



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR  
BOUSKILA USE PERMIT AND DESIGN REVIEW**

Item No:	H1.	Application No:	DR07-49 and UP08-25
Applicant:	William Kirsch	Owner:	Avrham Dayan
Property Address:	50 H Lane, Novato	Assessor's Parcels:	143-171-51, 143-142-17, 143-142-20
Hearing Date:	July 15, 2010	Planner:	Scott Greeley

<b>RECOMMENDATION:</b>	<b>Approval of Design Review with Conditions and Denial Use Permit</b>
<b>APPEAL PERIOD:</b>	<b>July 29, 2010</b>
<b>LAST DATE FOR ACTION:</b>	<b>September 14, 2010</b>

**PROJECT DESCRIPTION:**

The applicant is proposing a Use Permit, Design Review, and Second Unit Permit to renovate a former equestrian center (the commercial component), and construct a primary residence and second unit (the residential component). The commercial aspect of the project, the equestrian center, includes renovation of 5,448 square feet of stables with grooming area and corral that would accommodate up to 45 horses, as well as renovation of an existing 11,653 square foot covered arena, an existing outdoor arena with seating, a covered manure storage area, a dressage with walker area, construction of a new 1,500 square foot hay barn, 13 additional new corrals, and a new 10-foot tall, 288 square foot office. The equestrian center will include parking for up to 32 cars, as well as 8 spaces for horse trailer parking. Equestrian center classes are planned for two days a week and no special events are being proposed.

The residential component of the project includes a 2,680 square foot, one story primary residence would reach a height of 16 feet and have the following setbacks: 1) 22 feet from the westerly front property line; 2) 24 feet from the easterly rear property line; 3) approximately 125 feet from the northerly side property line; and 4) over 600 feet from the southerly rear property line. The proposed primary residence would be served by 4 off street parking spaces. The 744 square foot, one story second unit would reach a height of 13 feet and have the following setbacks: 1) 27 feet from the westerly front property line; 2) approximately 39 feet from the easterly rear property line; 3) approximately 37 feet from the northerly side property line; and 4) over 700 feet from the southerly side property line. The proposed second unit would be served by 2 off street parking spaces. The applicant is also proposing to relocate the existing fence and install a new gate and erect a 6 foot tall wall at the rear of the property. The

design of the proposed second unit is subject to Design Review however, the use is not subject to discretionary review and will be subject to a separate administrative decision. A new septic system is also being proposed. The zoning for these parcels are ARP-2. The subject property is located at **50 H Lane, Novato**, and is further identified as **Assessor's Parcels 143-171-51, 143-142-17, and 143-142-20**.

**GENERAL INFORMATION:**

Countywide Plan:	SF3 (Single-family, Residential, 1-5 acre minimum lot size)
Zoning:	ARP-2 (Agricultural-Residential, Planned, 2-acre minimum lot size)
Community Plan Area:	Black Point
Lot size:	5.88-acres
Adjacent Land Uses:	Rural residential and open space
Vegetation:	Native grasslands and vegetation
Topography and Slope:	Flat to gently sloping
Environmental Hazards:	Adjacent wetlands

**ENVIRONMENTAL REVIEW:**

The Environmental Coordinator has determined that the residential component of the project, including the proposed primary residence and the design of the second unit are Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 of the CEQA Guidelines because it entails design and construction of a new residence, which is a principally permitted use, and the design of a second unit and does not result in potentially significant impacts to the environment and would not result in potentially significant impacts to the environment. Due to incomplete information and the applicant's inability to provide the required information in a timely manner, pursuant to CEQA Guideline Section 15109, the commercial component of the project is being denied because it cannot be determined whether the proposed equestrian center adequately satisfies the policies and ordinances of the County of Marin, nor the California Environmental Quality Act.

**BACKGROUND:**

The proposed project is, in part, a response to an ongoing Code Enforcement case, which was initiated February 7, 2000, as a result of an illegal dwelling unit being constructed within the horse stables of a former, legal, non-conforming equestrian center, which ceased to operate approximately 20 years ago. According to Mr. Benjamin Bouskila, he purchased the property and the residence had already been built without building permits and has since been living there with his wife. The property has changed ownership several times over the years, but on May 25, 2007, in response to the ongoing Code Enforcement case, William Kirsch, acting as applicant, applied for a Use Permit, Design Review, and Second Unit Permit for the present project. At the time of application, Mr. Bouskila owned the property but has since sold the property to Avraham Dayan, a relative of Mr. Bouskila, who has permitted Mr. Bouskila to continue residing on the property. Mr. Dayan has agreed to sponsor the existing project. The property has been vandalized several times over the past ten years and Mr. Bouskila has done additional work on the stables/residence and property in response to the vandalism.

The project was originally transmitted to the Department of Public Works, Environmental Health Services, North Marin Water District, Novato Fire Protection District, the Blackpoint

Improvement Club. Mr. Bouskila, Cristy Stanley with the Community Development Agency, and the Marin County Fire Department were also cc'd.

The applicant has submitted new information nine times in response to incompleteness findings made in seven Project Status letters. The scope of the proposed equestrian center has been scaled back since the original submittal, largely with regards to hours and days of operation for classes and the elimination of all proposed special events.

With the most recent completeness finding by the Department of Public Works, dated February 16, 2010 (Attachment 8), which identified potentially significant environmental impacts resulting from hydrology, stormwater management, manure management, and traffic, it has been determined by staff that the project as proposed does not qualify for an environmental exemption and that an initial study is needed. Mr. Bouskila and the applicant have been unwilling to proceed with the initial study, which has left the project in a continued state of incompleteness.

Pursuant to CEQA Guideline Section 15109, which states that the applicant must provide required information in a timely manner and the owner's unwillingness to initiate an initial study so that a decision on the merits of the equestrian center can be properly made, staff is proceeding to public hearing in order to resolve the 10-year old, intertwined Code Enforcement case.

#### **PUBLIC NOTICE:**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property, as well as those who have requested to be listed as interested parties. Comments have been received primarily relating to concerns about the potential environmental impacts the equestrian facility may have and whether it is a good fit within the larger surrounding community. While the proposed equestrian center is a recognized conditionally permitted use by the subject zoning district with a use permit, as noted above, the applicant has been unable to demonstrate satisfactorily that there will not be a potentially significant environmental impact as a result of the equestrian facility being reestablished on the site. The issues raised by Planning and the Department of Public Works, including hydrological, stormwater, manure management, and traffic issues have made it necessary to prepare an initial study, which the applicant has been unwilling to pursue. As such, because staff is recommending denial of the proposed equestrian center, staff will not address the issues raised by the public at this time because there is inadequate information available to do a detailed environmental and policy analysis.

Comments with regards to the proposed primary residence and second unit have been largely non-committal or otherwise positive, with exception to concerns raised about potential fire hazards due to existing growth of flammable vegetation. Staff is recommending adoption of a vegetation management plan as a condition of approval for residential development, prior to issuance.

Comment has also been received stating that inadequate notice was provided and requested that the project be continued and public notice be given one month ahead of any public hearing.

The legal notice and public hearing standards outlined in Chapter 22.118 of the Development Code were adequately addressed and met.

**PLAN CONSISTENCY:**

The proposed use and design of the primary residence and design of the accessory structure which is to be the second unit are generally consistent with the goals and policies of the Marin Countywide Plan, the Black Point Community Plan, Single-family Residential Design Guidelines, and Titles 22 (Zoning) and 24 (Development Standards) of the Marin County Code, because it will not result in tree removal, significant grading, or other adverse impacts on the environment and surrounding property owners. Due to incomplete information and the applicant's inability to provide the required information in a timely manner, pursuant to CEQA Guideline Section 15109, it cannot be determined whether the proposed equestrian center adequately satisfies the policies and ordinances of the County of Marin, nor the California Environmental Quality Act. Please refer to the consistency findings contained in the attached resolution.

**RECOMMENDATION:**

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Bouskila Design Review and denying the Use Permit.

- Attachments:**
1. *Proposed Resolution recommending approval of the Bouskila Design Review and denial of the Use Permit.*
  2. *CEQA Exemption*
  3. *Location Map*
  4. *Assessor's Parcel Map*
  5. *Project Plans*
  6. *House and Second Unit Colors, labeled "Exhibit B-1", received April 14, 2008*
  7. *Project Description, received January 12, 2010*
  8. *DPW memo, dated February 16, 2010*
  9. *EHS memo, dated May 29, 2008*
  10. *EHS memo, dated May 27, 2008*
  11. *NMWD memo, dated December 2, 2008*
  12. *NFPD memo, dated June 8, 2010*
  13. *BPIC letter, dated May 27, 2008*
  14. *BPIC letter, dated June 18, 2007*
  15. *ILS Associates letter, dated June 28, 2010*
  16. *Seventh Notice of Project Status, dated March 5, 2010*
  17. *Sixth Notice of Project Status, dated*
  18. *Public Comments received from March 27, 2009-July 7, 2010*
  19. *Avraham Dayan letter, received February 23, 2010*
  20. *ILS, "Bioretention Sizing Calculations", dated March 18, 2008*
  21. *ILS, "Hydrology Study, sated March 18, 2008*

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-  
A RESOLUTION APPROVING THE DESIGN REVIEW AND DENYING THE USE PERMIT  
50 H LANE, NOVATO  
ASSESSOR'S PARCELS 143-171-51, 143-142-17, 143-142-20

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**SECTION I: FINDINGS**

I. WHEREAS, William Kirsch, the applicant, is seeking a Use Permit, Design Review, and Second Unit Permit to renovate a former equestrian center (the commercial component), and construct a primary residence and second unit (the residential component). The commercial aspect of the project, the equestrian center, includes renovation of 5,448 square feet of stables with grooming area and corral that would accommodate up to 45 horses, as well as renovation of an existing 11,653 square foot covered arena, an existing outdoor arena with seating, a covered manure storage area, a dressage with walker area, construction of a new 1,500 square foot hay barn, 13 additional new corrals, and a new 10-foot tall, 288 square foot office. The equestrian center will include parking for up to 32 cars, as well as 8 spaces for horse trailer parking. Equestrian center classes are planned for two days a week and no special events are being proposed.

The residential component of the project includes a 2,680 square foot, one story primary residence would reach a height of 16 feet and have the following setbacks: 1) 22 feet from the westerly front property line; 2) 24 feet from the easterly rear property line; 3) approximately 125 feet from the northerly side property line; and 4) over 600 feet from the southerly rear property line. The proposed primary residence would be served by 4 off street parking spaces. The 744 square foot, one story second unit would reach a height of 13 feet and have the following setbacks: 1) 27 feet from the westerly front property line; 2) approximately 39 feet from the easterly rear property line; 3) approximately 37 feet from the northerly side property line; and 4) over 700 feet from the southerly side property line. The proposed second unit would be served by 2 off street parking spaces. The applicant is also proposing to relocate the existing fence and install a new gate and erect a 6 foot tall wall at the rear of the property. The design of the proposed second unit is subject to Design Review however, the use is not subject to discretionary review and will be subject to a separate administrative decision. A new septic system is also being proposed. The zoning for these parcels are ARP-2. The subject property is located at **50 H Lane, Novato**, and is further identified as **Assessor's Parcels 143-171-51, 143-142-17, and 143-142-20**.

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing July 15, 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 primary residence and the design of the detached accessory structure proposed for use as a second unit are Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 of the CEQA Guidelines because it entails design and construction of a new residence, which is a principally permitted use, and detached accessory structure and do not result in potentially significant

impacts to the environment and would not result in potentially significant impacts to the environment. The equestrian center is Statutorily Exempt from CEQA, pursuant to CEQA Guideline Section 15109, because it is being denied due to incomplete information and the applicant's inability to provide the required information in a timely manner. As such, it cannot be determined whether the proposed equestrian center adequately satisfies the policies and ordinances of the County of Marin, nor the California Environmental Quality Act.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed commercial equestrian facility component of the project is not consistent with the mandatory findings to approve the Use Permit (Section 22.48.040 of the Marin County Code) as specified below.

While an equestrian center is a conditionally permitted use for the ARP-2 zoning district, as identified in Section I (III), the proposed project has been deemed Statutorily Exempt from CEQA, pursuant to CEQA Guideline Section 15109 due to it being denied for incomplete information and the applicant's inability to provide the required information in a timely manner.

This is due to comments received by the Department of Public Works, which outlined potential environmental impacts, including stormwater management, hydrology, manure management, and potential traffic impacts resulting from the equestrian center, has made additional environmental review, through an initial study, necessary. As noted above in Section I (III), the applicant has been unable in a timely manner to provide the Community Development Agency with the information and resources to perform an initial study in order to determine whether potentially significant environmental impacts may result from the building and renovation of the equestrian center and, if so, whether they can be properly mitigated. Proper evaluation of the Use Permit is therefore impossible and the merits of the project at this time cannot be made until an initial study is undertaken.

- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed primary residence and design of the second unit are consistent with the mandatory findings to approve the Design Review, but the equestrian center cannot be evaluated for consistency with the mandatory findings for Design Review (Section 22.42.060 of the Marin County Code) as specified below.

**A. The proposed development provides architectural design, massing, materials, and scale appropriate to and compatible with the site surroundings and the community;**

The one story, 2,680 square foot primary residence and one story 744 square foot detached accessory structure are consistent with the designs and scale of the homes found in the surrounding community. The proposed residences' location is on a large lot and because of the proposed 16 foot and 13 foot heights would not be visible to much of the surrounding neighborhood. Construction of the project would conform to a principally permitted residential use in the governing ARP-2 zoning district. Finally, the design of the project would respect the surrounding natural environment, and would utilize colors and materials consistent with the prevailing community character. Therefore, the project is consistent with this finding.

- B. The proposed development results in site layout and design (including building arrangement, exterior appearance, heights, setbacks, drainage, fences and walls, grading, lighting, signs, etc.) that will not eliminate significant sun and light exposure, views, vistas, and privacy to adjacent properties; that will not result in light pollution, trespass, and glare; and that will not adversely affect rights-of-way or pathways for circulation;**

The proposed residence and detached accessory structure are on a 5.88-acre property, which is larger than the surrounding properties, limited to one story in height, and located on a portion of the property, away from many of the residences adjacent to the property, which would avoid adverse effects to the air, light, and privacy enjoyed on surrounding properties. In addition, rights-of-way and pathways for generally circulation will not be impacted. Therefore, the project is consistent with this finding.

- C. The proposed development will provide appropriate separation between buildings and will be properly and adequately landscaped with maximum retention of trees, native plants, and other natural features consistent with fire safety requirements;**

The property is subject to extensive dry grasses and dead or dying vegetation. As proposed, the project is not consistent with this finding. As such, the project has been conditioned to include a vegetation management plan subject to approval by the Novato Fire Protection District and a revised landscape plan with 6 or more 15-gallon or larger native trees to provide screening and to replace trees which may otherwise need to be removed as a result of this project, along the front and rear of the proposed residences, subject to staff approval. Therefore, as conditioned, the project is consistent with this finding.

- D. The proposed development will minimize cut and fill, the reforming of the natural terrain, and appurtenant structures (e.g. retaining walls and bulkheads);**

The property is largely flat to gently sloping, which minimizes the necessary cut and fill or reforming of terrain. In addition, the residences, along with the access to the site, and parking utilize a very small portion of the overall property. Therefore, the project is consistent with this finding.

- E. The proposed development complies with the Single-family Residential Design Guidelines and the design and locational characteristics listed in Chapter 22.16 (Planned District Development Standards);**

The addition would be consistent with the applicable Single-family Residential Design Guidelines. In particular, the project would further the goals of the following guidelines:

- Design Guideline A-1.1: The residence and accessory structure would not result in the removal of healthy, mature, native trees.
- Design Guideline A-1.4: The property is reasonably flat and the amount of grading would be minimal.

- Design Guideline C-1.1: The residence and accessory structure are consistent with the setbacks found in the larger community and will be screened from nearby residences by new landscaping.
- Design Guideline C-1.8: The residence and accessory structure are limited to one story in height, and located on a portion of the property, away from many of the residences adjacent to the property, and will respect neighborhood privacy.
- Design Guideline D-1.1: The residence and accessory structure adequately divides up the mass of the proposed residences to minimize its overall effective visual bulk.
- Design Guideline D-1.7: The residence and accessory structure building materials would compliment the surrounding natural and built environment.
- Design Guideline E-1.1: The residence and accessory structure will comply with the green building requirements of Marin County.

In addition, the proposed project is consistent with all of the Planned District Development Standards, and in particular with the following standards:

- Development standard K.1 indicates that primary structures should not exceed a height of 30 feet above grade. The residence and accessory structure have been conditioned to not exceed 30 feet in height.
- Development standard K.2 indicates that building materials should be chosen that would blend into the natural environment unobtrusively. The exterior materials would be compatible with the character of the local community.

Therefore, the project is consistent with this finding.

**F. The project design includes features which foster energy and natural resource conservation while maintaining the character of the community; and**

Prior to issuance of a building permit, the applicant will need to demonstrate that current Marin County green building standards are being met. Therefore, the project is consistent with this finding.

**G. The design, location, size, and operating characteristics of the proposed use are consistent with the Countywide Plan and applicable zoning district regulations and will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.**

- A. The residence and accessory structure would be consistent with the SF3 (Residential, Single-family) land use designation;
- B. The residence and accessory structure will be consistent with the goals and policies of the Black Point Community Plan including permitting further residential development north of Highway 37 (BPCP Policy 1 and Program 1);



- C. The residence and accessory structure will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies Noise Policies NO-1.1, NO-1.3);
- D. The residence and accessory structure has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. To minimize the risk of fires and ensure adequate fire protection, the Novato Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers and an approved vegetation fire management plan. (CWP Policies, Environmental Hazards Policies, EH-4.1, EH-4.2, EH-4.c, EH-4.d, EH-4.e, Community Design Policies DES-1.1, DES-4.c, DES-5.1);
- E. The residence and accessory structure will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (CWP Policies, Biological Policy, BIO-4.20);
- F. The residence and accessory structure will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1 and BIO-2.1);
- G. The residence and accessory structure will comply with the current green building standards of Marin County (CWP Policies, Energy and Green Building EN-3.1 and EN-3.a).

Overall, the proposed project is consistent with the goals and objectives of the Marin Countywide Plan.

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

### Marin County Community Development Agency, Planning Division

1. Pursuant to Chapter 22.42 (Design Review) of the Marin County Development Code, the Bouskila Design Review is approved to construct the residential component of the project which includes a 2,680 square foot, one story primary residence that shall reach a height of 16 feet and have the following setbacks: 1) 22 feet from the westerly front property line; 2) 24 feet from the easterly rear property line; 3) approximately 125 feet from the northerly side property line; and 4) over 600 feet from the southerly rear property line. The primary residence shall be served by 4 off street parking spaces. The 744 square foot, one story accessory structure to be used as a second residential unit shall reach a height of 13 feet and have the following setbacks: 1) 27 feet from the westerly front property line; 2) approximately 39 feet from the easterly rear property line; 3) approximately 37 feet from the northerly side property line; and 4) over 700 feet from the southerly side property line. The accessory structure shall be served by 2 off street parking spaces. In addition, the

existing fence shall be relocated, a new gate shall be installed, along with construction of a 6 foot tall wall at the rear of the property. A new septic system is also approved. The subject property is located at **50 H Lane, Novato** and is further identified as **Assessors Parcel 143-171-51, 143-142-17, and 143-142-20**.

Pursuant to 22.48 (Use Permit) of the Marin County Code, the Bouskila Use Permit for the commercial equestrian component of the project is denied.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as "File Copy," entitled, "16 Madrone Park Circle Mill Valley CA APN# 048 021 03 Addition/Remodel," consisting of twenty sheets prepared by W. W. Kirsch and Associates, AYS Engineering Group, and ILS Associates, Inc., dated May 9, 2007 and received on November 10, 2009, with revisions on January 12, 2010 and February 4, 2010 and on file with the Marin County Community Development Agency, except as modified herein.
  - a. Revised plans shall be provided to the Community Development Agency showing only the residentially approved component of the project. The commercial component shall be eliminated.
3. Approved exterior building materials and colors for the primary residence and second unit shall substantially conform to the color/materials sample board which is identified as "Exhibit B-1," received April 14, 2008, and on file with the Marin County Community Development Agency including:
  - a. Gray walls
  - b. Blue/Gray "Iron Ore Roof"
  - c. Beige trim

All flashing, metal work, and trim shall be treated or painted an appropriately subdued, non-reflective color.

4. 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 Conditions of Approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE RESIDENCE OR ACCESSORY STRUCTURE, the applicant shall submit a revised landscaping plan which provides a minimum of 6 additional larger native screening trees along the front and rear of the residences. The landscaping shall be a minimum 15-gallon size and subject to staff approval.
6. Within 3 months of this decision, the applicant must submit a Building Permit or demo permit application to return the illegal residence to its original state as an open walled stable or to otherwise demolish the structure. Returning the structure to its original state would include removing all interior and exterior residential improvements, including plumbing, HVAC, floors, sheetrock and walls. The applicant shall submit plans and/or a detailed list stating what is going to be done and all the specific elements involved in the proposal. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.

7. Within 6 months of this decision, a Building Permit or demo permit for returning the illegal residence to its original state as a stable or complete removal of the structure must be obtained. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
8. Within 1 year of this decision, the applicant must return the illegal residence to its original state as a stable or completely remove the structure. BEFORE FINAL INSPECTION OF THE BUILDING PERMIT OR DEMO PERMIT for resolving the enforcement case against the property, the applicant must contact Code Enforcement for a site inspection to confirm that the existing illegal residence has been removed. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
9. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
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 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.

12. 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.
13. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.
14. No application for a commercial equestrian facility shall be accepted for filing until the code enforcement case on the property has been resolved.
15. 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.

Marin County Department of Public Works

16. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and NFPD.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan to locate drainage inlets along Atherton Avenue outside of the road ROW and the proposed 20-foot wide roadway dedication area. Outlet pipes shall be set back at minimum 5-feet from the edge or roadway dedication, to allow surface runoff to infiltrate. Outlet pipes shall include means to dissipate runoff before it enters the road right-of-way.
18. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall dedicate a 15-foot wide area along H Lane and a 20-foot wide area along Atherton Avenue. Remove the two inlets (junction boxes) within the proposed 15-foot wide roadway dedication area along H Lane. The proposed future fence along the property shall not be located within the public road right-of-way or area to be dedicated. The fence along the intersection of Atherton Avenue and H Lane shall be installed according to MCC 24.04.060.
19. BEFORE ISSUANCE OF A BUILDING PERMIT, the traffic impact studies reviewed before in comparison with the current study (Bob Harrison January 31, 2008 and Bob Harrison March, 2009) shows a considerable change in operations that it rightfully merits a routine traffic & operation monitoring to the conformance to that plan. As part of a Use Permit a semi- annual traffic & operations monitoring for 3 years from the start of operation shall be performed by an independent professional.
21. BEFORE ISSUANCE OF A BUILDING PERMIT, a registered Civil Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
22. BEFORE ISSUANCE OF A BUILDING PERMIT, a separate Building Permit is required for site/driveway retaining walls with heights over 4-feet (measured from the bottom of footing

to the top of wall) or 3-feet when backfill area is sloped or has a surcharge. Note: Based on the Site Plan topography it appears that retaining walls may be required along the common property between the subject property and APN 143-171-60.

23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit two sets of engineer's calculations for site/driveway retaining walls, which are to be signed and stamped by the design engineer.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a design level geotechnical investigation. Plans shall be reviewed and approved by the soils engineer. Approval shall be indicated by signature and stamp on the plans or by a signed and stamped letter.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit an Erosion and Siltation Control Plan.
26. BEFORE ISSUANCE OF A BUILDING PERMIT, drain fields shall be located with proper setback from the roadway as required or determined by EHS. The applicant shall submit a letter from EHS certifying that they have reviewed and approved the design and location of the drain field.
27. BEFORE ISSUANCE OF A BUILDING PERMIT, driveway approaches shall conform to UCS 135 or as approved by DPW.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, H Lane shall be provided with a 2 1/2" AC overlay up to the centerline of the travel lane. New pavement shall be 6" AC over 12" Class 2 AB.
29. BEFORE ISSUANCE OF A BUILDING PERMIT, an Encroachment Permit shall be required for any work within the road right-of-way.
30. BEFORE ISSUANCE OF A BUILDING PERMIT, all road right-of-way dedications shall be reviewed and approved by DPW, and recorded prior to issuance of any grading or building permit.
31. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall pay Public Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.
32. As proposed, the fence near the intersection of Atherton Avenue and H Lane, does not meet code requirements. BEFORE ISSUANCE OF A BUILDING PERMIT, plans shall conform to visibility obstruction requirements per MCC Section 13.18.
33. BEFORE ISSUANCE OF A BUILDING PERMIT, the parking spaces assigned to the proposed single-family residence shall be located entirely outside of the roadway easement.
34. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall add a note on the plans that the Design Engineer shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer. Certification letters shall indicate

the building permit number, assessor's parcel numbers and address of the project site, as required by the CDA-Building & Safety Division.

35. BEFORE ISSUANCE OF A BUILDING PERMIT, DPW recommends abandoning or vacating the existing 40-access and utility easement along the Eastern property line.
36. BEFORE FINAL INSPECTION, DPW will inspect the removable fences over the existing access and utility easement. Fences shall not be permanent structures.

Marin County Community Development Agency, Environmental Health Services Division

37. All improvements shall conform to Title 18 of the Marin County Code or as approved by EHS.

North Marin Water District

38. BEFORE THE FINAL INSPECTION, the applicant shall submit confirmation from the District that all requirements of the District have been satisfied.

Novato Fire Protection District

39. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide confirmation to the Planning Division that the Fire Marshal has approved the Vegetation Management/Defensible Space Plan and that the project complies with all applicable fire safety requirements.
40. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Novato Fire Protection District have been met.

**VESTING:**

The applicant must vest this approval by obtaining a Building Permit for the approved work and approval of a final inspection by the Building and Safety Division within the time limits specified in the conditions of approval. Requests for an extension to the time limits specified therein may be granted administratively by the Community Development Agency staff, in consultation with the Code Enforcement Section, for good cause, such as delays beyond the applicant's control. In no event may such extensions be granted beyond two years from the effective date of this approval. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 of the Marin County Code.

**SECTION III: APPEAL RIGHTS**

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 July 29, 2010.**

**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 15<sup>th</sup> day of July, 2010.

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JOHANNA PATRI  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
DZA Secretary