



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
LOHMEYER LAND DIVISION**

Item No:	H1	Application No:	LD 07-3
Applicants:	J.D. Stroeh	Owners:	Edwin and June Lohmeyer
Property Address:	65 Hillside Terrace, Novato	Assessor's Parcels:	157-071-22
Hearing Date:	January 28, 2010	Planner:	Kristina Tierney

RECOMMENDATION:	Approve with Conditions
APPEAL PERIOD:	5 working days to the Planning Commission
LAST DATE FOR ACTION:	March 8, 2010

PROJECT DESCRIPTION:

The project is a proposal to divide the subject 5.74-acre property into two lots. Parcel 1, which is currently developed with an existing single family residence and septic system, would total 2.7 acres and Parcel 2, which is currently vacant, would total 3.51 acres. No development is proposed at this time.

Access to the existing residence on Parcel 1 would continue to be from the driveway on Hillside Terrace and Parcel 2 would be accessed by Bay Canyon. Electrical, telephone, and cable utilities for Parcel 2 would be extended from existing underground utilities in Bay Canyon Road. The actual location would be determined during the permit process for the construction of the residence. The existing residence on Parcel 1 is currently served by utilities extending from Hillside Terrace. Utilities would be provided to Parcel 2 via existing underground utility services in Bay Canyon Road.

Parcel 1 is currently served by an on-site septic system and Parcel 2 would be served by a new onsite septic system that has been approved by the Environmental Health Services Division. The septic leach field would be located uphill from Bay Canyon Drive on the northern side of the property and would be approximately 100 feet by 90 feet in dimension.

GENERAL INFORMATION

Countywide Plan: AG3 – Agricultural, 1 unit per 1-10 acres
Zoning: A-2 – (Limited Agriculture, 2 acre minimum lot area)
Lot size: 5.74 acres
Adjacent Land Uses: Single-family residential
Vegetation: Oak / bay woodland.

Topography and Slope: Approximately 19 percent slope
Environmental Hazards: None identified

ENVIRONMENTAL REVIEW

The Environmental Coordinator has determined that this project is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15315, Class 15 of the CEQA Guidelines because it entails a land division on a conventionally zoned property with a building envelope having a slope of less than 20 percent (Attachment 10). Further, a biology report submitted by the applicant indicates that the project would not have any impacts on sensitive wildlife or plant species. All trees removed would be replaced on a 2 to 1 basis or in-lieu fees would be contributed to the Marin County Open Space District. An archaeology report submitted by the applicant shows that while there may be one potential archaeology site on the property, the location of the building envelope ensures that the site would not be disturbed through project 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.

PLAN CONSISTENCY:

The project would be consistent with the goals and policies of the Marin Countywide Plan and the Blackpoint Community Plan because it involves a Land Division to establish one additional building site for a single-family residence. The division of the existing 5.74-acre lot into two lots containing 2.7 and 3.04 acres would be consistent with the 1 unit per 1 to 10 acre density range of the AG3 land use designation and the 2 acre minimum lot size of the A-2 zoning district.

No adverse impacts to natural resources have been identified. The project would be consistent with development and zoning codes (Marin County Code Title 22) because the Land Division would comply with development standards, including those for access, water, sewer, fire, and visual resources. Future development proposed for a new single-family residence on the proposed building site will be required to meet development standards including limits on height and floor area, Green Building Checklist, adequate setbacks from property lines, erosion and sediment control, and fire safety. Therefore, the project would be consistent with the goals and policies of the Marin Countywide Plan and the Blackpoint Community Plan. Please refer to the detailed findings in the recommended Resolution, Attachment 2.

PROJECT ANALYSIS:

Background

The 5.74-acre property is located in the unincorporated Blackpoint community of Novato and is currently accessed by Hillside Terrace. The project site extends from Bay Canyon Road in a generally northerly direction, towards the Petaluma River. It is currently developed with an existing single-family residence and associated septic system on the lower portion of the property, near the river. The

property is bounded to the north by the Petaluma River, and to the east, west and south by low density, single-family residential development.

The topography of the property includes a ridgeline that runs north-south through the center of the property, with half trending downhill to the east, towards the Petaluma River, and the other half trending downhill to the west, toward Bay Canyon. The terrain is very steep with approximately 79 percent of the property having a slope greater than 15 percent. On-site elevations range from sea level along the river to 110 feet at the ridgeline and near sea level along Bay Canyon Road. Vegetation on the site is dense and varied. The majority of the site is covered by native oak / bay woodland.

The applicant is proposing to divide the 5.74-acre property into two lots as described in Table 1, below:

Table 1. Proposed Lot Sizes

Lot Number	Lot Size	Existing Improvements
1	2.71 acres	Residence and septic system
2	3.51 acres	Vacant

Biological Resources

No special status plant or animal species were identified in a biologist report as potentially occurring on the subject property based on site inspections and review of the Natural Diversity Database. The site consists of a mix of native and non-native plant species. It is dominated by woody vegetation with oak woodland being the most prevalent. Dense non-native shrubs dominated by French broom (*Genista monspessulana*) or rock rose (*Cistus sp.*) occur between the canopy of the oak trees and within the understory of the oaks. Dense non-native grassland occurs in a few small patches on the site while wetland and riparian vegetation were absent. 272 protected trees were identified on the property by the arborist report. A total of 28 oaks, 3 bays, and one madrone tree are located within the building envelope. Some, but not all of these trees would be removed for construction of the new residence. Approximately 88 percent of the protected trees on the property are located outside the building envelope. The amount of tree removal and habitat modification would be relatively small and will not have adverse biological effects.

Affordable Housing

In-lieu affordable housing fees will be required pursuant to Marin County Code Sections 22.22.050 and 22.22.080. With the creation of one new building site, provision of affordable housing is based on 20% of the total number of parcels, or 0.2 inclusionary unit. In instances where less than one-half a residential unit is proposed, the Code allows for payment of a fee in-lieu of affordable housing provision. As this project would add only one additional lot, and the relatively large lot sizes and remoteness of the parcels, staff recommends that an in-lieu fee be applied. The fee for 0.2 inclusionary unit would be determined at the time the applicant files the Parcel Map and collected before recordation of the Parcel Map. The current fee currently is \$46,400, based on 0.2 times the current \$232,000 in-lieu fee per unit. Staff recommends Condition of Approval 3 to implement this requirement.

Parkland Dedication

The project will be required to contribute in-lieu parkland fees pursuant to Marin County Code Section 22.98.040 and the State Land Division and Precise Development Plan Map Act Sections 66477 et seq. (Quimby Act). The payment of in-lieu fees to the Community Development Agency for parks or recreational purposes with a new Land Division is required. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements. Staff recommends Condition of Approval 4 to implement this requirement.

Public Comments

On January 13, 2010, a public notice was circulated for public review and comment. No comments were received.

CONCLUSION:

Staff finds that the proposed Land Division, as modified by conditions of approval, would comply with codes and policies to adequately protect the surrounding community environment, including the woodland resources. The building envelope would have moderate 19% slope and would result in minor grading, limited potential for erosion, and minor visual effects upon construction of a new residence. Subsequent Grading Permits, and Building Permits will be required for the construction of a residence and for driveway improvements, including construction of retaining walls and access driveway to the residence. The development of the proposed lot would be compatible with the neighborhood.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached Resolution approving the Lohmeyer Land Division based on the findings and subject to the conditions contained therein.

- Attachments:**
1. Proposed Resolution recommending approval of the Lohmeyer Coastal Permit applications
 2. CEQA Exemption
 3. Location Map
 4. Assessor's Parcel Map
 5. Project Plans
 6. Marin County Department of Public Works Memo, 12/23/09
 7. Marin County Environmental Health Services Memo, 12/22/09
 8. Novato Fire Protection District Memo, 12/21/09
 9. North Marin Water District Memo, 12/18/09
 10. Building Envelope Slope Calculation

The following attachment was 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 A.M. to 4:00 P.M.

11. Hydrology Report for Lohmeyer Residence, August 12, 2009
12. Cultural Resources Evaluation of the lands of Lohmeyer, August 10, 2009
13. Results of the Biological Survey of the Lohmeyer Land Division Project, August 20, 2009
14. Fire Hazard Mitigation and Defensible Space Report, August 25, 2009
15. Tree Preservation Report, July 30, 2009

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 09-XXX

A RESOLUTION APPROVING THE LOHMEYER LAND DIVISION
65 HILLSIDE TERRACE, NOVATO
ASSESSOR'S PARCEL 157-071-22

SECTION 1: FINDINGS

- I. WHEREAS, J.D. Stroeh submitted, on behalf of Edwin and June Lohmeyer, the Lohmeyer Land Division application to divide their property into two lots. The project is a proposal to divide a developed 5.74-acre lot into two (2) lots with 2.7 acres (Parcel 1), and 3.04 acres (Parcel B), land areas respectively. Parcel 1, which is currently developed with an existing single family residence and onsite septic system, would continue to take access from Hillside Terrace while Parcel 2, which is vacant, would be accessed by a new driveway from Bay Canyon. No development is planned at this time. The property is located at 65 Hillside Terrace, Novato, and is further identified as Assessor's Parcel 157-071-22.

- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on January 28, 2010, 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 15315, Class 15 because it entails a land division on a conventionally zoned property with a building envelope having a slope of less than 20 percent. The project site does not contain sensitive biological resources and would require minimal grading and tree removal, and result in no potentially significant impacts on the environment.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because:
 - A. The proposed project would comply with Marin County standards for geotechnical engineering and seismic safety, and include improvements to protect lives and property from hazard;

 - B. The proposed project would result in the division of property into two lots consistent with the density range of one units to one to ten acres under the governing AG3 Countywide Plan land use designation;

 - C. The proposed project would comply with governing development standards related to grading, flood control, drainage and utility improvements as verified by the Department of Public Works;

 - D. The proposed project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services; and

- E. The proposed project would minimize soil disturbance and maximize protection of natural vegetation, wetlands, and drainage courses.
- V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Blackpoint Community Plan because:
- A. The proposed project involves a two-lot Land Division for the future construction of a new single-family residence, which is a principally permitted uses on the property consistent with the A-2 zoning. Parcel 1 would maintain a floor area ratio less than the allowed 30 percent.
 - B. The proposed project would not adversely impact the surrounding natural environment relative to vegetation, habitats, or drainage.
 - C. The proposed project would maintain adequate off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
 - D. The proposed project would not adversely impact the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, and access from Hillside Terrace and Bay Canyon.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Tentative Map (Marin County Code Section 22.84.060) because:
- A. The proposed project involves a two-lot Land Division to allow the future construction of one single-family residence, which is a principally permitted use on the property consistent with the Marin Countywide Plan and the Blackpoint Community Plan. No findings for denial in Subsection D can be made.
 - B. In the interest of the public health and safety, as a prerequisite to the orderly development of the surrounding area, the construction of road improvements are not required within a specified time frame.
 - C. The findings for waiver of Parcel Map are not applicable to this project.
 - D. The findings requiring denial cannot be made pursuant to State Subdivision Map Act Section 66474 as follows:
 - 1. The proposed Land Division would be consistent with the Marin Countywide Plan, the Blackpoint Community Plan, and zoning standards because the two proposed residential lots on 5.74 acres would result in an overall density of one unit per 2.87 acres. The Land Use Designations allows for a maximum of one unit per one to ten acres, and the zoning allows for a minimum lot size of 2 acres.
 - 2. The 5.74-acre site is suitable for division into two building sites with 2.7 and 3.04 acres of land, respectively. The proposed lot sizes would comply with the minimum lot sizes based on Lot Slope pursuant to the Subdivision Design standards in Table 6-1 of Marin County Code Section 22.82.050

3. The design of the land division and access improvements would not cause substantial environmental damage or injure fish, wildlife, or their habitat.
4. The design of the land division would not cause serious public health or safety problems.
5. The design of the land division and access improvements will not conflict with easements.
6. The land division is consistent with all applicable provisions of the Development Code, other County Codes, and the Map Act.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Lohmeyer Land Division application subject to the following conditions:

1. Pursuant to Marin County Development Code Section 22.84.060, this Tentative Map for Land Division permits the division of the subject 5.74-acre property into two lots with 2.7 acres (Parcel 1) and 3.04 acres (Parcel 2) of land areas, respectively. The subject property is located at 65 Hillside Terrace, Novato and is further identified as Assessor's Parcels 157-071-22.
2. Except as modified herein, plans submitted for a Tentative Parcel Map for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A, "Tentative Parcel Map", consisting of eight sheets prepared by CSW/Stuber-Stroeh.
3. BEFORE RECORDATION OF THE PARCEL MAP, the applicant shall submit to the Community Development Agency, Planning Division an in-lieu participation fee for the construction of affordable housing. The fee shall be determined at the time the Parcel Map is filed in accordance with the provisions of Marin County Development Code Chapter 22.22 (Affordable Housing Regulations), which requires that proposed projects resulting in the development of two or more units or parcels shall provide 20 percent of the total number of units or parcels for the development of affordable housing.
4. BEFORE RECORDATION OF THE PARCEL MAP, the applicant shall submit to the Community Development Agency, a park fee in-lieu of land dedication for future park improvements. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.
5. BEFORE RECORDATION OF THE PARCEL MAP, the Notice of Decision shall be recorded on the title of the subject property.
6. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the approved lots shall be as follows:

Lot	Street Address
Parcel 1	65 Hillside Terrace, Novato
Parcel 2	25 Bay Canyon, Novato

7. The applicant must submit Parcel Map Checking applications separately to the Community Development Agency Planning Division and to the Department of Public Works Land Use and Water Resources Division. Approval of the Parcel Map is required from the Planning Division and from Department of Public Works County Surveyor prior to recordation. After approval of the Parcel Map, the applicant shall file a Parcel Map with the County Recorder to record the Land Division map as approved. The required Parcel Map must be in substantial conformance with Exhibit A, including, but not necessarily limited to, the proposed lot lines, building envelopes,

access, and easements. Parcel Map data and form must be in compliance with provisions of Chapter 22.86 of Marin County Code.

8. The Lohmeyer Land Division Tentative Map 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 Tentative Map approval may also be permitted pursuant to applicable State laws.
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 Lohmeyer 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. 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.
11. All retaining walls, flashing, metal work and trim shall be an appropriately subdued, non-reflective color and all exterior lighting shall be downward directed and hooded, and the minimum light intensity necessary for safety.
12. 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.
13. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be constructed underground from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
14. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division 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, Planning Division 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

Conditions listed below must be completed and submitted for DPW's approval prior to recordation.

- 15. Prepare a parcel map per MCC Title 20 & 22 and Subdivision Map Act.
- 16. The offer of dedication along Bay Canyon Road shall be recorded concurrently with the Map.

Conditions listed below shall be submitted for review and approval by DPW prior to issuance of any grading and building permit.

- 17. All improvements shall conform to MCC Title 24 or as approved by DPW and NFPD.
 - a. Provide a driveway profile starting at centerline of Smith Road through proposed hammer head to proposed garage. Also provide cross-slope information on proposed driveway and hammer head.
 - b. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
 - c. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
 - d. A separate Building Permit is required for site/driveway retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge).
 - e. Submit engineer's calculations for site/driveway retaining walls, signed and stamped by the engineer.

- f. Provide a letter verifying GGNRA acknowledgment and agreement of existing gate relocation within Marin Drive road right of way.
- g. A Recorded Notice of Acknowledgement would be required for any structures proposed within Marin Drive right of way.
- h. Applicant shall pay Public Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.

Novato Fire Protection District

- 18. Planning for and construction on parcels shall require additional Fire District comments and conditions at the time of application for proposed development to either planning and/or building divisions.
- 19. Additional NFD conditions will also be made including but not limited to: vegetation management, ignition resistant construction, fire sprinklers, fire access – possible widening of a section of Bay Canyon Road, fire flow – possible added fire hydrants.

North Marin Water District

- 20. The District requests recording of a water line easement over an existing NMWD pipeline along the northwest corner of this parcel. In addition, if fire sprinklers are required for this existing residence, replacement of the 3/4 inch lateral and the 5/8 inch meter will be necessary in order to provide the flow required by the sprinkler system. If applicable, the applicant should contact the District to arrange for this upgrade and permit approval shall not be granted until water service upgrade is complete.
- 21. Regarding the newly created parcel, construction of new water distribution facilities may be required before water service can be provided. Septic leach fields are to be located at least 25 feet away from water facilities. The owner must apply to the District; enter into an agreement with the District and complete financial arrangements for the new facilities prior to recording of the final map.
- 22. The project must conform to District Regulation 14- Mandatory Water Conservation Measure. Occupancy approval shall not be granted until compliance with water conservation measures can be verified.

SECTION 3: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Lohmeyer Land Division by filing a Parcel Map before January 28, 2013, 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 Agency Director approves it.

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 February 11, 2010.

SECTION 4: DECISION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 28th day of January 2010.

JOHANNA PATRI
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary