

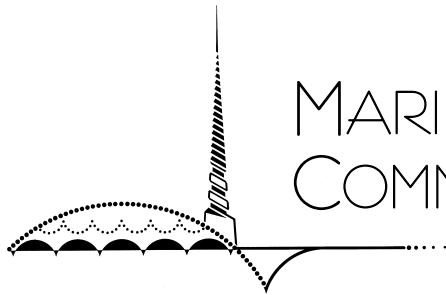
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – August 12, 2010

Hearing Officer Johanna Patri, AICP, Consulting Planner

Staff Present: Lorene Jackson, Planner
 Scott Greeley, Planner
 Veronica Corella Pearson, Planner

Joyce Evans, Recording Secretary

Convened at 9:04 A.M.
Adjourned at 11:45 A.M



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **JENNIFER AND SEAN DONAHUE**

Application (type and number): Variance (VR 10-12)

Assessor's Parcel Number: 074-063-06

Project Location: 343 Kent Avenue, Kentified

For inquiries, please contact: Lorene Jackson, Planner

Decision Date: August 12, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 12, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-22.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

C1. VARIANCE (VR 10-12): JENNIFER AND SEAN DONAHUE

LAJ

A proposal to construct a 785.8-square foot addition to an existing 1,361.2-square foot single-family residence. The proposed project would attain a maximum height of 21.5 feet. The resulting 2,165.8-square foot single-family residence with attached 457.6-square foot garage would result in a 54% floor area ratio (FAR) on a 4,000-square foot lot; the existing permitted FAR is 34%. The exterior walls of the proposed addition would maintain the following setbacks: 10.8 feet from the easterly front property line; 4.4 feet from the northerly side property line; 7 feet from the southerly side property line; and 26.7 feet from the westerly rear property line. The roof of the front entry porch would be located 8.4 feet from the easterly front property line. The project includes the removal of the following existing unpermitted improvements (1) a 168-square foot sunroom located approximately 8.1 feet from the southerly side property line, 26 feet from the northerly side property line, and 30 feet from the westerly rear property line, (2) a second-floor deck located along the southerly side property line, 5.7 feet from the northerly side property line, and 16 feet from the westerly rear property line, and (3) a hot tub on the second floor deck that is located approximately 2 feet from the southerly side property line and 29 feet from the westerly rear property line. A Variance is required because the addition would result in a FAR greater than 30% and would reduce an approved 15-foot front yard setback to 8.4 feet where 25-feet is required in the applicable zoning district. The zoning for this parcel is R1-B1 (Single-family Residential, 6,000-square foot minimum lot area.) The subject property is located at **343 Kent Avenue, Kentfield**, and is further identified as **Assessor's Parcel 074-063-06**.

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

The public testimony portion of the hearing was opened.

Sean and Jennifer Donahue, owners, explained why they are requesting a Variance and why the project would be built in two phases, with the rear addition done at a later date.

The public testimony portion of the hearing was closed.

In response to the Hearing Officer, the applicants stated that they understood that only part of the project is recommended for approval today.

The applicants stated that the front addition would be done to make the house more usable and that raising the house above base flood elevation would be cost prohibitive.

Michelle Jones, architect, explained that the first addition would provide internal access between the two floors, and that a rear addition would be raised above the base flood elevation. The project is one of the smallest parcels in the neighborhood and needs a 54% Floor Area Ratio.

After discussing the approval for the front addition and the legalization of the sunroom, the Hearing Officer suggested a continuance to allow time to present a complete project.

The applicant asked for a decision to be rendered today.

The following modifications were made to the resolution:

- Condition of Approval # 1: Add, "...maximum floor area ratio (FAR) of 42.3%. The rear two story addition and that portion of the deck and hot tub that encroaches within the five-foot side yard setback are specifically denied."
- Correct the appeal date to: "August 26, 2010."

The Hearing Officer concurred with staff's analysis and recommendation, and approved in part and denied in part the Donahue Variance, 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 ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-132

A RESOLUTION APPROVING IN PART WITH CONDITIONS
AND DENYING IN PART THE DONAHUE VARIANCE
343 KENT AVENUE, KENTFIELD

ASSESSOR'S PARCEL 074-063-06

SECTION I: FINDINGS

- I. WHEREAS owners Sean and Jennifer Donahue are requesting Variance approval to construct a 785.8-square foot addition to an existing 1,361.2-square foot single-family residence with a 476.4-square foot garage. The proposed project would attain a maximum height of 21.5 feet. The resulting 2,165.8-square foot single-family residence with attached 457.6-square foot garage would result in a 54% floor area ratio (FAR) on a 4,000-square foot lot; the existing permitted FAR is 34%. The exterior walls of the proposed addition would maintain the following setbacks: 10.8 feet from the easterly front property line; 4.4 feet from the northerly side property line; 7 feet from the southerly side property line; and 26.7 feet from the westerly rear property line. The roof of the front entry porch would be located 8.4 feet from the easterly front property line. The project includes the removal of the following existing unpermitted improvements (1) a 168-square foot sunroom located approximately 8.1 feet from the southerly side property line, 26 feet from the northerly side property line, and 30 feet from the westerly rear property line, (2) a second-floor deck located along the southerly side property line, 5.7 feet from the northerly side property line, and 16 feet from the westerly rear property line, and (3) a hot tub on the second floor deck that is located approximately 2 feet from the southerly side property line and 29 feet from the westerly rear property line. A Variance is required because the addition would result in a FAR greater than 30% and would reduce an approved 15-foot front yard setback to 8.4 feet where 25-feet is required in the applicable zoning district. The subject property is located at **343 Kent Avenue, Kentfield** and is further identified as **Assessor's Parcel 074-063-06**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 12, 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 15301(e), Class 1 of the CEQA Guidelines because it entails an addition to an existing single-family residence that would not result in potentially significant impacts to the environment.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that while portions of the proposed project are consistent with the Marin Countywide Plan, portions of the project are inconsistent, as described below:

The proposed project is consistent with the SF6 land use designation of the property, conforms to the building height limits, and complies with governing development standards related to parking, grading, drainage, and utility improvements. The project will preserve the visual quality of the neighborhood and would not cause foreseeable significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services.

