2.

G. Stream Conservation Protection:

Tomasini Creek is located to the north of the property and the Conservation Area would have a buffer of over 100 feet from the top of stream banks, and would be setback over 50 feet from the edge of riparian vegetation.

H. Dune Protection:

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

I. Wildlife Habitat:

The Natural Resources Map for Unit II of the Local Coastal Program indicates that the subject property is not located in an area of sensitive wildlife resources. A search of the California Natural Diversity Database revealed that 46 listed animal species had the possibility of occurrence, yet only 10 of those species had moderate potential. A survey was conducted by Coast Range Ecology and no special status species, or natural communities of concern were observed, with the exception of the western pond turtle (*Actinemys marmorata*), whose habitat is in the Conservation Area and would be protected. Additional listed species with moderate potential to occur, but were not detected include pallid bat (*Antrozus pallidus*), Yuma bat (*Myotis yumanensis*), western red bat (*Lasiurus blossevillii*), white-tailed kite (*Elanus leucurus*), little willow flycatcher (*Empidonax traillii brewsteri*), loggerhead shrike (*Lanius ludovicianus*), yellow warbler (*Dendroica petechia brewsteri*), Allen's hummingbird (*Selasphorus sasin*), and salt marsh common yellowthroat (*Geothlypis trichas sinuosa*).

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit II of the Local Coastal Program indicates that the subject property is not located in an area that contains sensitive plant species. A search was conducted of the California Natural Diversity Database, the California Native Plant Society's Inventory of Rare and Endangered Plants of California, and the U.S. Fish and

Wildlife Services list for the Inverness 7.5 minute USGS quadrangle, as well as the eight surrounding quadrangles, and a target list was developed of the species which have potential to occur on the subject parcel. A majority of the plants that were identified from the search are associated with habitat types that are not present on the site, yet there is potential for three species, Marsh microseris (*Microseris paludosa*), Sonoma alopecurus (*Alopecurus aequalis* var. *sonomensis*) and bent-flowered fiddleneck (*Amsinckia lunaris*). A site visit was conducted by a consulting Biologist and no special status plant species were observed. Any special-status plant species with potential to occur on site but that may have not been observed, would be located within the Conservation Area and protected by Mitigation Measure G.1, which requires that the Conservation Area be recorded to provide disclosure to future landowners of the development restrictions in the Conservation Area.

K. Shoreline Protection:

The project site is not located adjacent to the shoreline or within a bluff erosion zone.

L. Geologic Hazards:

The project site is not located in an area of geologic hazards as indicated on the Geologic Hazards Map for Unit II of the Local Coastal Program, and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Alquist-Priolo Special Studies Zone Map. Based on information from the Geotechnical Investigation from Earth Science Consultants, the site is suitable for future development, provided it is designed according to the building code requirements for the existing soil type.

M. Public Works Projects:

The proposed project does not entail expansion of public roads, flood control projects, or utility services.

N. Land Division Standards:

The subject property is a legal lot of record, and the proposed land division meets the lot minimum size requirement for the C-R-A:B-3 zoning district as discussed in Section VI.A.1 above.

O. Visual Resources:

The project is to create two new lots. Both lots are developed, and the northern barn and stable on Parcel 1 would be partially converted to a dwelling unit in the future. Currently the barn and stable area is screened by vegetation from Knob Hill Road, which does not create a visual barrier of scenic resources from public viewpoints.

P. Recreation/Visitor Facilities:

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

Q. Historic Resource Protection:

The project site is not located within a historic resource protection area.

VI. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for a Land Division (§20.56.120I of the Marin County Code) as described below.

A. The proposed map is consistent with applicable general and specific plans.

Please see Section IV and V above.

B. The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Please see Section IV and V above

C. The site is physically suitable for the type of development.

The proposed project would be dividing the property into two lots that would meet the minimum lot size requirement of the CWP and the zoning district. The site is currently developed and has received County approval for all existing structures. No new development would be constructed that would be in a protected area, or would result in new disturbance to the site. The conversion of the barn to a dwelling unit would be reviewed at the building permit stage to ensure conformance with all zoning and building code requirements.

D. The site is physically suitable for the proposed density of development.

The proposed new lots would meet the minimum lot size requirement and have already been developed.

E. The design of the subdivision or the proposed improvements would not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

An Initial Study was prepared, which found that the project as mitigated would not result in significant impacts to the environment and all lands with high habitat value would be protected within the Conservation Area, and a Mitigated Negative Declaration was granted by the Deputy Zoning Administrator.

F. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.

The project was reviewed by Environmental Health Services staff, which found that the existing and proposed septic improvements to be acceptable as shown. Further the Initial Study that was prepared found that no significant public health problems would result from the proposed project.

G. The design of the subdivision or the type of improvements would not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction. No authority is granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

The proposed project does not conflict with easements acquired by the public at large.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Bar-Or Coastal Permit (CP 08-50) and Land Division (LD 08-3) application subject to the following conditions:

1. Pursuant to Marin County Coastal Zoning Code Sections 22.32.110I and 22.56.130I this Land Division and Coastal Permit approval to divide Assessor's Parcel 119-122-24, (historic lots 25 and 26 of Map No.1 Point Reyes Lands Co., R.M.Bk 4. P.30). The project is approved to divide the Assessor's Parcel into two lots that will be 3.53 acres (Parcel 1) and 6.77 acres (Parcel 2) in size. Parcel 2 will retain all existing equestrian facilities and is approved for a new dwelling unit to not exceed 750 square feet in size, within the northern barn. A Conservation Area is approved that will encompass all of Tomasini Creek and the existing pond, and will protect the lands within 100-feet from the top of bank and the edge of pond, and 50 feet outward from the edge of riparian vegetation. The Conservation Area will total 5.3-acres in size and will preserve approximately 2.0-acres in Parcel 1, and approximately 3.3-acres in Parcel 2. The Conservation Area will be protected from future development. All existing facilities and improvements will remain. Access to both lots will be from Knob Hill Road. Parcel 2 will be granted a 23-foot wide access and utility easement through Parcel 1 that will be approximately 185-feet in length. Sanitary service will be provided by individual on-site sewage disposal. A section on the eastern portion of Parcel 1 will be reserved for a new mound septic system, which will be approximately 60-feet long and 50-feet wide, and will be used exclusively by Parcel 1. Parcel 2 will continue to use the existing septic system and leachfield in the southwest corner of the lot that is approximately 85-feet long and 35-feet wide. Water is currently provided to the site by North Marin Water District and construction of new water service facilities are not required. No vegetation or tree removal is approved. The property is located at **30 Knob Hill Road, Point Reyes Station**, and is further identified as **Assessor's Parcel 195-233-24**.
2. Plans submitted for Parcel Map approval shall substantially conform to plans identified as "Exhibit A," entitled, "Bar-Or Land Division" consisting of 2 sheets prepared by White and Prescott, dated October 21, 2008 and received October 21, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE RECORDATION OF THE PARCEL MAP, the Community Development Agency shall record the Notice of Decision on the title of the subject property, or it shall be recorded concurrently with the Parcel Map.
4. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the approved lots shall be as follows:

<u>Parcel</u>	<u>Street Address</u>
One	30 Knob Hill Road, Point Reyes Station
Two	36 Knob Hill Road, Point Reyes Station

5. PRIOR TO RECORDATION OF THE PARCEL MAP, the owner shall record a Conservation Area Agreement with the County of Marin that shall stipulate that construction and vegetation removal within the protected area, except for the removal of diseased or dead vegetation, non-native vegetation, and for fire protection with an approved Vegetation Management Plan (VMP) shall be prohibited. The language of the Conservation Area Agreement shall be reviewed and approved by Planning Division staff. The recorded agreement shall include language for protection of the riparian and wetland habitat, native vegetation, and sensitive species habitat. The boundaries of the areas addressed by the Conservation Area Agreement must be shown on the Parcel Map labeled as "Conservation Area" and a legal description must be recorded. The Conservation area shall includes all lands that are within 100 feet from the top of bank of Tomasini Creek and 50 feet from the edge of the riparian vegetation, and 100 feet from all wetlands delineated and approved by the Army Corps of Engineers and all lands that meet the California Coastal Commission's definition of a wetland.
6. The Planning Division shall review and verify that the Conservation Area Agreement is in conformance with Mitigation Measure G.1.
7. The applicant must submit a Parcel Map application, and obtain approval of the Parcel Map from the Planning Division and Department of Public Works County Surveyor. After approval of the Parcel Map, the applicant shall file a Parcel Map with the County Recorder to record the Land Division approved herein. The required Parcel Map must be in substantial conformance with Exhibit "A," including, but not necessarily limited to, the proposed lot lines and easements. Parcel Map data and form must be in compliance with provisions of Chapter 20.64 of the Marin County Code.
8. The Bar-Or Land Division approval must be vested with the filing of the required Parcel Map in compliance with all conditions of approval within three years after the date it is conditionally approved by the County of Marin. A timely filing is made when all parties having record title interest in the real property submit written consent, and a fully executed Mylar complying with all conditions of approval, including executed versions of all required agreements and paying all required fees, are submitted to the County Surveyor. The Community Development Agency Director may administratively authorize extensions to this mandatory vesting period upon written request by the applicant and payment of the appropriate extension fee for a period not to exceed an aggregate of five years beyond the expiration date. Extension of the Land Division approval may also be permitted pursuant to applicable State law.
9. Pursuant to California Government Code Section 66474.9(b), the County of Marin shall require that the applicant defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Crandall Land Division, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the applicant of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

10. 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 and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
11. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Use and Water Resources

Prior to Recordation of Parcel Map:

12. The Parcel Map shall be prepared in compliance to the requirements of Title 22 and 20 of the Marin County Code, and under the California Map Act.
13. Provide a maintenance agreement for the access and utility easement.

SECTION 3: VESTING, DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Bar-Or Land Division approval by recording a Parcel Map before September 17, 2012, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it, or unless the vesting period is automatically extended by operation of State law pursuant to Section 20.34.040. The applicant must vest the Bar-Or Coastal Permit, by September 17, 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 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, Marin County Civic Center, San Rafael, no later than 4:00 p.m. on September 24, 2009.

SECTION 4: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 17th day of September 2009.

JOHANNA PATRI, AICP
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary