

MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY
M E M O R A N D U M

TO: Johanna Patri, DZA Hearing Officer
FROM: Veronica Corella-Pearson, Planner
RE: Le Coastal Permit (CP 10-19) and Design Review (DR 10-18)
DATE: August 19, 2010

The Le Coastal Permit was continued from the Deputy Zoning Administrator hearing date of August 12, 2010 to August 26, 2010 so that storey poles could be constructed on site. The storey poles were erected on August 17th. Since the hearing date of August 12, 2010, staff has received one letter from Linda Emme, the adjacent neighbor at 18050 State Route 1 requesting an extension so that potential impact from the project can be discussed with the architect. No specific issues were stated in the letter. Staff cannot grant an extension since the extension request must be made by the applicant, and staff is required to issue a decision on the project within 60 days of application completion, which would be September 1, 2010.

Staff has reviewed the project site and continues with the recommendation for project approval with conditions. The new additions would maintain setbacks of over 35 feet from all property lines, and would not impact light, air or privacy. The project would not obstruct views from public vantage points. Further, the project is located outside of all resource protection areas and does not impact sensitive habitat areas or special status species. Lastly, the residence is an existing structure and the proposed new additions would not result in any additional water demand for a single-family residence. Therefore, no changes have been made to the attached resolution, with the exception of revised approval and vesting dates.

Attachments:

1. Resolution recommending approval of the Le Coastal Permit (CP 10-19) and Design Review (DR 10-48)
2. Letter from Linda Emme, received 8/18/10

Cc: Michel Jeremias, Department of Public Works
Ann Bool, Architect
Fred Smith, EAC

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MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE LE COASTAL PERMIT (CP 10-19) AND DESIGN REVIEW
(DR 10-48)

ASSESSOR'S PARCEL 106-302-02
18140 STATE ROUTE ONE, MARSHALL

SECTION I: FINDINGS

- I. WHEREAS the applicant, Ann Bool, has applied on behalf of the owner, Dr. My T. Le for Coastal Permit (CP 10-29) and Design Review approval (DR 10-48) for additions of 947 square feet to an 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. The new additions would result in the following setbacks from corresponding property lines: side (west) 36 feet; front (south) 88 feet; side (east) 55 feet; rear (north) 48 feet. 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 residence would be finished in asphalt roofing, rosy brown siding, and grey trim. All development is proposed outside of the Stream Conservation Area and the riparian buffer area. The subject property is located at 18140 State Route One, Marshall, and is further identified as Assessor's Parcel 106-302-02.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 12, 2010 and the project was continued to the hearing date of August 26, 2010 to allow time for the applicant to construct storey poles on the property.
- III. WHEREAS the Marin County Deputy Zoning Administrator held a public hearing on the date of August 26, 2010 to consider the merits of the project, and hear testimony in favor of, and in opposition to the project.
- IV. WHEREAS the Marin County Deputy Zoning Administrator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act pursuant to Section 15301, Class 1 of the CEQA Guidelines because it entails additions to an existing single-family residence that would not result in the removal of sensitive habitat; impacts to special status species; removal of trees; or adverse grading that could result in significant effects on the environment.
- V. 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 complies with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (CWP Policies BIO-1.1 and BIO-1.3).
 - B. The project complies with CWP natural systems policies supporting vegetation and wildlife disease management programs and promoting the use of native plant species (CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6).

- C. The project will not result in impacts to special-status species (CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2).
- D. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on other lands adjacent to the project site, or impact corridors for wildlife movement (CWP Policies BIO-2.3 and BIO-2.4).
- E. No wetlands or stream conservation areas will be affected by the project (CWP Policies BIO-3.1 and CWP BIO-4.1).
- F. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4).
- G. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application review (CWP Policies EH-2.1, EH-2.3, and CD-2.8).
- H. The project design and improvements ensure adequate fire protection (CWP Policy EH-4.1), water for fire suppression (CWP Policy EH-4.c), defensible space, 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 as conditioned will minimize exterior lighting to reduce light pollution, light trespass, and glare. (CWP Policy DES-1.h).
- J. The project 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).

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the policies contained in the East Shore Community Plan due to the following factors.

- A. The project is similar to existing development and is in keeping with the rural character of the community.
- B. The project would add additions to an existing residence that would not impact transportation systems or travel along State Route One.
- C. The project is an existing residence and all new construction has been designed to avoid sensitive habitat areas, and the project would not increase the amount of water withdrawal from the existing water resources.
- D. The project would be required to comply with the Marin County Green Building Requirements to minimize the consumption of non-renewable resources.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit (Section 22.56.130I of the Marin County Code) because this project would meet the requirements and objectives of the Local Coastal Program, Unit II as specified below:

A. Water Supply

The applicant proposes a new well within 100 feet of APN 106-210-77. The Local Coastal Program, Unit II requires that all new wells be located over 100 feet from any property line, unless a finding can be made that the well will not result in development impacts on the neighboring property. Development of a well within 100 feet of APN 106-210-77 would not inhibit future development since no residence is located within 1,000 feet of the

shared property line and it is steeply sloping, prohibiting future development. The applicant has provided a notarized letter from APN 106-210-77, stating that they would not develop a septic system within 100 feet of the proposed new well. Environmental Health Services (EHS) has reviewed the application and determined that the new well could adequately serve the property. EHS requires that the owner apply for a domestic water permit for the new well prior to issuance of a building permit. EHS also requires that the owner demonstrate water rights to the existing well, or the existing well will have to be abandoned. EHS further requires that the existing spring box, near the western property line, be abandoned. The well near the southeastern property line serves APN 106-302-03 and is legal, non-conforming and is not part of this development application.

B. Septic System Standards

The Marin County Department of Environmental Health Services has reviewed the new septic system plans and has found them acceptable.

C. Grading and Excavation

The project would result in additions to an existing residence in an area of existing disturbance that would result in a minimal amount of grading. The new septic system will be located near the existing system and all excavated soil will be used on site.

D. Archaeological Resources

The proposed project is located within an area of high archaeological sensitivity. Due to the site being developed, it is unlikely that the project will disrupt existing cultural resources and with the standard conditions of approval it is required that in the event that cultural resources are uncovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate mitigation measures.

E. Coastal Access

This finding is not applicable. 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 II, where public access is desirable or feasible. During routine field inspection, staff found no evidence of historic public use of this site, and found that the site is not located near any tidelands or submerged lands subject to the public trust doctrine.

F. Housing

The proposed project, entails additions to an existing single-family residence, therefore the project would not reduce the housing stock in Marshall.

G. Stream and Wetland Protection Area

An unnamed and unmapped ephemeral stream traverses the southern portion of the property. Since the creek is not a blue-lined stream, it is not subject to the stream and riparian protection policies of the Local Coastal Program, Unit II.

The property was surveyed for the presence of wetlands that meet either the California Coastal Commission (CCC) or the Army Corps of Engineers definition of a wetland by Zander Associates. Zander Associates identified the top of bank and the edge of riparian vegetation and no wetlands that meet the CCC definition of a wetland were found more than 100 feet from the creek on site. The active channel of the creek could meet the definition of a wetland pursuant to the CCC definition, yet all development is over 100 feet from this area.

H. Dune Protection

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

I. Wildlife Habitat

A Biological Assessment was prepared for the project and a list of special status wildlife with potential to occur on the property was compiled based on data from the California Department of Fish and Game's Natural Diversity Data Base (CNDDDB) and the Local Coastal Programs, Unit II Natural Resource Map. The search resulted in no special status wildlife species near the project area. The report from Zander Associates concluded that there is habitat that could potentially support Red-legged frog, Coho salmon, steelhead, California freshwater shrimp and Tomales roach, yet none of these species occur within the area, and none were observed.

J. Protection of Native Plant Communities

A Biological Assessment was prepared for the project and a list of special status plant species with potential to occur on the property was compiled based on data from the California Department of Fish and Game's Natural Diversity Data Base (CNDDDB), the California Native Plant Society, and the Local Coastal Programs, Unit II Natural Resource Map. Zander Associates conducted a site survey on January 11, 2010 and based on research and the site survey, it was found that none of the listed plant species have potential to occur on the property and no special status plants were observed.

K. Shoreline Protection

This finding is not applicable. The project site is not located adjacent to the shoreline or within a bluff erosion zone.

L. Geologic Hazards

The project site is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit II of the Local Coastal Program, and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Alquist-Priolo Special Studies Zone Map.

M. Public Works Projects

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

N. Land Division Standards

The subject parcel is a legal lot of record. No land division or property line adjustment is proposed as part of this project.

O. Visual Resources

The height, scale and design of the additions are compatible with the character of the surrounding environment. The proposed development would be sited so that it would not obstruct public views from roads or adjacent properties.

P. Recreation/Visitor Facilities

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

Q. Historic Resource Protection

The project site is located outside of the historic preservation boundaries for Inverness as identified in the Marin County Historic Study for the Local Coastal Program, Unit II.

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

A. The proposed development is consistent with the Marin Countywide Plan and any applicable community plan and local coastal program:

As noted in Section IV and V above, the project complies with all policies of the CWP and the findings required for Coastal Permit Application, and the East Shore Community Plan. An unnamed and unmapped ephemeral stream traverses the southern portion of the property. Since the creek is not a blue-lined stream, it is not subject to the stream and riparian protection policies of the Local Coastal Program, Unit II. The creek is subject to the Stream Conservation Area (SCA) policies of the Marin Countywide Plan since it is an ephemeral stream that has riparian vegetation for a length of over 100 feet. It was concluded in a letter dated April 7, 2010 from Zander Associates that the 50-foot setback from the edge of riparian vegetation is adequate to protect the biological resources within the creek and riparian corridor.

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

The project is consistent with this finding because the new addition would result in a structure with a height, mass, and bulk proportionately appropriate to the site and neighboring development.

C. The proposed development will not impair, or substantially interfere with the development, use, or enjoyment of other property in the vicinity, including, but not limited to, light, air, privacy and views, or the orderly development of the neighborhood as a whole, including public lands and rights-of-way;

The project has been designed with large setbacks to all property lines, and therefore the addition would not impede light, air, privacy, or views of properties in the vicinity. The new additions would not be located near any public lands or rights-of-way.

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

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

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

The proposed project would not remove landscape vegetation or trees.

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

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

The addition incorporates colors and materials that reduce the visual bulk of the residence. It has also been designed to meet all height standards of the LCP, Unit II and Title 22I.

2. Drainage systems and appurtenant structures;

All conceptual plans have been reviewed by the Department of Public Works and is approvable as conditioned.

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

The project is located on a developed lot and the additions and septic system would be located within an area of existing disturbance and would not result in adverse grading.

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

The proposed project has been reviewed by DPW to ensure that no work would be located in the road rights-of-way that could not be approved, or other improvements that would affect the circulation of persons. No new fencing is proposed that would affect the circulation of animals.

5. Will not result in the elimination of significant sun and light exposure, views, vistas, and privacy to adjacent properties.

As noted in C above, the project would not result in the elimination of significant sun and light exposure to adjacent residences.

G. The project contains features such as roof overhang, roofing material, and siding material that are compatible both with the principles of energy-conserving design and with the prevailing architectural style in the neighborhood.

The project will be required to meet the standard Build-It-Green requirements and would be reviewed for compliance during the building permit review process.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Le Coastal Permit (CP 10-19) and Design Review (DR 10-48) subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.56I (Coastal Permit) and 22.82I (Design Review) of the Marin County Code, the Le Coastal Permit and Design Review are hereby approved for an addition of 947

square feet to the existing 1,366 square foot residence. The addition will extend to the west of the residence. The project will result in a total of 2,313 square feet of floor area on the 32,670 square foot lot. The new additions will result in the following setbacks from corresponding property lines: side (west) 36 feet; front (south) 88 feet; side (east) 55 feet; rear (north) 48 feet. Also approved is: a new septic system that will 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 residence will be finished in asphalt roofing, rosy brown siding, and grey trim. The subject property is located at 18140 State Route 1, Marshall, and is further identified as Assessor's Parcel 106-302-02.

2. Plans submitted for a building permit shall substantially conform to plans entitled, "Le Residence," consisting of 10 sheets, prepared by Ann Battelle Bool, received June 4, 2010 and on file in the Marin County Community Development Agency.
3. Approved exterior materials shall substantially conform to the color board identified as "Exhibit B" entitled, "Le Residence" received November 23, 2009 by the Community Development Agency.
4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the 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.
5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall mark or call-out the approved building setbacks on the Building Permit plans indicating the minimum front, side and rear yards, the distance of the building from the nearest property line at the closest point, and any required distance from the following environmentally sensitive site features: top of bank and edge of riparian vegetation.
6. BEFORE ISSUANCE OF A BUILDING PERMIT for any of the work identified in Condition 1 above, the applicant shall install temporary construction fencing around the dripline of the existing trees in the vicinity of any area of grading, construction, materials storage, soil stockpiling, or other construction activity. The fencing is intended to protect existing vegetation during construction and shall remain until all construction activity is complete. The applicant shall submit a copy of the temporary fencing plan and site photographs confirming installation of the fencing to the Community Development Agency.
7. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
8. 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.
9. 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.
- 10. 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.
- 11. 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.
- 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 an approval of this application, 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 Development

Prior to Issuance of a Building Permit:

- 14. Provide a drainage plan for the project, show how drainage complies with 2007 CBC Section 1803 site grading. The area adjacent to the foundation shall be sloped away from the building at a slope of not less than 5% for a minimum of 10 feet.
- 15. Submit an erosion and sediment control plan if grading or site disturbance is to occur between October 15 and April 15. Plans shall indicate total acreage of site disturbance.
- 16. 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 improvement shall be inspected by a Department of Public Works engineer.
- 17. A separate building permit is required for site/driveway retaining walls with a height more than 4-feet (or 3-feet when backfill area is sloped or has a surcharge).
- 18. Submit an Erosion and Sediment Control Plan if grading and site disturbance is to occur between October 15 and April 15.

Environmental Health Services – Water

19. The second existing well, located in the creek, will need to be destroyed under permit by EHS unless the applicant can demonstrate water rights to removing water from the creek. The spring/cistern shall be destroyed as required for the on-site sewage permit, due to the proximity to the septic system.
20. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall apply for and obtain a domestic water permit for the residence.

Environmental Health Services – Sewage

21. PRIOR TO ISSUANCE OF A BUILDING PERMIT, meet the requirements to obtain an on-site sewage disposal construction permit from Environmental Health Services. A class I septic system for three bedrooms is required.
22. Destroy the water cistern in the North West corner of the property prior to a final of the proposed septic system permit.

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Le Coastal Permit (CP10-19) and Design Review (DR 10-48) approval by obtaining a Building Permit for the approved work and substantially completing all work before August 26, 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 Sections 22.56.120I and 22.82.130I of the Marin County Code.

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 September 2, 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 26th day of August, 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary