

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY
M E M O R A N D U M

TO: Johanna Patri, DZA Hearing Officer
FROM: Veronica Corella-Pearson, Planner
RE: Lippman Coastal Permit, Design Review, and Second Unit (CP 05-7, DR 05-13, SU 08-19)
DATE: December 10, 2009

On June 26, 2008 the Lippman Coastal Permit, Design Review and Second Unit application was scheduled for hearing. A staff report was prepared that recommended approval with conditions. The applicant requested that the hearing be continued so that additional information could be prepared to address concerns from the local community and requirements for project approval.

On July 30, 2009 the applicant provided additional information regarding the location of the proposed geothermal energy system, a letter regarding the building design and energy usage, and details regarding the proposed pool's water usage, potential construction impacts on Highland Way, and vehicular access to the project site (Attachment 1). Staff transmitted the new information to all interested parties and reviewing agencies. During a review of the newly submitted information, staff reviewed the California Natural Diversity Database (CNDDDB) and determined that new species had been added since the completion of the provided biological report, and additional information was needed prior to determining that the project qualifies for Categorical Exemption from the California Environmental Quality Act (CEQA).

During the initial application review, staff requested a biological report, which was provided on March 30, 2007. The report was prepared by Avocet Research Associates and dated January 10, 2005. The site was visited on December 15, 2004, to determine if nesting habitat for the Northern Spotted Owl (*Strix occidentalis caurina*) was present and to determine if other special status species were present on the site. The report determined there was no nesting habitat, and that the project would not likely disturb owls that may nest near the site. The report also noted that a reconnaissance of the building sites did not reveal the presence of any special status plant or animal species listed under the California Natural Diversity Database, nor did the site seem to be suitable habitat for any of the listed species.

The revised biological assessment, dated October 10, 2009, addresses special status species added to the CNDDDB since the 2005 report, special status species on the California Native Plant Society "Cal Flora" database, and the California Department of Fish and Game "Special Animals" list, and other resources related to sensitive species. On September 25, 2009 a site visit was conducted. The search for special status species generated a list of 48 special status species, 2 habitat types, 21 animals, and 25 plant species. Based on the site conditions and site surveys, it was determined that none of the plant species are on the subject property, or have potential to be on the property. Of the listed animal species with potential for occurrence, it was determined that based on the site condition there is potential for three species to occur, which are: 1) California Red-legged frog (*Rana aurora draytonii*); 2) Point Reyes mountain beaver (*Aplodontia rufa phaea*); and 8) Northern spotted owl (*Strix occidentalis caurina*). The report further acknowledges that protocol level surveys were not conducted for the Red-legged frog or the Point Reyes mountain

beaver. Since surveys were not conducted, their presence was assumed, and the biologist recommended “best management practices to prevent or minimize adverse impacts.” The biological report also identifies an area called a “swale,” located approximately 265 feet down slope from the building site, and feeds into a culvert beneath the access road that contains “hydrophilic soils” and currently supports “riparian or wetland vegetation”.

The CDA Planning Division has determined that an Initial Study needs to be prepared since Section 15300.2(a and c) of the California Environmental Quality Act (CEQA) does not allow the use of Categorical Exemptions if there is a reasonable possibility of the project resulting in impacts on an area of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies and where there is a reasonable possibility that the activity will have a significant adverse affect on the environment because of unusual circumstances. Such circumstances exist with respect to this project because important natural habitats for Red-legged frog, and the Point Reyes mountain beaver where found to be present on the site and their presence assumed, and recommendations were given for the prevention of potential negative impacts. Further, the report refers to the swale as containing riparian and wetland vegetation. Potential impacts to these sensitive habitat areas need to be properly evaluated and wetland and riparian areas delineated. Mitigation also needs to be provided that is consistent with requirements of the Department of Fish and Game, U.S. Fish and Wildlife Service, California Coastal Commission, and the Marin Countywide Plan.

Staff recommends that the DZA hearing officer continue the item indefinitely so that an Initial Study can be prepared and distributed. Staff has notified the owner and applicant of this requirement in the letter dated August 5, 2009, and the applicant was given the ability to appeal this determination. Staff will begin preparation of the Initial Study once all required document and fees have been submitted by the owner.

Attachments:

1. Applicant letter, dated July 30, 2009
2. Plan Sheets A1 – A5
3. Environmental Health Services – Sewage, memo dated 8/06/09
4. Department of Public Works, Land Use Division, memo dated 8/19/09
5. CDA letter to applicant, dated August 5, 2009
6. CDA letter to applicant, dated September 4, 2009
7. CDA letter to applicant, dated September 10, 2009

Cc: David Nicholson, DPW
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