

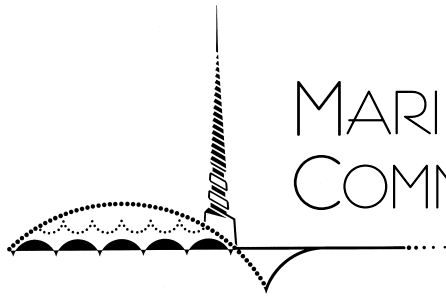
**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES**  
**Marin County Civic Center, Room #328 - San Rafael**  
**MEETING – July 15, 2010**

Hearing Officer        Johanna Patri, AICP, Consulting Planner

Staff Present:        Lorene Jackson, Planner  
                              Veronica Corella Pearson, Planner  
                              Neal E. Osborne, Planner  
                              Scott Greeley, Planner

Joyce Evans, Recording Secretary

Convened at 9:03 A.M.  
Adjourned at 10:50 A.M



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY  
BRIAN C. CRAWFORD, DIRECTOR

**NOTICE OF DECISION**

Applicant's Name: **BOLINAS FIRE PROTECTION DISTRICT**

Application (type and number): COASTAL PERMIT (CP 10-33) AND USE PERMIT (DR 10-17)

Assessor's Parcel Number: 193-020-55

Project Location: 100 Mesa Drive, Bolinas

For inquiries, please contact: Lorene Jackson, Planner

Decision Date: July 15, 2010

**DETERMINATION: Approved with Conditions**

Minutes of the July 15, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-19.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer

**C1. COASTAL PERMIT (CP 10-33) AND USE PERMIT (UP 10-17):  
BOLINAS FIRE PROTECTION DISTRICT**

**LAJ**

A proposal to consider AT&T Mobility's Coastal Permit and Use Permit applications to continue operation of an existing telecommunication facility at the Bolinas Fire Protection District site at 100 Mesa Road, Bolinas. No changes are proposed to the facility. The existing facility consists of a 67.3-foot high monopole, which supports three 6.7-foot high panel antennas. The project includes an existing emergency generator, propane tank, and 240-square foot equipment shelter approximately 11 feet in height. The tower and associated equipment are located within an existing 6-foot tall chain link fence with redwood slats. The project includes two existing Omni whip antennas for Marin County Fire and Sheriff that would remain temporarily mounted on the subject tower at 32.5 feet and attain a maximum height of 47 feet. The existing tower is located behind the fire department building and would maintain the following setbacks: 25.4 feet from the northerly property line and approximately 200 feet north of Mesa Road. The zoning for this parcel is C-ARP-5 (Coastal, Agriculture Residential Planned District, 1 unit/ 5 acres maximum density). The subject property is located at **100 Mesa Drive, Bolinas**, and is further identified as **Assessor's Parcel 193-020-55**.

In response to the Hearing Officer, staff summarized the contents of her supplemental memorandum dated July 14, 2010. She recommended deleting of Condition of Approval 3.c and 4, a revision to Condition of Approval 6, and a revision to the vesting date to read "August 14, 2010."

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

The Hearing Officer concurred with staff's analysis and recommendation, and approved the Bolinas Fire Protection District Coastal Permit and Use Permit, based on the Findings in the modified Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-129

A RESOLUTION APPROVING  
BOLINAS FIRE PROTECTION DISTRICT (AT&T MOBILITY)  
COASTAL PERMIT (10-33) AND USE PERMIT (10-17)  
100 MESA DRIVE, BOLINAS

ASSESSOR'S PARCEL 193-020-55  
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**SECTION I: FINDINGS**

- I. WHEREAS AT&T Mobility, is requesting to continue operation of an existing telecommunication facility at the Bolinas Fire Protection District site at 100 Mesa Road, Bolinas. No changes are proposed to the design and scale of the facility. The existing facility consists of a 67.3-foot high monopole, which supports three 6.7-foot high panel antennas. The project includes an existing emergency generator, propane tank, and 240-square foot equipment shelter approximately 11 feet in height. The tower and associated equipment are located within an existing 6-foot high chain link fence with redwood slats on three sides. The project includes two existing Omni whip antennas for Marin County Fire and Sheriff that would temporarily remain mounted on the subject tower at 32.5 feet and attain a maximum height of 47 feet. The existing tower is located behind the fire department building and would maintain the following setbacks: 25.4 feet from the northerly property line and approximately 200 feet north of Mesa Road. The subject property is located at **100 Mesa Drive, Bolinas** and is further identified as **Assessor's Parcel 193-020-55**.
  
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on 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 project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 Class 1 of the CEQA Guidelines because continued operation of an existing telecommunications facility would not result in environmental impacts. The applicant has submitted a report prepared by Sitesafe, dated April 22, 2010, which evaluates human exposure to radio frequency electromagnetic fields from the existing telecommunications facility. The report concludes that the facility will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact to the public.
  
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan due to the following factors:
  - A. The proposed project is consistent with the PF-OS (Public Facilities and Open Space) land use designation for the project site and would not interfere with the existing fire station and medical clinic use of the immediate property and open and recreational use of the surrounding area.

- B. The proposed project is consistent with the PFS-5.1 because the proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan. The existing facility is compatible with other land uses, provides protection from vandalism and fire hazards, minimizes visual impacts, and minimizes potential health risks to people. The applicant is utilizing an existing facility, rather than seeking a new tower or location. The tower is designed to allow the future co-location of additional carriers.
  - C. The proposed project would not result in any grading or the removal of existing vegetation.
  - D. The proposed project would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
  - E. The proposed project would not adversely affect riparian areas, wetlands, or habitats of special-status species.
  - F. Mandatory Use Permit findings can be made pursuant to Section 22.82.040I of Marin County Code to allow public utility and service uses necessary for public safety, convenience, and welfare.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Bolinas Community Plan and the Bolinas Gridded Mesa Plan for the following reasons:
- A. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, or on-site drainage.
  - B. The proposed project would not adversely affect the surrounding built environment relative to views from adjacent properties, privacy for the subject and surrounding properties, or building design, mass, and bulk.
  - C. The subject property is not located within the Bluff Erosion Zone identified by the Bolinas Gridded Mesa Plan, which has limited opportunities for development.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin County Telecommunications Facilities Policy Plan (TFPP) and with the criteria for wireless communications facilities contained therein, as follows:
- A. The TFPP states that wireless telecommunication facilities should be sited to avoid or minimize land use conflicts. The TFPP policies establish a general preference for non-residential sites for wireless facilities. TFPP policy LU 1.4 rank orders location preferences in seven categories:
    - 1. Industrial sites
    - 2. Commercial sites
    - 3. Public facilities sites
    - 4. Agricultural sites
    - 5. Mixed use sites
    - 6. Open space and recreational sites
    - 7. Residential sites

The existing telecommunications facility is compatible with the public facility, open area, and agricultural use of the subject property and surrounding area. The subject property is developed with a fire station, medical clinic, and adjacent telecommunication facility, which as public facilities, is ranked third in location preference. There are no industrial or commercial facilities in the search ring for the coverage area. The open area south of Mesa Road is owned and used by the Bolinas Community Public Utility District for wastewater treatment ponds.

TFPP policy LU 2.1 encourages co-location of facilities or clustering of facilities on a single property. The existing facility has pipe mounts that are available for future co-location.

The proposed project is an existing facility served by an existing access driveway. By utilizing existing facilities, there would be no tree removal or other adverse environmental impacts. The project would not result in adverse visual impacts because it is an existing facility that was constructed prior to construction of the current fire station, medical center, and playground. The facility does not impair or obstruct coastal views from any public street or public viewing places. Based on these factors, the facility is consistent with the location standards contained in the TFPP.

- B. The facility would allow AT&T Mobility to maintain existing communication services in the Bolinas area, allowing the carrier to continue providing a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.
- C. The applicant submitted a report by Sitesafe, dated April 22, 2010. This report concluded that the existing facility would not result in any significant risks with respect to human exposure to radio frequency fields because the proposed facility would generate maximum ambient radio frequency levels that are below the applicable public exposure limit established by the Federal Communications Commission (FCC), even when combined with the adjacent telecommunication facilities.
- D. Visual and aesthetic compatibility policies contained in the TFPP specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. TFPP policy VIS 1.1 encourages the most efficient use of existing sites and facilities, thereby postponing the need to develop new sites. Further, TFPP policy VIS 1.1.2 states, "Wherever possible, new telecommunication devices should be co-located or clustered at existing facilities and multiple devices consolidated in the course a facility renovation, unless co-location or clustering will result in significant adverse visual effects that could be avoided or minimized by alternative facility locations and/or design." Since the proposed project is the continuation of an existing use and would not change the visual effects of the existing tower, an alternative location is not warranted.

VIS 1.1.4 encourages providers to share facilities to the greatest extent possible. Access road and parking areas on the subject properties are shared among other service providers and the fire department.

VIS 2.2.1 calls for telecommunication facilities to blend with the surrounding natural and built environments. Any upgrades to the facility would be painted to match the existing tower (matte, non-reflective gray) and adjacent cell tower. As conditioned, new landscaping would be installed to help screen the building from the adjacent playground and bike path. Overall, the proposed continued use of the existing facility would be compatible with current

uses on the property and would not conflict with the visual character of the subject or surrounding properties.

- E. There is one existing light on the door to the equipment shelter and no additional lights are proposed. The facility would not create lighting impacts on surrounding areas because conditions of approval specify that exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, shielded, and directed downward to minimize visual effects on adjoining areas.
- F. Vehicular access for the facility is provided and would remain unchanged. No additional parking area would be required for the operation of the facility.
- G. The project would require no removal of vegetation.
- H. The facility is located on a developed site with no known complaints about noise. Noise levels associated with the operation of the facility would not exceed ambient noise levels. With the exception of routine maintenance visits by technicians and installation of equipment upgrades, the facility would not generate other traffic trips to the property. Maintenance visits would occur no more than twice per month and would typically occur during the day, between 7:00 a.m. and 5:00 p.m. Therefore, the proposed facility would neither generate significant levels of noise nor traffic.
- I. This existing facility was constructed 13 years ago, during which time a new fire house, medical clinic, and playground were constructed nearby. The continued operation of this facility would not alter or impair the visual conditions on or surrounding the subject property and would avoid the need to construct an alternative facility to retain existing wireless coverage.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (Section 22.56.130I of the Marin County Code) as specified below.

**A. Water Supply**

No on-site water services will be required as part of the proposed project. The Bolinas Community Public Utilities District (BCPUD) has reviewed project plans and indicated that the continues use would not impact current water service to the site.

**B. Septic System Standards**

No on-site sanitation services will be required as part of the proposed project.

### **C. Grading and Excavation**

Since the project entails the continued use of an existing facility, no grading will be required. The project will utilize an existing tower and equipment building. Any trenching to replace or upgrade existing underground cables/conduits would be in the same location as existing, which is previously disturbed soil.

### **D. Archaeological Resources**

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of high archaeological sensitivity. However, it is unlikely that this project would adversely affect any archeological resources because the project entails continued operation of an existing facility. Replacement of existing approved antennas, transmitters, or other equipment with new or upgraded technology that is substantially consistent with the scale or design of the existing facility would be exempt from discretionary review.

### **E. Coastal Access**

The subject property is not located between the sea and the first public road, or adjacent to a coastal area identified by the Local Coastal Program Unit 1, where public access is desirable or feasible. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

### **F. Housing**

The proposed project will have no impact upon the availability of affordable housing stock within the Bolinas community.

### **G. Stream and Wetland Resource Protection**

The proposed project is not situated in an area subject to the Local Coastal Plan's streamside protection policies as identified on the Natural Resources Map for Unit 1 of the Local Coastal Program or near any blue- line on the USGS Quadrangle Maps for the project area.

### **H. Dune Protection**

The project site is not located near dunes or in a dune protection area of the Local Coastal Program.

### **I. Wildlife Habitat**

The project entails the modification of an existing telecommunication tower on a previously disturbed and developed site with a firehouse, medical clinic, and other telecommunication facilities. No significant alteration of land or removal of vegetation identified for habitat protection in the Local Coastal Plan is proposed.



#### **J. Protection of Native Plant Communities**

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered plant species at or near the subject property. The project entails the modification of an existing telecommunication tower on a previously disturbed and developed site. The subject property does not contain a significant number or type of non-indigenous, invasive plant species that would threaten the preservation or reestablishment of native species.

#### **K. Shoreline Protection**

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

#### **L. Geologic Hazards**

The project site is located approximately 680 feet from the Alquist Priolo Zone and would be subjected to strong ground shaking during a proximate seismic event. At the time of installation, the Marin County Community Development Agency – Building and Safety Division required seismic compliance with the Uniform Building Code.

#### **M. Public Works Projects**

The continued use of this facility will not affect any existing or proposed public works project in the area.

#### **N. Land Division Standards**

No land division or property line adjustment is proposed as part of this project.

#### **O. Visual Resources**

As conditioned in the initial Coastal Permit, Use Permit, and Design Review approval, the existing tower is a non-reflective gray, monopole. The tower is located approximately 200 feet from Mesa Road and is partially screened from the road by the existing fire station and vegetation. The project does not impair or obstruct coastal views from any public street or public viewing places. The lease area is facility is partially screened on three sides by 6-foot high chain link fence with redwood slates. The existing 230-square foot equipment building attains a maximum height of approximately 11 feet and is constructed of earth-tone, gravel seeded concrete. As conditioned, the shed would be screened by landscaping along the northerly rear property line.

The existing facility is compatible with the current use and character of the built environmental. All utility lines serving the tower and equipment building will remain underground. In a recent approval of the adjacent Verizon telecommunication tower, the Bolinas Fire Protection District specified that they did not want landscaping around that tower.

#### **P. Recreation/Visitor Facilities**

The project would not have any impact upon recreation or visitor facilities.

## **Q. Historic Resource Preservation**

The subject property is not located within the designated historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program, Unit 1.

VIII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory Use Permit findings (Section 22.88.020I of the Marin County Code), as specified below.

### **A. The establishment, maintenance, or conducting of the use for which this Use Permit is sought will not be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood for the reasons listed below:**

1. The proposed project would be incidental to the primary public facility. Pursuant to Section 22.57.022.12 of the Marin County Code, the construction, alteration, and maintenance of communication facilities are permitted uses in the C-ARP-5 (Coastal, Agriculture Residential Planned District, 1 unit/ 5 acres maximum density) zoning district.
2. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, and on-site drainage. The project has been determined to be categorically exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1.
3. Since there is no plumbing associated with this project, there would be no impact on existing water or sewer to the subject or surrounding properties.
4. Continued use of the existing tower would have no adverse impact on existing parking or traffic.
5. The proposed project would not result in significant adverse visual impacts because the design and height of the existing structure will remain the same.
6. Continued use of the existing facility would allow the continued service of the overall AT&T Mobility network in the Bolinas area for personal, business, and emergency use in the area and contribute to public safety, convenience, and welfare.
7. The project would not result in any significant public health risks with respect to human exposure to radio frequency radiation because the facility will operate well below the exposure limits set by the Federal Communications Commission (FCC). The granting of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood.
8. The Marin County Planning Department provided public notice of the project to all properties within 600 feet of the subject property. No direct comments were received about the design and scale of the existing facility. Indirect comments were received were from the Bolinas Community Public Utility District during their March 17, 2010

regular meeting where some members of the public expressed broad-based concern about telecommunication towers in general and not the design of the existing facility.

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

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Bolinas Fire Protection District (AT&T Mobility) Coastal Permit (CP 10-33) and Use Permit (UP 10-17) subject to the conditions as specified below:

### Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.56.130I (Coastal Permit) and 22.88.020I (Use Permit) of the Marin County Code, the Bolinas Fire Protection District (AT&T Mobility) Coastal Permit and Use Permit are approved to continue operation of an existing telecommunication facility. No changes are approved to the design and scale of the facility; the existing facility is approved to remain a 67.3-foot high monopole, which supports three 6.7-foot high panel antennas. The approved project includes an existing emergency generator, propane tank, and 240-square foot equipment shelter approximately 11 feet in height. The tower and associated equipment are approved to be located within an existing 6-foot high chain link fence with redwood slats on three sides. The project is approved to include two existing Omni whip antennas for Marin County Fire and Sheriff that shall remain mounted on the subject tower at 32.5 feet and attain a maximum height of 47 feet. The existing tower is approved to remain located behind the fire department building and maintain the following setbacks: 25.4 feet from the northerly property line and approximately 200 feet north of Mesa Road. The subject property is located at **100 Mesa Drive, Bolinas** and is further identified as **Assessor's Parcel 193-020-55**.
2. Development and use of the facility shall conform to plans identified as **Exhibit A**, entitled "AT&T Mobility", consisting of 5 sheets prepared by L.D. Strobel Co, Inc, dated December 15, 2009, revised April 16, 2010, received May 18, 2010, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. WITHIN 30 DAYS, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the following changes. Once approved, these plans shall be incorporated into the approved project file as **Exhibit A-1** and shall supersede **Exhibit A**.
  - a. The diameter of the antenna array (as measured by an imaginary circle drawn around them) shall be no greater than is 3.5 feet. Revise all elevations and the azimuth detail to indicate the diameter of the antenna array. Indicate the correct scale of the azimuth detail on Sheet A-3.
  - b. Revise the site plan to indicate the correct location of Assessor Parcel Numbers 193-020-56 and 57.
  - c. Existing plants along the northwest corner of the facility shall be retained.
4. All visible components of the tower (including, but not limited to the pole and antennae) shall be maintained to match the existing non-reflective, matte-finish gray.

5. WITHIN 30 DAYS, a 6-foot high chain link fence with redwood slates shall surround all four sides of the facility.
6. The emergency generator appurtenant to the approved equipment building shall be tested only on weekdays, Monday through Friday, from 9:00 a.m. to 4:00 p.m.
7. The approved communication facility must be maintained in a clean, weed-free, and orderly condition. Any damage or vandalism to the site must be repaired promptly. No equipment, operable or inoperable, shall be stored outside the equipment building, other than the installed antennas and emergency generator.
8. The site plan and/or other first sheet of the office and job site copies of subsequent Building Permit applications for equipment upgrades shall list these Coastal Permit and Use Permit Conditions of Approval as notes.
9. Exterior lighting shall be permitted for safety purposes only and shall be manually operated, low intensity, shielded, and directed downward to minimize visual effects. No additional exterior lighting is approved as part of this application.
10. The approved facility shall operate in compliance with the noise exposure standards contained in the Marin Countywide Plan. Normal testing and maintenance activities shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Sunday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use or operation of telecommunications and maintenance equipment that is audible from nearby sensitive receptors may occur at all times. Back-up generators shall comply with the above-referenced noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.
11. Utility extensions or connections shall be installed underground.
12. The applicant shall notify the Bolinas Fire Protection District prior to the installation of any upgrades or replacement components and shall be responsible for ensuring that the number of construction vehicles is limited to the minimum number necessary to complete the project.
13. The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels which exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the Federal Communications Commission (FCC). In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law. The applicant shall demonstrate compliance by submitting a radio frequency report to the County within 90 days of the effective date of the standard or longer period as required by the applicant and subsequently approved by the Community Development Director. The radio frequency report shall determine conformance with the updated standard by calculating the EMF power levels of the approved facility in combination with other existing ambient sources.

14. This Use Permit approval may be revoked by the County should the approved facility, in combination with other existing ambient sources exceed an updated EMF standard unless the location, design, and/or operation of the approved facility is modified to meet the updated standard. Modifications of the approved facility shall be submitted to the Community Development Agency to determine if amendments to these permit approvals are necessary. This condition shall not apply if the County is preempted by Federal and/or State law, rules or regulations from applying an updated EMF standard after the approved facility has been constructed.
15. This Use Permit approval does not preclude the future approval of other telecommunications facilities on the subject property. The applicant shall cooperate with County efforts to utilize the subject property for shared location or co-location in the future, if it is technically feasible and would minimize adverse affects related to land use compatibility, visual resources, public safety, and other environmental factors.
16. The approved facility must be dismantled and removed from the premises if it has been inoperative or abandoned for a one-year period. Upon expiration of the Use Permit, all equipment, structures, and antennas shall be removed, and the site returned to its pre-existing conditions.
17. 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.
18. The applicant shall hold harmless the County of Marin 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, this approval by the County of the Bolinas Fire Protection District (AT&T Mobility) Coastal Permit and Use Permit.
19. This Coastal Permit and Use Permit are subject to revocation procedures contained in Chapter 22.120 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

### **SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **August 14, 2010**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid until **July 15, 2020**, unless the conditions of approval are violated, in which case the Use Permit may be revoked. The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit. Should the Use Permit expire without benefit of a renewal, all equipment, structures, and antennas shall be removed and the site shall be returned to its preexisting conditions.

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, before **4:00 p.m.** on **July 22, 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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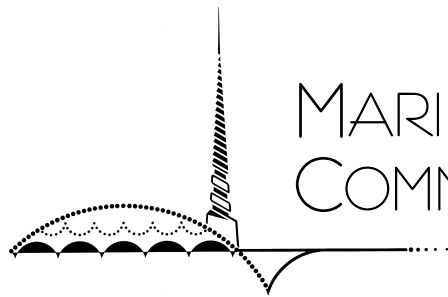
Joyce Evans  
DZA Secretary

**C2. USE PERMIT AMENDMENT (10-0124): MCEVOY LAND LLC**

**VCP**

A proposal to consider the McEvoy Use Permit Amendment. The applicant, Aidlin Darling Design, has applied on behalf of the owner, Nan McEvoy (represented by Russ Morita), for Use Permit Amendment approval. The applicant proposes to amend the existing Use Permit (96-418) to allow for the conversion of an existing 4,760 square foot (1,112 square feet of area to be legalized) storage and maintenance building into a wine production facility. The building would be converted to include production equipment and wine storage. The majority of the wine would be produced from grapes grown on site, yet there is potential for some grapes to be used that are not grown on land owned by Nan McEvoy. The new wine facility would not be open to the public. The wine production staff would work normal business hours (7:30 am to 5:00 pm), except during the fall harvest season (5:30 am to 10:00 pm). The amendment also proposes to increase the number of visitors and on-site. It is not anticipated that there will be an increase in the number of deliveries. During the fall harvest, the average noise level would be between 65-70 decibels for approximately 4 hours/day. The subject property is located at **5935 Red Hill Road, Petaluma**, and is further identified as **Assessor's Parcel 125-070-05, -06 & -16**.

**The McEvoy hearing on this date was voided and renoticed.  
The new hearing was held on Thursday, August 12, 2010.**



# MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

## NOTICE OF DECISION

Applicant's Name: **WILLIAM LEVIN AND LAUREL SIMES**

Application (type and number): COASTAL PERMIT AND DESIGN REVIEW (10-0120):

Assessor's Parcel Number: 199-283-11

Project Location: 25 Ahab Drive, Muir Beach

For inquiries, please contact: Neal Osborne, Planner

Decision Date: July 15, 2010

**DETERMINATION: Approved with Conditions**

Minutes of the July 15, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-22.

Marin County Community Development Agency

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Johanna Patri, AICP  
Hearing Officer



**C3. COASTAL PERMIT AND DESIGN REVIEW (10-0120):  
WILLIAM LEVIN AND LAUREL SIMES**

**NO**

A proposal for construction of a 558 square foot detached garage, an 80 lineal foot pervious concrete driveway and turnaround area, concrete retaining walls from 2 feet tall up to 7.4 feet tall to support the turnaround area, landscape terraces, and concrete steps. The proposal includes removal of two storage sheds and asphalt from the driveway, widening the driveway to a 12-foot width with 20 cubic yards of excavation on the upslope side, and 225 cubic yards of fill on the downslope side for the turnaround area. The garage would be accessory to an existing 4,518 square foot single-family residence and 200 square foot cabana on a 1.54-acre lot. The proposal would result in a residential development with 4,736 square feet of floor area with a 7% Floor Area Ratio (FAR). The garage would have a maximum height of 13 feet from finished exterior grade, and 11 feet from the parking surface. The garage would have the following minimum setbacks from corresponding property lines: 25.5 feet front (north), 9.4 feet side (east), 220 feet side (west), and 208 feet rear (south). The exterior color and materials of the garage and retaining walls would match the exterior of the existing residence with integral greenish-tan color stucco and concrete respectively. The garage roof would match the standing seam copper roof on the residence. The property is within the C-RA:B4 zoning district. The garage location in the 30-foot front yard and 20-foot side yard is permitted pursuant to MCC Section 22.72.0551 because the front half of the lot exceeds 20% average slope with a slope of 42%. The subject property is located at **25 Ahab Drive, Muir Beach**, and is further identified as **Assessor's Parcel 199-283-11**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report.

The applicant was present, has reviewed the staff report, and had no questions.

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

The Hearing Officer concurred with staff's analysis and recommendation and approved the William Levin Coastal Permit and Use Permit (I.D.10-0120) based on the Findings in the modified Resolution.

The Hearing Officer informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

**RESOLUTION 10-131**

A RESOLUTION APPROVING  
THE LEVIN COASTAL PERMIT AND DESIGN REVIEW

ASSESSOR'S PARCEL 199-283-11

25 AHAB DRIVE, MUIR BEACH

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**SECTION 1: FINDINGS**

- I. WHEREAS, Jerry Kler, on behalf of the property owners William Levin and Laurel Simes, proposes to construct a 558 square foot detached garage, an 80 lineal foot pervious concrete driveway and turnaround area, concrete retaining walls from 2 feet tall up to 7.4 feet tall to support the turnaround area, landscape terraces, and concrete steps. The proposal includes removal of two storage sheds and the asphalt driveway, widening the driveway to a 12-foot width with 20 cubic yards of excavation on the upslope side, and 225 cubic yards of fill on the downslope side for the turnaround area. The garage would be accessory to an existing 4,518 square foot single-family residence on a 1.54-acre lot. Including the existing 200 square foot cabana, the proposal would result in a residential development with 4,721 square feet of floor area with a 7% Floor Area Ratio (FAR). The garage would have a maximum height of 11 feet from finished exterior grade. The garage would have the following minimum setbacks from corresponding property lines: 25.5 feet front (north), 9.4 feet side (east), 220 feet side (west), and 208 feet rear (south). The exterior color and materials of the garage and retaining walls would match the exterior of the existing residence with integral greenish-tan color stucco and concrete respectively. The garage roof would match the standing seam copper roof on the residence. The subject property is within the C-RA:B4 zoning district and is located at 25 Ahab Drive, Muir Beach, further identified as Assessor's Parcel 199-283-11.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on 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 project is Categorical Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3(e) of the CEQA Guidelines because it entails the construction of a detached garage accessory to an existing single-family residence, retaining walls, and a driveway with turnaround area that would not result in significant grading or other adverse 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 construction of a garage and driveway improvements to an existing single-family residence, a principally permitted use under the governing CSF-3 general plan designation;
  - C. The proposed project would result in development which conforms to the governing standards related to building height, size and location;
  - D. 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;
  - E. The proposed project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services; and
  - F. The proposed project would minimize soil disturbance and maximize protection of natural vegetation.
- V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Muir Beach Community Plan because:
- A. The proposed project involves construction of accessory structures and various improvements to an existing single-family residential property, which is a principally permitted use on the property.
  - B. The proposed project would not adversely impact the surrounding natural environment with regard to vegetation, wildlife 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 match the design character of the existing residence and would not adversely impact the surrounding built environment with regard to views from adjacent properties, privacy for the subject and surrounding properties, and access from Ahab Drive.
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Coastal Permit approval pursuant to the requirements and objectives of the Local Coastal Program, Unit I (§22.56.130I of the Marin County Code) as described below.
- A. Water Supply:

The Muir Beach Community Services District serves the subject property and has reviewed the project and made no comments.
  - B. Septic System Standards:

Marin County Environmental Health Services regulates individual sewage disposal systems in the area of the subject property. Marin County Environmental Health Services reviewed the proposed project and recommended approval with conditions

of approval that require the proposed structures maintain 5-foot setbacks from the septic system on the subject property.

C. Grading and Excavation:

The subject property is 45% slope and moderate grading is proposed for 20 cubic yards of excavation and 225 cubic yard of fill. Excavation would occur for widening of the driveway and construction of retaining walls. The fill would be required for a turnaround area supported with retaining walls and planter box terraces. All grading and excavation work would be subject to the review and approval of the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements.

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, the moderate grading proposed would not likely disturb cultural resources because most of the site has previously been developed. A project condition requires that in the event cultural resources are discovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures.

E. Coastal Access:

The project is located more than ¼-mile inland of the Pacific Ocean at an elevation of approximately 180 feet and would not impede coastal access.

F. Housing:

The proposed project would not result in the removal of a residential building that provides housing opportunities for people of low or moderate income, and would not affect the availability of housing stock within the Muir Beach community.

G. Stream Conservation Protection:

The project site is not located near a creek or in an area subject to the streamside conservation policies of the Marin Countywide Plan or Local Coastal Program.

H. Dune Protection:

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

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is located in an area of sensitive wildlife resources. Also, review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is located adjacent to the habitat area for the federally listed endangered Monarch Butterfly (*Danaus plexippus*). However,

the project will have a minimal impact to the habitat value of the known habitat area because it involves the construction of a detached garage accessory to a single-family residence on a developed site within the existing Seacape Subdivision.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare, threatened, or endangered plant species. In addition, the relatively small-scale project on previously disturbed property would not have an adverse impact on the habitat of native plant communities.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline, and the proposed project would not result in adverse affects to the shoreline. The project would not require additional shoreline protection.

L. Geologic Hazards:

The project site is located within 3 miles of the San Andreas Fault Zone and would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building Inspection Division will determine seismic compliance with the California Building Code. In addition, as a condition of project approval, the applicant shall execute and record a waiver of liability holding the County, other governmental agencies and the public, harmless of any matter resulting from the existence of geologic hazards or activities on the subject property.

M. Public Works Projects:

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

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The project would be located in the previously developed portion of the property where the existing sheds would be removed, and would result in no adverse visual effects. The exterior materials would be unobtrusive copper patina, greenish tan, and tan colors. The lighting for the exterior would be directed downward and hooded.

P. Recreation/Visitor Facilities:

The project site is governed by C-RA:B4 (Coastal, Residential Agricultural) zoning regulations that allows for a residential uses. The project would have no affect on recreation or visitor facilities.

Q. Historic Resource Preservation:

The existing residence on the subject property is not historically significant.

- VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Design Review approval (Section 22.82.040I) of the Marin County Code) as described below.

The project, as modified by conditions of approval, is consistent with the required findings cited above because the garage and retaining walls would result in structures with heights, and bulk proportionately appropriate to the site and would provide adequate setbacks from property lines and other buildings on the subject and surrounding properties. Construction of a detached garage accessory to a single-family residence would conform to permitted uses in the zoning district that governs the subject property and would be situated solely on the subject property. The proposed garage and driveway improvements would minimize drainage alterations, grading and excavation, and other adverse physical effects on the natural environment. Finally, the design of the proposed improvements, as modified by conditions of approval, would be compatible with other residential buildings in the vicinity, would respect the surrounding natural environment, and would not adversely affect views from other properties in the vicinity.

The proposed development would be of a comparable height, size, and scale with other structures in the surrounding community. Additionally, the garage and retaining walls would not impact the existing light or privacy of surrounding residences because the garage would not exceed a height of 13 feet above grade and the retaining walls face into the center of the subject property. Finally, the project would minimize potential adverse visual impacts because it would be constructed of building materials that compliment the surrounding natural and built environment.

## **SECTION 2: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Levin Coastal Permit and Design Review application subject to the following conditions:

1. Pursuant to Marin County Coastal Zoning Code Sections 22.56.130I, 22.82.040I, this Coastal Permit and Design Review approval permits the construction of a 558 square foot detached garage, an 80 lineal foot pervious concrete driveway and turnaround area, concrete retaining walls from 2 feet tall up to 7.4 feet tall to support the turnaround area, landscape terraces, and concrete steps. The proposal includes removal of two storage sheds and the asphalt driveway, widening the driveway to a 12-foot width with 20 cubic yards of excavation on the upslope side, and 225 cubic yards of fill on the downslope side for the turnaround area. The garage would be accessory to an existing 4,518 square foot single-family residence on a 1.54-acre lot. Including the 200 square foot cabana, the proposal would result in a residential development with 4,736 square feet of floor area with a 7% Floor Area Ratio (FAR). The garage would have a maximum height of 11 feet from finished exterior grade. The garage would have the following minimum setbacks from corresponding property lines: 25.5 feet front (north), 9.4 feet side (east), 220 feet side (west), and 208 feet rear (south). The exterior color and materials of the garage and retaining walls would match the exterior of the existing residence with integral greenish-tan color stucco and concrete respectively. The garage roof

would match the standing seam copper roof on the residence. The subject property is located at 25 Ahab Drive, Muir Beach, and is further identified as Assessor's Parcel 199-283-11.

2. Except as modified herein, plans submitted for a Building Permit for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A, "Project Design For: William and Laurel Levin" consisting of three sheets prepared by Jerry Allen Kler Associates Architects and one sheet prepared by ILS Associates, Inc.
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 these Coastal Permit and Design Review Conditions of Approval as notes.
4. 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.
5. All flashing, metal work and trim shall be an appropriately subdued, non-reflective color and all exterior lighting shall be downward directed and hooded.
6. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
7. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
8. No trees, except those approved for removal with this project, shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to prevent safety hazards to people and property.
9. Any new utilities proposed to serve the approved project shall be underground.
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. 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 the approval of the 558 square foot garage, retaining walls, driveway and turnaround area, and landscaping, for which action is brought within the applicable statute of limitations.
13. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Use and Water Resources

14. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall fulfill the following requirements:
- a. The plans shall be reviewed and approved by a 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.
  - b. A separate Building Permit is required for each site/driveway retaining wall with a height of 4 feet or more or 3 feet when backfill area is sloped or has a surcharge (measured from the bottom of the footing to the top of the wall). Include engineer calculations showing a minimum of a 1.5 factor-of-safety for sliding and overturning. Also include cross section references on the site plan to the structural plans for the retaining walls.
  - c. A registered Engineer shall design the site/driveway retaining walls. Plans and calculations must have the Engineer's/Architect's wet stamp and signature.
  - d. Submit Erosion and Siltation Control plans.



- e. The driveway approach (from the Ahab Drive edge-of-pavement to the property line) shall be paved in asphalt only.
- f. An Encroachment Permit shall be required for work within the road right-of-way.
- g. The driveway shall have a roughed surface [MCC Section 24.04.300].
- h. Only one of the two resident cars is able to achieve a head-out in no more than turning movement from the garage. Also, if guest parking is intended within the driveway, neither of the two guest parking spaces is capable of achieving a head-out in no more than one turning movement [MCC Section 24.04.277]. However, due to the following, DPW can approve the driveway plan as presented:
  - i. The site is constrained with steep slopes and extensive grading with retaining walls would be required to completely comply with the turnaround standard resulting in excessive impact.
  - ii. DPW staff does not consider backing out of the proposed driveway inordinately difficult or dangerous.
  - iii. There appears to be adequate parking for guests on the Ahab Drive shoulder along the contiguous frontage of the property in lieu of parking within the driveway. Note that parking within the right-of-way cannot be dedicated to any one property.
- i. Provide a note on the plans that the Design Engineer/Architect 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

Marin County Environmental Health Services

- 15. Maintain a 5-foot setback between the driveway and the sand filter. Maintain a 5-foot setback between the garage and the sand filter.

Marin County Fire Department

- 16. Fire hydrants shall be tested and installed prior to framing or lumber delivery to the site.
- 17. Roadways and driveways shall be installed with first lift asphalt or concrete prior to framing or lumber delivery to the site.
- 18. Using Hazard Assessment Matrix properly determine hazard points; select and apply proper defense zone.
- 19. Confirm proper defensible space zone determined using matrix.
- 20. Verify plants installed are per approved plan. Verify proper spacing.
- 21. Verify removal of hazardous flammable plants and trees.

22. Verify irrigation in place and functioning.

### **SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Levin Coastal Permit and Design Review approval by obtaining a Building Permit and substantially completing all of the approved work before July 15, 2012, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it.

The Building Permit approval expires if the building or work authorized is not commenced within one year from the issuance of such permit. A Building Permit is valid for two years during which construction is required to be completed. All permits shall expire by limitation and become null and void if the building or work authorized by such permit is not completed within two years from the date of such permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the Planning permit (and no extensions have been granted), the Building Permit and planning approvals may become null and void. Should you have difficulty meeting the deadline for completing the work pursuant to a Building Permit, the applicant may apply for an extension at least 10 days before the expiration of the Planning permit.

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 July 22, 2010.

### **SECTION 4: DECISION**

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  
DEPUTY ZONING ADMINISTRATOR

Attest:

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Joyce Evans  
Deputy Zoning Administrator Secretary

**H1. DESIGN REVIEW (DR 07-49), USE PERMIT (UP 08-25) AND  
SECOND UNIT PERMIT (DR 07-25): BENJAMIN BOUSKILA**

**SG**

A proposal to consider the Bouskila Use Permit (UP 08-25), Design Review (DR 07-49), and Second Unit Permit (??07-25) proposing to renovate a former equestrian center, construct a primary residence, and second unit. 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 applicant is also proposing to relocate the existing fence to where?? and install a new gate and erect a 6foot tall wall at the rear of the property. The 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. A new septic system is also being proposed. The zoning for these parcels is 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**.

In response to the Hearing Officer, staff acknowledged receipt of letters both for and against the project. An interested party presented an environmental study prepared by UC Davis and made recommendations.

The public testimony portion of the hearing was opened.

Irv Schwartz spoke regarding concerns with:

- The project went forward although it was incomplete;
- Attempts to schedule a meeting with staff were not met;
- Staff reports were not received in a timely manner; and
- Asked if the item could be removed from the agenda until it was complete.

The Hearing Officer explained that a letter sent to W. W. Kirsch on May 11, 2010 stated that the project was incomplete and no additional materials were received by the June 10<sup>th</sup> deadline which would cause staff to recommend a denial of part of the project. Staff has gone forward in good faith to process the single family residence and second unit.

Hank Barner, Blackpoint Improvement Club did not receive information in time to make an opinion. He called out several corrections and noted that more time was needed before the project could go forward.

Penny Hansen, Brett Sadoff, Myra Sadoff, Holly Davis, Matthew Fleumer, Arash Salkui, Barbara Salzman and Susan Stompe expressed concerns with:

- A long history of problems with the property;
- A fire on the property while it was unoccupied that endangered the neighbors;
- Winter water run off that creates flooding;
- Dry brush and grass that poses a fire hazard;
- Questions on the number of horses per acre allowed;
- Traffic concerns with an equestrian center;
- Runoff into the marsh owned by the Audubon Societs;
- Agriculture use of horses are not meant to be recreation;
- Manure management needed to control flies and the smell; and
- Need for a traffic study and possible environmental review.

Tony Shroyer spoke in favor of horses on H Lane because they bring value to the County and are educational for children.

The public testimony portion of the hearing was closed.

In response to the Hearing Officer, the applicant stated that he does want to move forward because he has spent years going through the process. He requested a small main house to support the equestrian center and as suggested by the Hearing Officer, he will meet with the neighbors to explain what he plans to do with the property.

In response to questions by the Hearing Officer regarding Conditions of Approval 6, 7, & 8, staff stated that the Bouskila family would like to create a legal residence for their family. The Hearing Officer stated that Condition of Approval 6 should state that the original residence needs to be demolished or returned to its original state within a year's time.

The Hearing Officer continued the item and directed staff to begin preparation of the environmental review document. She noted that the enforcement case had not been addressed and a new memorandum is needed And should be delivered to the neighbors, applicant, Blackpoint Improvement Club in a timely manner. The applicant was directed to clean up the property and the site issues on H Lane.

The Hearing Officer continued the hearing to August 26, 2010, and directed staff to begin preparation of the environmental review and research to see that the three parcels are all legal parcels of record. She further noted that drawings will be needed for the conversion of the illegal residence

Michel Jeremias, Department of Public Works, stated that the incomplete items are not from the Department of Public Works, Her letter dated June 8, 2010 listed the things that typically get addressed the Building Permit phase.

The Hearing Officer directed staff to give the applicant a list of what is needed for an initial study including a complete manure management plan, and how the drainage affects the wetlands.

Hank Barner, Blackpoint Improvement Club asked for clarification on:

- Attachment #1 in the staff report regarding the height of the main structure and the accessory structure;
- Clarification on the lighting for the stables, including that no skylights are allowed;
- Explanation of Condition of Approval # 19 regarding the traffic study;
- Attachment 8 - 7 (a) regarding the statement of no horse riding outside of the center;
- 24800 State Route 1 in Marshall does not belong in #10; and
- Condition of Approval #12 needs clarification.

The Hearing Officer continued the item to the hearing of August 26, 2010.