However, the location of the subject property is identified as a flood hazard area in the Marin Countywide Plan (CWP). Accordingly, the intent of Environmental Hazards Goal EH-3 is to protect people and property from risks associated with flooding and inundation. Implementing program EH-3.e restricts development in flood prone areas, calling for the continued regulation of development in Special Flood Hazards areas by applying the County's Floodplain Management Ordinance, FEMA regulations, and environmental review pursuant to the California Environmental Quality Act.

The project site is located within Federal Management Agency (FEMA) Special Hazard Area Zone A, which is an area subject to flooding by the 1% annual chance flood. The applicant provided information indicating that the cost of the entire proposed project would exceed 50% of the depreciated value of the existing structure and therefore the lowest floor of the home would need to be elevated above the base flood elevation (BFE), pursuant to Marin County Code Section 23.09.034.c.1.

Since, as discussed below, Variance findings cannot be made to authorize the entire project, it is uncertain whether construction of the approved portion of the project would trigger raising the house above BFE. Therefore, as a condition of approval, a valuation will need to be done to determine whether the house will need to be raised above BFE.

- V. WHEREAS the Marin County Deputy Zoning Administrator finds that while portions of the proposed project are consistent with the Kentfield/Greenbrae Community Plan, portions of the project are inconsistent, as described below:

The proposed project is consistent with the land use designation of the property, conforms to the building height limits, and is consistent with the architectural styles and character of the community.

However, the Kentfield/Greenbrae Community Plan's Conservation and Development Standard 2 states that the total floor area ratio, including garage, shall not exceed 35%. The existing single-family residence and garage result in a 45.9% FAR. The total floor area ratio of the proposed 2,165.8-square foot single-family residence and 457.6-square foot garage would be 65.6% and therefore that portion of the proposed project is inconsistent with the Community Plan. However, the Kentfield Planning Advisory Board unanimously agreed that the substandard lot size was a special circumstance to approve the 162-square foot front entry addition that would increase the encroachment into the front yard setback and increase the total FAR to 50%. KPAB did not recommend approval of the rear two-story addition.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that portions of the proposed project are consistent with the mandatory Variance findings (Marin County Code Section 22.54.050 and California Government Code Section 65906) as specified below.

- A. There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict application of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts.**

The size of the subject property creates special circumstances that restrict the development of the property with respect to other properties in the area. The property has a total area of 4,000 square feet where the minimum lot size required by the R1-B1 zoning district is 6,000 feet. The median lot size for single-family residences in the vicinity is 8,196 square feet, twice the size of the subject property. There are no other properties on Kent and Popular Avenues with such a small lot. This substandard lot size creates constraints for applying the required 25-foot front yard setback and the floor area ratio requirements.

- B. That granting the Variance does not allow a use or activity, which is not otherwise expressly authorized by the regulations governing the subject parcel.**

The granting of this Variance would not alter the single-family residential use of the subject property. Therefore, the proposed project is consistent with this finding.

- C. That granting the Variance does not result in special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the real property is located.**

Approving the front addition within the front yard setback and legalizing the existing sunroom would not grant a special privilege because the size of the subject lot, configuration of the existing house, and mass and bulk of the neighboring construction result in constraints that most property owners in the wider Kentfield area do not face.

A 30% FAR for a 6,000 square foot lot would allow a home size up to 1,800 square feet. The proposed project would result in a 2,165.8 square feet of total living area, which would result in a 36% FAR for a 6,000-square foot minimum lot required for the R1-B1 zoning district. Therefore, the granting of a Variance for such a project would constitute a special privilege that is inconsistent with the limitations placed upon other properties in the vicinity.

However, granting a Variance to allow the 162-square front addition and 168-square foot sunroom would result in a 1,690-square foot single family residence, which is similar to what would be allowed for a 6,000-square foot minimum lot. This would create a 42.2% for the subject parcel and would not constitute a special privilege.

The existing entrance to the residence is by way of a two-story exterior stairway along the southerly side of the residence. This two-story stairway encroaches approximately 3 feet into the side yard setback. The proposed project would eliminate this stairway and provide a new, more functional entrance at the front street level of the house. The proposed front addition would better meet the County's Single-family Design guidelines to minimize the

visual presence of the garage and improve the general massing, roof design, and articulation of the existing front of the house. The removal of the exterior stairway would remove the encroachment of the stairway into the side yard setback and improve the separation, light, and air relative to the adjoining property.

Changes to the front entry within the front yard setback are compatible with the surrounding community. Because of the visual benefits gained from the changed roof line and articulation of the front porch, the location and design of the project would not adversely affect the visual quality of the area.

The purpose of the development standards for the R1-B1 zoning district is to minimize adverse affects to the surrounding area that would otherwise result from inappropriate development. The project design would ensure that the development would be consistent with the Single-family Residential Design Guidelines and compatible with the character of the local community. Pursuant to California Government Code Section 65906, the scope of work has been modified to assure that the Variance would not permit development that would be inconsistent with the limitations placed on other properties in the surrounding area.

D. That granting the Variance will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

As conditioned, the proposed development would not have detrimental effects on public health, safety, or welfare because the improvements would be consistent with the Marin Countywide Plan and Single-family Residential Design Guidelines.

The proposed front yard addition would be of comparable height and scale with other structures in the surrounding community and would not have detrimental effects with respect to light, air, privacy, and views to surrounding properties. The front addition has been designed to architecturally improve the existing structure. Because of the visual benefits gained from the changed roof line and articulation of the front porch, the location and design of the project would not adversely affect the visual quality of the area. The existing 168-square foot sunroom in the rear of the house is not visible from the street and most of the neighbors. The Kentfield Planning Advisory Board and neighboring property owners have raised no objections to the additional encroachment into the front yard setback. The new front addition and existing sunroom would not adversely affect the character of the local community.

If the approved project needs to be raised to meet Floodplain Management regulations, the structure would attain a maximum height of approximately 25.6 feet, which is below the 30-foot height limit for the R1-B1 zoning district and the Kentfield/Greenbrae Community Plan. Since all adjoining homes are two-stories, several of which have also been raised to meet floodplain regulations, this would be compatible with the neighborhood character.

SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves in part and denies in part the Donahue Variance (VR 10-12) subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.54.050 (Variance) of the Marin County Code, the Donahue Variance is approved to construct a 163-square foot front addition to an existing 1,361.2-square foot single-family residence. The two-story addition is approved to attain a maximum height of 21.5 feet; if the structure is required to be raised to meet Floodplain Management regulations, the structure is approved to attain maximum height up to 30 feet. The exterior walls of the addition are approved to maintain the following setbacks: 10.8 feet from the easterly front property line; 7 feet from the southerly side property line, and 22 feet from the northerly side property line. The roof of the front entry porch is approved to be located 8.4 feet from the easterly front property line. The existing 168-square foot sunroom is approved, subject to current standards for building and safety, to be located approximately 8.1 feet from the southerly side property line, 26 feet from the northerly side property line, and 30 feet from the westerly rear property line. Those portions of the existing second floor deck and hot tub within the 5-foot southerly side yard setback shall be removed. The resulting 1,692-square foot single-family residence with attached 457.6-square foot garage is approved to result in a maximum floor area ratio (FAR) of 42.3% . The rear two story addition and that portion of the deck and hot tub that encroaches within the five-foot side yard setback are specifically denied. The subject property is located at **343 Kent Avenue, Kentfield** and is further identified as **Assessor's Parcel 074-063-06**.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as **Exhibit A**, entitled "Donahue Residence Renovations" consisting of 10 sheets prepared by Rim Architects, dated December 14, 2009, revised May 15, 2010, and received May 19, 2010, and **Exhibit B**, entitled "Building Location Survey", consisting of one sheet prepared by Elliott V. Ingram, dated April 30, 2010, and received May 19, 2010, both exhibits on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a complete set of revised plans for review and approval by the Community Development Agency staff depicting the approved scope of work and following changes. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A1** and shall supersede Exhibit A.
 - a. Revise the project plans to conform with the approved project, which includes the sunroom and front addition. Delete the rear two-story addition and that portion of the deck and hot tub that encroaches within the 5-foot side yard setback.
 - b. Revise the site plan to match the setbacks of the site survey - Exhibit B.
 - c. Revise Sheet A-101 to indicate the correct scale.
 - d. If required to raise any portion of the house above BFE, revise project plans accordingly.

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 Variance conditions of approval as notes.
 1. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
 2. 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.
 3. 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.
4. 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.

5. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.
6. 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.
7. BEFORE FOUNDATION INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the front property lines and install property line survey hubs with connecting colored line in locations that can be readily used by the Building and Safety Inspection staff to verify building setbacks prior to approval of the foundation inspection. If new survey hubs are installed, the project land surveyor or civil engineer must submit written confirmation that the staking of property lines has been properly completed and submit a written (stamped) confirmation to the Planning Division. The requirement for new survey markers may be waived if proper survey markers already exist at the site and can be used to definitely measure building setbacks. It is recommended that the surveyor or civil engineer set the required setback and/or property lines with clearly marked stakes or colored line. The building setback verification can also be satisfied by having a licensed land surveyor or civil engineer with proper certification conduct a survey of the front property lines and the installed project foundation forms. The surveyor or engineer would then verify that the proposed project foundation complies with the approved setback distances from adjacent property lines as shown on the approved building permit plans and submit written (stamped) confirmation to the Planning Division. Refer to the "Building Inspection Procedures" document available at the Marin County Planning Department and on-line at http://www.co.marin.ca.us/depts/CD/Forms/Building_Inspection_Procedures.pdf for additional details regarding this requirement.

Department of Public Works

8. This parcel is entirely within Special Flood Hazard Area Zone A, as mapped by FEMA on their current Flood Insurance Rate Map (FIRM) panel number 0458D, which became effective on May 4, 2009. Zone A is an area subject to flooding by the 1% annual chance flood, but where FEMA has not determined the base flood elevation (BFE). As the project is in a Special Flood Hazard Zone, all proposed construction shall be reviewed for compliance with, and subject to the conditions of, Floodplain Management regulations in Marin County Code 23.09.
9. Based upon flood elevation data collected by the Department of Public Works, the BFE at the north end of the property is approximately 17.3 feet using the National Geodetic Vertical Datum (NGVD), which was the datum used for FEMA's FIRM's prior to May 4, 2009. As this approximated elevation is in tenths of a foot, it is not appropriate for the applicant to convert the BFE in NAVD to additional decimal places.
10. Kent Avenue is a County maintained road. Owner shall obtain an Encroachment Permit from the Department of Public Works prior to any work within the Kent Avenue right of way.

11. Per MCC 24.04.016, if construction activity, equipment, vehicles and/or material delivery and storage cause damage to any existing facility (e.g., pavement, curb, gutter, sidewalk, landscaping) beyond normal wear and tear, as determined by the agency, then the permittee shall be responsible for the repair of same.
12. Per MCC 23.18.093 any construction contractor performing work in the county shall implement appropriate BMPs to prevent the discharge of construction wastes or contaminants from construction materials, tools and equipment from entering a county storm drain system. In addition: all construction plans submitted to the county pursuant to any permit application shall consider the potential for erosion and sedimentation at the construction site and shall comply with county code Sections 24.04.625 and 24.04.627.
13. Erosion control measures shall be installed prior to site disturbing activities, and shall be maintained or modified to remain effective for the duration of the work.
14. BEFORE ISSUANCE OF A BUILDING PERMIT:
 - a. Applicant shall provide DPW a real estate appraisal of the property improvements which offers the depreciated value of the existing structure. Additionally, the applicant shall provide DPW a cost estimate prepared and stamped by a registered engineer, architect or estimator for the cost of the improvements. If the cost to value ratio exceeds 50%, the lowest floor elevation for the entire house shall be at or above the Base Flood Elevation per MCC 23.09.034(c)(1), and the construction will be subject to additional requirements in MCC 23.09.
 - b. Elevation views shall provide the BFE, the existing grade elevation, and the elevation of the first floor, using the NAVD 1988. Plans shall provide a benchmark and be based upon data collected and prepared by a licensed land surveyor and registered professional engineer.
 - c. Submit Erosion and Siltation Control plan for work to be performed between October 15 and April 15, or indicate erosion control and debris barrier measures on site plan. You may refer to the Marin Stormwater Pollution Prevention Program's website, www.mcstoppp.org, for suggested methods and measures.
 - d. Provide a drainage plan for the project, prepared by a professional engineer or licensed architect.
 - e. Site plan shall include the edge of pavement, and label and dimension the right of way.

Kentfield Fire Protection District

15. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire District that all requirements of the Marin County Fire Department have been met.

Ross Valley Sanitary District

16. If not already installed, the District requires that the side sewer be equipped with an appropriate backwater prevention device (e.g. Contra Costa valve, as warranted by the individual site conditions).
17. BEFORE FINAL INSPECTION, the owner or contractor shall contact the District to arrange for a District Inspector to approve the existing installation (or approve the plans for the proposed installation) of the backwater prevention device(s) and to make a record for the District's files.

Marin Municipal Water District

18. All landscape and irrigation plans must be designed in accordance with the most current District landscape requirements (Ordinance 385). Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Variance approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before **August 12, 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 above and the Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.120I of the Marin County Code.

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 August 26, 2010**.

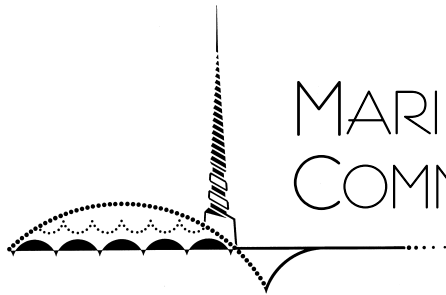
SECTION IV: ACTION

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 12th day of August 2010.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **STEPHEN LOWRY**
Application (type and number): **COASTAL PERMIT (CP 07-28) AND VARIANCE EXTENSION**
Assessor's Parcel Number: 195-132-02
Project Location: 2 Calle del Embarcadero, Stinson Beach
For inquiries, please contact: Scott Greeley, Planner
Decision Date: August 12, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 12, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable condition 1.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

**C2. COASTAL PERMIT (CP 07-28) AND VARIANCE EXTENSION (VR 07-20):
STEPHEN LOWRY**

SG

A proposal to consider the Lowry Variance and Coastal Permit Extension (EX10-7) requesting an extension of the expiration date of Coastal Permit 07-28 and Variance 07-20, which permitted the elevation of an existing, two-level, single family residence in order that the lowest finished floor conform to Federal Emergency Management Agency base flood elevation (BFE) requirements to prevent flooding of habitable space. The approved project includes construction of new concrete foundation, new stairs at the front porch and new perimeter concrete footings. The resultant residence shall have a maximum height of 23 feet above grade and maintain the following minimum setbacks from corresponding property lines: 18 feet from the westerly front property line; 22 feet from the easterly rear property line; 2.5 feet from the northerly side property line; and 3 feet from the southerly side property line. The elevated residence shall maintain the same location (footprint) and the same approximately 795 square feet of residential floor area, 165 square foot attached garage, 117 square foot attached front porch, and 169 square foot attached rear deck as the existing residential development. The subject property is located at **2 Calle del Embarcadero, Stinson Beach**, and is further identified as **Assessor's Parcel No.195-132-02**.

In response to the Hearing Officer, staff received contact in support of the project.

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

Michel Jeremias, Department of Public Works noted that recent changes to flood elevations have come into effect since the started. The site is no longer zoned as it was on March 28, 2007 and must comply with current flood maps and zones.

The applicant was present and had no questions.

The Hearing Officer incorporated a Finding into the resolution to show the current FEMA data.

- New Finding IV: "WHEREAS the Marin County Deputy Zoning Administrator finds that since the project was originally approved on July 26, 2007, the Federal Emergency Management's (FEMA) Flood Insurance Rate Map (FIRM) has been modified and these new maps became effective as of May 4, 2009. As a result of the new map, the site is no longer in the special flood hazard zone A1 and the project datum is no longer NGVD. Therefore the building permit plans shall comply with the revised FIRM, current datum and FEMA requirements for the correct flood zone."

The Hearing Officer concurred with staff's analysis and recommendation, and approved the Lowry Coastal Permit and Variance Extension, 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. 10-133

A RESOLUTION APPROVING THE LOWRY COASTAL PERMIT AND VARIANCE EXTENSION
2 CALLE DEL EMBARCADERO, STINSON BEACH
ASSESSOR'S PARCEL 195-132-02

SECTION I: FINDINGS

- I. WHEREAS, Mike Mitchell, on behalf of Stephen Lowry, is seeking extension of the expiration date for Coastal Permit 07-28 and Variance 07-20, which permitted the elevation of an existing, two-level, single family residence in order that the lowest finished floor conform to Federal Emergency Management Agency base flood elevation (BFE) requirements to prevent flooding of habitable space. The approved project includes construction of new concrete foundation, new stairs at the front porch and new perimeter concrete footings. The resultant residence shall have a maximum height of 23 feet above grade and maintain the following minimum setbacks from corresponding property lines: 18 feet from the westerly front property line; 22 feet from the easterly rear property line; 2.5 feet from the northerly side property line; and 3 feet from the southerly side property line. The elevated residence shall maintain the same location (footprint) and the same approximately 795 square feet of residential floor area, 165 square foot attached garage, 117 square foot attached front porch, and 169 square foot attached rear deck as the existing residential development. **The subject property is located at 2 Calle del Embarcadero in Stinson Beach, and is further identified as Assessor's Parcel 195-132-02.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing August 12, 2010, to consider the merits of the project and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1(d) of the CEQA Guidelines because it entails minor alterations of an existing private structure, involving negligible expansion beyond the existing structure, to meet FEMA standards for health and safety purposes. The project will not result in any additional encroachment into the SCA associated with Easkoot Creek and would not result in any potentially significant impacts to the environment, either individually or cumulatively.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that since the project was originally approved on July 26, 2007, the Federal Emergency Management's (FEMA) Flood Insurance Rate Map (FIRM) has been modified and these new maps became effective as of May 4, 2009. As a result of the new map, the site is no longer in the special flood hazard zone A1 and the project datum is no longer NGVD. Therefore the building permit plans shall comply with the revised FIRM, current datum and FEMA requirements for the correct flood zone.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project has not changed and remains consistent with the Marin Countywide Plan, Local Coastal Program, Stinson Beach Community Plan, and the mandatory findings for a Coastal Permit (Section 22.56.130I of the Marin County Code) and Variance (Section 22.86.025I of the Marin County Code), as originally approved and conditioned by the Deputy Zoning Administrator, with Resolution 07-135 on July 26, 2007.

SECTION II: CONDITIONS OF APPROVAL

The original condition of approval approved by the Deputy Zoning Administrator continue to apply except as modified herein:

Marin County Public Works Department, Land Development Division

1. DPW reviewed the project as presented in March of 2007. DPW's conditions of approval dated March 28, 2007 are based on FEMA's Flood Insurance Rate Map (FIRM) dated March 1, 1982. Since then the FIRM has been modified and these new maps are effective as of May 4, 2009. As a result of the new map the site is no longer in the special flood hazard zone A1 and the project datum is no longer NGVD. Therefore the building permit plans shall comply with the revised FIRM, current datum and FEMA requirements for the correct flood zone. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the Site Plan to demonstrate that current FEMA flood safety standards are being met.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit and Variance approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work before July 26, 2013, or all rights granted in this approval shall lapse.

The Building Permit approval expires if the building or work authorized in this approval does not commence within one year from issuance of such permits. 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 the permit. Please be advised that if your Building Permit lapses after the vesting date stipulated in the approval, and no extensions have been granted, the Building Permit may become null and void. Should you have difficulties in meeting deadlines for completing the work pursuant for a Building Permit, the applicant may apply for an extension at least ten days before the expiration.

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 August 19, 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 12th day of August 2010.

JOHANNA PATRI
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans, DZA Secretary

DZA Minutes
August 12, 2010
CI. Page 2

dza/minutes 8/12/10doc

**C3. COASTAL PERMIT, DESIGN REVIEW, AND VARIANCE (I. D. 10-0075):
LOUISE PATTERSON SG**

A proposal to consider the Patterson Coastal Permit (CP 10-12), Design Review (DM 10-15), and Variance (VR 10-6) proposing to demolish an existing 1,624 square foot residence and construct a 2-level, 2,280 square foot residence, with an attached 500 square foot, 2-car garage on the lower level. In addition, the applicant is proposing to remove the existing septic system and replace it with a new septic system, construct a new 6 foot tall fence, as well as a new deck. The residence will attain a height of 37.50 feet NAVD/34.81 feet MLLW/23 feet 4 inches total height and will maintain the following setbacks: 1) 25 feet from northerly front property line; 2) 6 feet from the easterly side property line; and 3) 6 feet from the westerly side property line. The zoning for this parcel C-RSPS-2.9. The subject property is located at **316 Seadrift Road, Stinson Beach**, and is further identified as **Assessor's Parcel 195-310-20**.

In response to the Hearing Officer, staff summarized his supplemental memorandums dated August 10, 2010 and the e-mail correspondence from Patrick Gunn and the applicant dated August 11, 2010. After receipt of the staff report, they rescinded their request for a continuance. Staff further noted for the record that the original notice did not state that the item can be appealed to the California Coastal Commission.

Sandy Walker, Architect, explained the neighbors concerns and how they will be addressed.

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

The Hearing Officer noted that after making a site visit, staff is proposing a six-foot high fence with planting and lattice and climbing vines for a total height of six feet from the deck. The applicant is proposing 10 feet from the ground as approved the Seadrift Association.

Discussion followed on the issue noting that the offer was made through council. The Hearing Officer could approve the project as recommended by staff and the applicant could return with a minor Design Review Amendment for the changes in the fencing. Staff believes that it may qualify

Discussion followed on the issue that was raised at the last moment. The offer was made through council.

The Hearing Officer stated that she could approve the project as staff has recommended and the applicant could return at a future date with a minor design review amendment for the one item. The project may qualify for an exclusion.

The applicant stated that the Seadrift Association had approved the project and he would like to erect storey poles to show the height of the fence.

The Hearing Officer noted that she can not guess on the approvals of the CC&R's or the Seadrift Association, but can approve the project as recommended by staff.

The Hearing Officer continued the item to the hearing of August 26, 2010 to allow both parties to work out the view and privacy and fence issues.

H1. COASTAL PERMIT AND DESIGN REVIEW (I. D. 09-356): MY T LE:

VCP

A proposal to consider the Le Coastal Permit and Design Review. The applicant, Ann Bool, has applied on behalf of the owner, My Le for Coastal Permit (CP 10-29) and Design Review approval (DR 10-48) for additions of 947 square feet to the existing 1,366 square foot residence. The addition would extend to the west of the residence. The project would result in a total of 2,313 square feet of floor area on the 32,670 square foot lot. Also proposed is: a new septic system that would be located to the south of the residence; and a new well 56 feet northeast of the residence and 48 feet from the northern property line. The zoning for this parcel is C-ARP-2 (Coastal, Agricultural Residential Planned, 1 unit per 2 acres). The subject property is located at **18140 State Route 1, Marshall** and is further identified as **Assessor's Parcel 106-302-02**.

In response to the Hearing Officer, staff acknowledged correspondence dated August 10, 2010 from the applicant, requesting a continuance to the hearing of August 26, 2010 to allow time for construction of storey poles.

The public testimony portion of the hearing was opened.

Fred Smith spoke regarding concerns with the well and the water table.

The public testimony portion of the hearing was closed.

Staff will address the comments about the well to Environmental Health Services. Three wells exist and two will be abandoned.

The Hearing Officer stated for the record that a staff report has been prepared and the storey poles need to be constructed in a timely manner for review.

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

H1. COASTAL PERMIT (CP 05-7), DESIGN REVIEW (DR 05-13) AND SECOND UNIT (SU 08-19): THOMAS LIPPMAN VCP

A proposal to review the Lippman Coastal Permit (CP 05-7), Design Review (DR 05-13), And Second Unit (SU 08-19). **The project was heard on June 26, 2008 and December 17, 2009 and a continuance was granted for staff to prepare an Initial Study.** The project has been determined not to be Statutorily Exempt from CEQA, pursuant to CEQA Guideline Section 15000.2(a), due to biological information provided from the applicant that states that the project site contains listed species and sensitive habitat areas, and the project may result in significant impacts to the environment. Since the hearing date of December 17, 2009, the Community Development Agency has meet with the applicant on February 9, 2010, has requested additional information for environmental review on February 12, 2010 and provided further clarification on application needs on March 23, 2010. To date, no new environmental review information has been provided by the applicant. Pursuant to CEQA Guideline Section 15109, the project is being denied due to incomplete information and the applicant's inability to provide the required information in a timely manner. The subject property is located at **95 Highland Way Inverness**, and is further identified as **Assessor's Parcel 112-300-40**.

In response to the Hearing Officer, staff summarized the supplemental memorandum dated August 12, 2010, regarding a letter from Tom Lippman and a Biological Conditions report from Ibis Environmental, Inc. asking for the hearing to be continued to August 26, 2010. Staff summarized the project and explained her reason for denial including:

- A new residence and second unit that are proposed and the legalization of an existing garage;
- Questions regarding the new pool and how it would be filled with water;
- Additional information that is needed;
- Questions on the red legged frog and the Point Reyes Mountain beaver;
- Need for a biological assessment to show there would be no impact on those species;
- The need for an initial study and the fees associated with the study; and
- Information needed on water and delimitating the wetlands or stating that there are no wetlands.

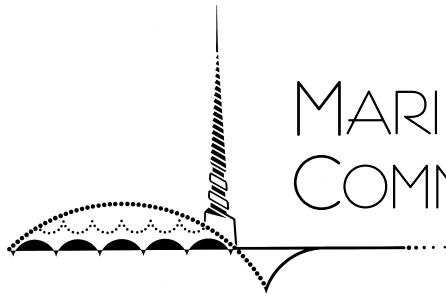
The Hearing Officer stated that the Lippman letter for the biological assessment would be included today to recommend approval.

The public testimony portion of the hearing was opened.

Thomas Lippman, applicant, spoke regarding his frustrations during the six years that his project has been active including objections by the neighbors after the 2008 approval, submitting an updated biological assessment, and animal habitats that would not be effected by the project. Other issues reviewed were:

- Neighbors did not get neighbors approval for the well he needs;
- He was under the impression that the well was exempted from the Coastal requirement;
- The illegal five structures that once used the well were torn down;
- The well was in place before the Coastal regulations were enacted; and
- Two yield tests on the well were provided to Environmental Heather Services;

The Hearing Officer understands the the applicant bought a property with many constraints and continued the item to the hearing of September 16, 2010. A wetland issue must be stated in a report written by the Coastal Commission, Army Corp of Engineers or IBIS.



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **MCEVOY LAND LLC**
Application (type and number): Use Permit Amendment (10-0124):
Assessor's Parcel Number: 175-070-05
Project Location: 5935 Red Hill Road, Petaluma
For inquiries, please contact: Veronica Corella Pearson, Planner
Decision Date: August 12, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 12, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-15.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

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 Hearing Officer noted that this item was rescheduled due to a noticing error.

Staff summarized the recent issues raised in public correspondence received since distribution of the staff report and recommended changes to the resolution.

The Hearing Officer noted that the Notice of Decision shall be recorded.

The public testimony portion of the hearing was opened.

Charlie Judson, Steve Corby, Paul Baird, Russ Morita, spoke regarding the issues in the Schlesinger letter:

Steve Corbet, certified geologist, explained the geology of the property and the relationship to existing wells and well productivity.

Michel Jeremias, Department of Public Works addressed existing access to the property and its relationship to the proposed project

Margaret Kosla-Kent spoke regarding the existing olive orchard operation, organic certification and the use of fertilizers.

The Hearing Officer suggested that the neighbors be notified when the fertilizer products are applied and clarified that the hours of operation are 7:30 AM to 5:00 PM in general, except for during the 2 week period of the fall harvest. Seasonal workers are employed during harvest season and the use permit has a limit on the number of full time and part time employees. The McEvoy Ranch is to notify the neighbors on any future development plans. The Schlesingers are to notify the Ranch immediately if they observe any McEvoy workers trespassing.

Susan Schlesinger, Summer Schlesinger, Fred Smith representing EAC of West Marin, and Sid Baskin, spoke regarding concerns with:

- Water usage and permitting requirements
- Traffic
- Herbicide and fertilizer applications

Steve Korbay, Paul Baird, Aidlin Darling Design, and Charlie Judson, responded to questions regarding:

- Water usage on the property and the proposed project
- State and County permitting agencies and permit requirements

The public testimony portion of the hearing was closed.

The Hearing Officer cited Marin County Code 22.08.040 (e) and the principally permitted uses for the subject zoning district.

Staff noted that Use Permit Amendment is needed to: 1) allow grapes to be trucked in, in the event the McEvoy crops are lost; 2) increase staff; and 3) change the use of the existing maintenance building into a wine production facility.

The following changes/additions were made to the Resolution by the Hearing Officer:

FINDING 4 (e) – No outside sales will occur – strike;

Condition of Approval # 1

- Business hours are 7:30 am to 5:00 pm, 7 days a week.
- Fall harvest season (5:30 am to 10:00 pm, approximately 2 weeks)

Condition of Approval # 2, add:

- The winery operation shall be limited to no more than 5 additional truck traffic trips a year;
- No tour buses are allowed
- No regular scheduled public visiting hours are allowed
- Wine tasting shall be by appointment only

Condition of Approval # 4, add:

Incidental tastings will occur on the property consistent with the ABC license.

The Hearing Officer also directed representatives of the ranch to work with neighbors and keep them apprised of new activity and water usage. Staff was directed to give the neighbors the staff contact information for the State Department of Health Services and any environmental review documents and studies related to water usage.

The Hearing Officer concurred with staff's analysis and recommendation and approved the McEvoy Land LLC, Use Permit Amendment and Design Review 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 ten (10) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION 10-134

A RESOLUTION APPROVING THE McEVOY USE PERMIT AMENDMENT AND MINOR DESIGN REVIEW (ID # 10-0124)
5935 RED HILL ROAD, PETALUMA, CA 94952
ASSESSOR'S PARCELS 125-070-05, -06, -16

SECTION I: FINDINGS

- I. WHEREAS the applicant, Aidlin Darling Design, has applied on behalf of the owner, Nan McEvoy (represented by Russ Morita), for Use Permit Amendment and Minor Design Review approval. The applicant proposes to amend the existing Use Permit (96-418) to allow for the conversion of an existing 4,760 square foot storage and maintenance building into a wine production facility, and to legalize 1,112 square feet of storage area. 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). During the fall harvest, the average noise level would be between 65-70 decibels for approximately 4 hours/day at the exterior walls of the building. The winery would produce and store up to 2,800 cases of wine a year. The Use Permit Amendment would also allow for 39 full time and 9 part time staff that work on staggered shifts. The majority of the wine sales will be on-line, with limited sales in the existing gift shop within the olive pressing facility. The subject property is located at 5935 Redhill Road, Petaluma and is further identified as Assessor's Parcels 125-070-05, -06, -16.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 12, 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, pursuant to Section 15301, Class 1 because the project would not result in new construction or site disturbance that would impact sensitive habitat areas or result in a significant amount of grading and site disturbance.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
 - A. The project proposes no new construction or site disturbance and will not conflict with CWP natural systems policies requiring the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).

- B. The project proposes no new construction or site disturbance and will not conflict with the natural systems policies regarding supporting vegetation and wildlife disease management programs and promoting the use of native plant species (CWP Policies BIO-1.4, BIO-1.5, BIO-1.6 and BIO-1.7).
- C. The project proposes no new construction or site disturbance and will not conflict with policies regarding special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).
- D. The project proposes no new construction or site disturbance and will not conflict with policies regarding protecting ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the private open space adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).
- E. The project proposes no new construction or site disturbance and will not conflict with policies regarding the protection of wetlands or stream conservation areas (CWP Policies BIO-3.1 and CWP BIO-4.1).
- F. The project proposes no new construction or site disturbance and will not conflict with policies regarding stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
- G. The project proposes no new construction or site disturbance and does not trigger construction that requires building permit review for earthquake standards (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
- H. The project has been reviewed by Marin County Fire District and is in compliance with required adequate fire protection standards regarding, removal of hazardous vegetation (CWP Policy EH-4.1, and CWP Policy EH-4.2), water for fire suppression (CWP Policy EH-4.c), defensible space and the project does not require a building permit that will require compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n), and clearance of vegetation around the proposed structure (CWP Policy EH-4.h).
- I. The project is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (CWP Policy DES-1.2).
- J. The project proposes no new construction and will not conflict with policies regarding energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (CWP Policy DES-1.h).
- K. The project proposes no new construction or site disturbance and will preserve visual quality, and protect scenic quality and views of the natural environment from adverse impacts related to development (CWP Policy DES-4.1).

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project would be consistent with the mandatory finding to approve a Use Permit pursuant to Section 22.48.040 of the Marin County Code for the reasons listed below.

A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

Marin County Code Section 22.08.040 allows for agricultural processing in the A-60 zoning district. A Use Permit is required if any agricultural products to be processed are not produced on the same site or other agricultural properties located in Marin County that are owned or leased by the same property owner. There is a possibility that the owner may need to augment or supplement their winery with grapes grown from lands not owned by Nan McEvoy. This would result in no more than a total of 5 delivery trucks of grapes per year. All deliveries would be made during normal business hours.

B. The proposed use is consistent with the Countywide Plan.

See Section IV and V above.

C. The approval of the Use Permit for the proposed use is in compliance with the California Environmental Quality Act (CEQA).

See Section III above.

D. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The addition and winery is compatible with the existing agricultural use and agricultural processing that is occurring on the property. The winery is over a 1,000 feet away from the nearest adjacent neighbor and majority of the neighboring properties are engaged in agriculture. The conversion, of a storage facility to a winery would not impact these operations due to the ranches remote location, and the small scale of the facility.

E. That granting the Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The winery equipment will average 65-70 dBA during the fall harvest and will operate during normal business hours. This level of noise is comparable to vehicular traffic at 20 mph at 25 feet away. The winery operation would be over 1,000 feet to the nearest adjacent neighbor, therefore it is not anticipated that there would be any noise impacts from the project. The proposed project would not increase the number of onsite staff, and would only result in extended operating hours during the fall harvest (August – October), which typically would only occur during a 2 week period. Due to the low volume of wine that would be produced and that majority of all wine produced would be from grapes grown on the property, the wine operation would not result in a significant increase in traffic. With the recommended conditions of approval from EHS regarding the wastewater generated from the winery, the project would not affect the health, safety, or welfare of the community and would be in keeping with the rural, agricultural character of the community.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project would be consistent with the mandatory finding to approve a Design Review pursuant to Section 22.42.060 of the Marin County Code for the reasons listed below.

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

The addition has been designed to be in keeping with the rustic, rural character of the property and in keeping with other structures on the property used for production. The addition has been added to an existing structure that is clustered within an area of development and is in conformance with Section 22.08.040.

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 addition is in conformance with all requirements of the A-60 zoning district regarding setbacks and height, and is located within an area of existing development. The addition has been sited to not negatively impact light exposure to other structures, circulation, or result in a significant increase in light pollution or glare.

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 proposed project does not require the removal of any vegetation and currently there is landscaping surrounding the structure. The project has been reviewed by Marin County Fire Department and was found to be consistent with fire safety requirements.

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 project does not result in any cut and fill, or the need for appurtenant structures.

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 subject building is clustered in an area of existing development and is not located on a visually prominent ridge. The addition would result in construction that is of similar mass and bulk to other buildings on the property. It does not result in construction that would be visually prominent to the public, and is in keeping with the character of existing development.

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

The project would be required to meet the requirements of the Marin County Green Building Standards, Title 24 and Ordinance 3492.

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.

The proposed project is consistent with all CWP's policies pertinent to the proposed project, and has been reviewed by Environmental Health Services, the Department of Public Works, and Marin County Fire Department to ensure consistency with applicable development regulations, and as conditioned, the project would comply with all applicable sections of the Marin County Code.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the McEvoy Use Permit Amendment (ID# 10-0124) subject to the following conditions:

Marin County Community Development Agency-Planning Division

1. Pursuant to Marin County Code Sections 22.50 (Use Permit) and 22.42 (Design Review) the McEvoy Use Permit Amendment and Minor Design Review is approved to allow for the conversion of an existing 4,760 square foot storage and maintenance building into a wine production facility, and to legalize 1,112 square feet of storage area. The building will include production equipment and wine storage. The facility may process up to 5 delivery trucks of grapes that are not from lands of Nan McEvoy. The new wine facility will not be open to the public. The wine production staff will work normal business hours (7:30 am to 5:00 pm, 7 days a week), except during the fall harvest season (5:30 am to 10:00 pm, approximately 2 weeks). The applicant is approved for the production and storage of up to 2,800 cases of wine. The wine production equipment will not exceed 70 decibels and must only operate during normal business hours. The ranch may also have a total of 39 full time and 9 part time staff that work on staggered shifts. The subject property is located at 5935 Redhill Road, Petaluma and is further identified as Assessor's Parcels 125-070-05, -06, -16.
2. Conditions of Approval numbers 1 and 4 in Use Permit 96-418 remain active. In addition the following conditions shall apply.
 - A. The winery operation shall be limited to no more than an additional 5 truck traffic trips a year.
 - B. No public tour buses are allowed.
 - C. No regularly scheduled public visiting hours are allowed.
 - D. Wine tasting shall be by appointment only.
3. The Community Development Agency shall record this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners of the special development restrictions relative to the allowed Olive and Wine Processing Facilities.

4. PRIOR TO VESTING, the applicant must provide written confirmation from the California Department of Alcohol and Beverage Control that an ABC license has been acquired. Incidental tastings will occur on the property consistent with the ABC license.
5. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of (description of project being approved), for which action is brought within the applicable statute of limitations. This indemnification shall include, but not be limited to, damages, fees, and/or costs awarded against the County, if any, and the cost of suit, attorney's fees, and other costs, liabilities, and expenses incurred in connection with such proceedings, whether incurred by the applicant/owner, the County, and/or the parties initiating or bringing such proceeding.
6. Within 30 days of this decision, the applicant must submit a Building Permit application to legalize the addition. 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 90 days of this decision, a Building Permit for all approved work 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 120 days of this decision, the applicant must receive approval of a final inspection by the Building and Safety Division. 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. 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.
10. This Use Permit is 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.

Marin County Environmental Health Services - Sewage

PRIOR TO A TANK INSTALLATION PERMIT:

11. Provide written approval/agreement from Regional Water Quality Control Board (RWQCB) addressing the disposal of the winery waste.
12. Provide a "will serve letter" and a copy of the permit from EBMUD for the acceptance of winery wastewater. Please provide a plan on how to deal with accidental discharges. Satisfy all the conditions of EBMUDs acceptance criteria; etc. Also, secure a contract from EBMUD with the length of time clearly stated on it, and what the requirements are to renew the contract.

13. Provide certification from a state approved certified hauler

Marin County Fire Department

14. BEFORE FINAL INSPECTION, the applicant shall provide confirmation from the Fire Marshal that all requirements of the Marin County Fire Department have been met.

Marin County Department of Public Works

PRIOR TO ISSUANCE OF A BUILDING PERMIT

15. Plans shall indicate how the project meets State Title 24 accessibility regulations.

SECTION III: VESTING, PERMIT DURATION AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this McEvoy Use Permit Amendment (ID# 10-0124) approval by commencing the allowed use on the property, in compliance with the conditions of approval by August 12, 2012. The applicant must obtain a Building Permit for the addition 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 Use Permit 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.

The McEvoy Use Permit Amendment shall be valid indefinitely, so long as the current owner or subsequent owners of the subject property comply with the conditions of project approval. In the event that the terms of the McEvoy Use Permit Amendment are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, the McEvoy Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.120.030 of Marin County Code.

Failure to comply with the strict terms of the Conditions of Approval shall result in invalidation of all permits and rights granted herein. The owner(s) of the subject property shall pay all staff cost incurred at the prevailing hourly rate for any required enforcement actions required by the County.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and a \$600 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 August 26, 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 12th day of August, 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary