



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR

Tomales Community Services District (TCSD) Coastal Permit and Design Review

Item No:	C-2	Application No:	CP 10-17, DR 10-40
Applicant:	American Solar	Owner:	TCSD
Property Address:	Irwin Road	Assessor's Parcels:	102-130-10
Hearing Date:	February 11, 2010	Planner:	Veronica Corella-Pearson

RECOMMENDATION: Approve With Conditions
APPEAL PERIOD: 5 Working Days to the Planning Commission
LAST DATE FOR ACTION: February 11, 2010

PROJECT DESCRIPTION:

The applicant, American Solar, has applied on behalf of the owners, Tomales Community Service District, for Coastal Permit and Design Review approval for the placement of ground mounted solar arrays near the existing treatment pond at the corner of Irwin Road and Tomales Road. The solar arrays would have a maximum height of 4-feet, and would be 1,930 square feet in size, and would be approximately 70.5-feet in length and 36-feet in width. The anticipated output is 23.37 kW. The solar arrays would maintain a setback of 10 feet from the northern property line, and 16 feet from the western property line. The piers that support the arrays would be 4-feet in depth, and 12-inches in diameter. The parcel is zoned C-ARP-20 (Coastal, Agriculture, 1 unit per 20 acres). The associated equipment would be located within an existing building near the treatment ponds.

GENERAL INFORMATION:

CWP Land Use Designation:	C-AG2 (Coastal, Agriculture, 1 unit per 31-60 acres))
Zoning:	C-ARP-20 (Coastal, Agriculture, 1 unit per 20 acres)
Lot size:	3.8 acres
Adjacent Land Uses:	Agriculture, Public Facilities
Vegetation:	Grassland
Topography and Slope:	Gentle to moderately sloping
Environmental Hazards:	None

ENVIRONMENTAL REVIEW:

The Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15303, Class 3 of the CEQA Guidelines because it entails construction that does not result in adverse grading or excavation, and is not located near special status species or sensitive habitat areas and therefore would not result in adverse impacts to the environment.

TCSD 102-130-10Coastal Permit (CP 10-17) and Design Review (DR 10-40)
 February 11, 2010
 DZA Hearing, Item # C-2

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the public hearing date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. At the time of the drafting of this staff report, no comments were received in response to the public notice.

PLAN CONSISTENCY:

The proposed project is consistent with the goals and policies of the Marin Countywide Plan and Marin County Code Section 22.82.040. Please refer to the findings contained in the attached resolution.

PROJECT ANALYSIS:

The parcel is approximately 3.8-acres in size and is the site of one of the treatment ponds for the Tomales Community Service District. The proposed location for the solar panels is adjacent to the northwestern corner of the property and would consist of 3 sub arrays for a total area of 1,930 square feet, with a height of 4 feet. The equipment for the photovoltaic system would be located within an existing equipment building to the northwest of the treatment pond. To the north of the proposed solar arrays is Tomales High School, and the solar arrays would be near an undeveloped portion of their property. On the west, east, and south side of the parcel is surrounded by agricultural land owned and managed by Tomales Land and Cattle Company. The surrounding vegetation is non-native grassland with full sun. A search of the California Natural Diversity Database found no special status species listed on the subject property, but listed Baker's larkspur (*Delphinium bakeri*), Wolly-headed gilia (*Gilia capitata ssp. tomentosa*), and Golden larkspur (*Delphinium luteum*) as potentially being located near the project site. Baker's larkspur requires partial shade and moist soils, and would therefore not be found on the site. Golden larkspur and Wolly headed gilia are located in coastal bluff habitat areas, which is not present on the site.

Pursuant to Government Code Section 53091, the project is exempt from local building ordinances but is subject to zoning ordinances. Therefore, in conformance with the Marin County Interim Code, the applicant is required to obtain Coastal Permit and Design Review approval from the County Planning Division and the project is subject to the policies contained in the Marin Countywide Plan.

Staff has conducted a site visit, reviewed all submittal information and finds that all the mandatory findings for a Coastal Permit can be made, and determine that the project would not impact special status species, or sensitive habitat. It is also located a substantial distance from any neighboring structures and public rights-of-way and would not result in a public detriment. The array would be visible from Tomales-Petaluma Road, but the project site is not located near a scenic vista or viewshed. Finally, the project would substantially advance efforts to rely on environmentally sustainable energy sources, which would benefit the public. As discussed in the attached Resolution, the project would be consistent with all the mandatory findings for Coastal Permit and Design Review approval.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution conditionally approving the Tomales Community Service District Coastal Permit and Design Review.

Attachments:

1. Proposed Resolution recommending conditional approval of the Bolinas Community Public Utility District Coastal Permit (CP 08-37).
2. CEQA Exemption
3. Assessor's Parcel Map
4. Plan Set (5 sheets)
5. Supplementary Photos (3 sheets)
6. Department of Public Works, Land Development memo dated 11/20/2009

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. _____

A RESOLUTION APPROVING
THE TOMALES COMMUNITY SERVICE DISTRICT COASTAL PERMIT (CP 10-17) AND
DESIGN REVIEW (DR 10-40)
IRWIN ROAD, TOMALES
ASSESSOR'S PARCELS 102-130-10

SECTION 1: FINDINGS

- I. WHEREAS the applicant, American Solar, has applied on behalf of the owners, Tomales Community Service District, for Coastal Permit and Design Review approval for the placement of ground mounted solar arrays near the existing treatment pond at the corner of Irwin Road and Tomales Road. The solar arrays would have a maximum height of 4-feet, and be approximately 1,930 square-feet in size, and would be approximately 70.5-feet in length and 36-feet in width. The anticipated output is 23.37 kW. The solar arrays would maintain a setback of 10 feet from the northern property line, and 16 feet from the western property line. The piers that support the arrays would be 4-feet in depth, and 12-inches in diameter. The parcel is zoned C-ARP-20 (Coastal, Agriculture, 1 unit per 20 acres). The associated equipment would be located within an existing building near the treatment ponds. The subject property is located near the intersection of Irwin Road and Tomales Road, Tomales and identified as Assessor's Parcels 102-130-10.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on February 11, 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 per Section 15303, Class 3 of the CEQA Guidelines, the project is Categorically Exempt from the requirements of the California Environmental Quality Act because it entails construction that does not result in adverse grading or excavation, and is not located near special status species or sensitive habitat areas, and therefore would not result in adverse impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan because:
 - A. The project complies with *CWP* natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
 - B. The project is consistent with *CWP* natural systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).
 - C. The project will not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).

- D. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on other lands adjacent to the project site, or impact corridors for wildlife movement (*CWP Policies BIO-2.3 and BIO-2.4*).
 - E. No wetlands or stream conservation areas will be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - F. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - G. The project avoids hazardous geological areas and is not subject to Building Permit application review pursuant to California Government Code 53091 (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
 - H. The project is exempt from compliance with building ordinances pursuant to Government Code 53091. The project has been sited to meet all requirements for defensible space and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - I. The project proposes no exterior lighting and will have no impacts on light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).
 - J. The project is not located in an area that would negatively impact the visual quality, scenic quality and views of the natural environment (*CWP Policy DES-4.1*).
- V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Coastal Permit (Section 22.56.130 of the Marin County Code) for the reasons specified below:

A. Water Supply:

The proposed project is not located in an area that would negatively impact existing water supplies.

B. Septic System Standards:

The project would not impact the operation of the water treatment facility as determined by Tomales Community Service District.

C. Grading and Excavation:

The proposed project requires a minimal amount of excavation for the placement of the panel piers and electrical conduit and would not result in adverse impacts.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of archaeological sensitivity. However, a minimal amount of site disturbance is proposed and the site is a substantial distance from any known archeological or historical sites. Conditions of project approval would require that in the event that cultural resources are discovered during site

preparation or construction of this project, all work shall immediately be stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate response measures to meet Local Coastal Program requirements.

E. Coastal Access:

The project site is not located adjacent to the shoreline, and therefore this finding does not apply

F. Housing:

The proposed project will not impact the availability of affordable housing to households of lower or moderate income because it does not entail the demolition of any housing or the conversion of affordable housing to market rate housing.

G. Stream Conservation Protection:

The project site is not situated in an area subject to the streamside conservation policies as identified on the National Resources Map for Unit II of the Local Coastal Program or near any ephemeral or intermittent stream.

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 California Natural Diversity Database, prepared by the State Department of Fish and Game, indicates that the proposed project is not located near any known special status animal species.

J. Protection of Native Plant Communities:

A search of the California Natural Diversity Database found no special status species listed on the subject property, but listed Baker's larkspur (*Delphinium bakeri*), Wolly-headed gilia (*Gilia capitata ssp. tomentosa*), and Golden larkspur (*Delphinium luteum*) as potentially being near the subject property. Baker's larkspur requires partial shade and moist soils, and would therefore not be found on the site. Golden larkspur and Wolly headed gilia are located in coastal bluff habitat areas, which is not present on the site.

K. Shoreline Protection:

The proposed project would not occur within the shoreline protection zone, and therefore this finding does not apply

L. Geologic Hazards:

The project site is not located within the Alquist-Priolo Special Study Zone or in a location that is subject to landslides. Therefore, the project would not be subject to unusual geologic hazards.

M. Public Works Projects:

This proposed project does not entail expansion of public roads, flood control projects, or utility service and will not affect any public works projects.

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The height, scale, and design of the proposed photovoltaic system would comply with the standards of the governing zoning and will be compatible with the established character of the surrounding community.

P. Recreation/Visitor Facilities:

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

Q. Historic Resource Preservation:

The subject parcel is not located within the a historic resource preservation area in the Local Coastal Program, Unit II, and therefore this finding does not apply

VI. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the following mandatory findings to approve a Design Review application (Marin County Code Section 22.82.040) for the following reasons:

A. It is consistent with the countywide plan and any applicable community plan and local coastal program;

The project is located in the C-ARP-20 (Coastal, Agricultural, 1 unit per 20 acres) zoning district, and is not subject to a minimum lot size, or minimum setback requirements. The arrays will have a height of approximately 4 feet, and meets the maximum height standards. As discussed above, the project meets all the requirements of the Local Coastal Program, Unit II, and the project is outside of the Tomales Community Plan area and is not subject to the Tomales Community Plan.

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

The project is located near the existing water treatment ponds and would be compatible with the existing use of the property. The arrays are of a height that would not be visibly obtrusive, and maintains large setbacks from structures on adjacent properties.

C. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but

not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;

The project would maintain large setbacks to adjacent structures and would therefore not interfere with their light, air or privacy. The project is conditioned to insure that the structures are not located near any rights-of-way, or public lands.

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

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

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

The proposed project entails no tree or landscape removal, and proposes a minimal amount of excavation for the solar array piers.

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

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

Please see B, C and F above.

- 2. Drainage systems and appurtenant structures;**

The proposed project proposes a minimal amount of excavation, which requires no appurtenant structures or a drainage plan.

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

The proposed project does not propose retaining walls or bulkheads.

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

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

- 5. Other development or improvements which may result in a diminution or elimination of significant sun and light exposure, views, vistas, and privacy.**

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

- G. It may contain roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.**

The project entails locating all electrical equipment within an existing structure.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Tomales Community Service District Coastal Permit (CP 10-17) and Design Review (DR 10-40) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Tomales Community Service District Coastal Permit (CP 10-17) and Design Review (DR 10-40) is approved for the placement of ground mounted solar arrays near the existing treatment pond at the corner of Irwin Road and Tomales Road. The solar arrays will have a maximum height of 4-feet, and will be 1,930 square-feet in size, and will be approximately 70.5-feet in length by 36-feet in width. The anticipated output is 23.37 kW. The solar arrays will maintain a setback of 10 feet from the northern property line, and 16 feet from the western property line. The piers that support the arrays will be 4-feet in depth, and 12-inches in diameter. The associated equipment would be located within an existing building near the treatment ponds. The subject property is located near the intersection of Irwin Road and Tomales Road, Tomales and identified as Assessor's Parcels 102-130-10.
2. Tomales Community Service District is exempt from building permit approval pursuant to California Government Code Section 53091. In the event that Tomales Community Service District submits a Building Permit application, then except as modified herein, plans submitted for Building Permits shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as Exhibit A, "TVCSW Waste Water Treatment Plant – Tomales Road and Irwin", consisting of 5 pages, received on November 3, 2009.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the Site Plan or other first sheet of the office and job site copies of the Building Permit plans to list the below conditions of approval.
4. 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.

5. All utility connections and extensions serving the project shall be installed underground. Modifications to this condition may be considered by the Community Development Director at the written request of the applicant.
6. 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.
7. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
8. 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 Coastal Permit, for which action is brought within the applicable statute of limitations.

Marin County Department of Public Works, Land Use and Water Resources Division

Prior to Vesting of the Coastal Permit and Design Review, the applicant shall:

9. Revise the site plan to show the property boundaries as shown on the Parcel Map 7-157.
10. Provide a copy of the legal document that allows access through parcel 102-130-08. Plot the easement on the site plan.

SECTION 3: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Tomales Community Service District Coastal Permit (CP 10-17) and Design Review (DR 10-40) approval with the substantial completion of all the approved work before February 11, 2012 or all rights granted in this approval shall lapse unless the applicant applies for an extension limited to a maximum of four years, at least 30 days before the expiration date above and the 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, Civic Center, San Rafael, no later than **4:00 p.m. on February 18, 2010.**

SECTION 4: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the **11th day of February 11, 2010.**

Attest:

Johanna Patri
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Joyce Evans
Recording Secretary

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