



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR Phillips Land Division and Negative Declaration of Environmental Impact

Item No:	H1	Application No:	LD 00-9
Applicant:	Guy Phillips	Owners:	Guy Phillips
Property Address:	4000 Old Rancheria Road, Nicasio	Assessor's Parcels:	121-100-29, 30
Hearing Date:	August 26, 2010	Planner:	Veronica Corella-Pearson

RECOMMENDATION:	Grant a Mitigated Negative Declaration of Environmental Impact and Approve the Land Division with Conditions
APPEAL PERIOD:	10 working days to the Planning Commission
LAST DATE FOR ACTION:	January 16, 2011

PROJECT DESCRIPTION:

The proposed project is a land division that would divide a 288-acre lot (Assessor's Parcels 121-100-29 and -30) into two lots (a 2-acre parcel and a 286-acre parcel). The 286-acre lot would include the existing residence and all 270 acres (APN 121-100-29) that are encumbered by conservation agreements held by Marin Agricultural Land Trust and under Williamson Act Contract. Proposed Parcel 1 is not held under a conservation contract by MALT or protected by the Williamson Act. All future residential development on the 2-acre (Parcel 1) lot would be located within a delineated building and sewage disposal area. The building envelope on Parcel 1 would be approximately 8,800 square feet in size and the sewage disposal area would be approximately 4,250 square feet in size. The existing residence would continue to be served by the existing sewage disposal system near the residence. Both proposed lots would be accessed by a private driveway via Old Rancheria Road, through an easement with APN 121-100-22 and would share an existing well. Proposed Parcel 1 is vacant, and no development is proposed at this time.

Halleck Creek traverses through the northern property line of proposed Parcel 1, and is designated a perennial stream and is protected by the Marin County Stream Conservation Area Policies (SCA). On Parcel 1, the building envelope, sewage disposal system, and driveway would be located outside of the SCA. The building envelope would be approximately 130 feet from the top of bank for Halleck Creek, and the sewage disposal area would be approximately 136 feet. Parcel 1 would have access through the Remainder Parcel via a 20-foot wide access easement, and would have a 12-foot wide driveway that would be approximately 112 feet from the top of bank for Halleck Creek.

GENERAL INFORMATION

Countywide Plan: AG1 (Agriculture, 1 unit per 31 to 60 acres)

Zoning: ARP-60 (Agriculture, Residential Planned, maximum density of 1 unit per 60 acres)

Lot size: 288 acres

Adjacent Land Uses: Single-family residential

Vegetation: Oak / bay woodland.

Topography and Slope: Level to steeply sloping

Environmental Hazards: None identified

ENVIRONMENTAL REVIEW

An Initial Study was prepared pursuant to the requirements of the California Environmental Quality Act and the Environmental Coordinator of the County of Marin recommends the grant of a Negative Declaration of Environmental Impact with no mitigation measures.

PUBLIC NOTICE:

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the earliest possible decision date in accord with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property. Since distribution of the public notice, one letter has been received from the Halleck Creek Ranch (owner of APN 121-100-22), which is adjacent and to the west of the subject property. The owner is concerned with property rights issues and impacts to their horse-riding program for disabled persons and the Initial Study determination that there are no traffic impacts from the proposed project. These concerns are addressed under the Background section.

PLAN CONSISTENCY:

Please refer to the recommended resolutions, Attachment 1 and 2, for detailed Marin Countywide Plan and Nicasio Community Plan findings.

BACKGROUND:

In 1985, 1987 and 1990 a series of lot line adjustments were approved to create the configuration of the existing lot, which is summarized as follows:

- In 1985, Lucasfilm Properties transferred approximately 18 acres to Irving and Merz, and Bicknell transferred approximately 120 acres to Irving and Merz.
- In 1987, Lucas Film transferred approximately 150 acres, all encumbered in an agricultural easement with Marin Agricultural Land Trust (MALT), to Irving and Merz.
- In 1990, Scopazzi transferred 2 acres to Irving Merz, and Irving and Merz transferred 5 acres to Scopazzi.

The current owner acquired the subject lot in 1998. In March of 1999, the owner applied for Design Review approval for a new single-family residence. In October of 1999, the owner applied for a Land Division. The Design Review was approved in June of 2000, and on January 9, 2001 the Land Division was withdrawn due to an incomplete application. The new residence was constructed in 2005 and is being served by an existing well and sewage disposal system. The Land Division application was reinstated in December of 2004 and deemed complete on December 10, 2009.

In 2003, the current owner entered into a conservation easement with Marin Agricultural Land Trust for the remaining 120 acres of land that was not encumbered by an agricultural easement, resulting in a total of 270 acres of encumbered land, known as Assessor's Parcel 121-100-29. The remaining unencumbered 18 acres (APN 121-100-30) of land contains a single-family residence that was approved in June of 2000. The two Assessor's Parcels comprise a single legal lot of record.

There are a number of easements that have been carried with the land. During project review, staff reviewed the easements for access to the subject property and determined that the property has legal access through APN 121-100-22 (Halleck Creek Ranch), for which an easement was recorded on October 7, 1986 (Doc # 86-55779) and mapped (Parcel Map 23-68). The recorded easement leads to the proposed remainder parcel. The easement states that it is to be appurtenant to and for the benefit of the Lands of Irving and Merz (former owners) and any future subdivisions thereof. There is also an easement for the benefit of APN 121-100-22 on the subject property for the limited purpose of conducting an equestrian program for the benefit of handicapped children (Doc # 85-15173). Any future needs to widen the access road for the use of Halleck Creek Ranch must be addressed through the recordation of a new easement with Halleck Creek Ranch and is a civil matter.

Site Description

Halleck Creek, a perennial creek, travels through the northwestern edge of the property. The creek is protected by the Stream Conservation Area Policies. The property ranges in elevation from approximately 310 feet to 1,000 feet, with majority of the land averaging slopes of approximately 40%. The designated building envelope on Parcel 1 is located on a gentle sloping portion of the lot, approximately 130 feet from the top of bank for Halleck Creek.

The 288-acre property consists of two main vegetation communities, annual grasses and herbs, and mixed hardwood. The area of land near Halleck Creek contains riparian habitat that consists of willows (*Arroyo ssp.*), Big-leaf maple (*Acer macrophyllum*), and Red elderberry (*Sambucus callicarpa*). The mixed hardwood forest contains Coast live oak (*Quercus agrifolia*), California bay (*Umbellularia californica*), and Madrone (*Arbutus menziesii*). Within the area of the proposed 2-acre lot, there is a mixture of grasslands and mixed hardwood forest. Halleck Creek traverses what would be the northern property line. On proposed Parcel 1, all riparian vegetation is located within the banks of Halleck Creek. At the top of the bank there is Poison hemlock (*Conium maculatum*), Scotch broom (*Cytissus scoparius*), Coyote brush (*Baccharis pilularis consanguinea*), Himalayan blackberry (*Rubus discolor*), California Bay (*Umbellularia californica*) and Coast live oak (*Quercus agrifolia*). The dominant vegetation type within the proposed development areas is grassland, with no trees present. No wetlands were identified in the development area and riparian vegetation is located only on the banks of Halleck Creek. Majority of the land on the subject property was determined not to be suitable for agriculture by MALT due to its steep and rocky soils, and the significant amount of forest and brushland.

PROJECT ANALYSIS:

Master Plan Waiver Request

The applicants are requesting waiver of the Master Plan/Precise Development Plan Review, in accordance with Marin County Code, Section 22.44.040 and Table 4-2. Staff has reviewed the Tentative Map and the applicant has provided all required information for a determination that the Master Plan can be waived based on the following: (1) all future development potential would be extinguished, and all 270 acres would be held under a MALT conservation agreement; (2) the applicant has proposed a Tentative Map with a designated building and sewage development envelope that prohibits future development of any structures outside of the designated building envelopes; (3) the

project has been reviewed through an Initial Study and it has been determine that the project can be (a) adequately served by public safety personnel and equipment; (b) the project would not result in adverse noise, hazardous waste, or flooding; (c) the development areas are located outside any resource protection areas and would not impact rare, threatened or endangered species; (d) the project would preserve views from public and private viewing points; and 4) the property is within an ARP-60 zoning designation and any future development of proposed Parcel 1 or the Remainder Parcel would require Design Review approval and evaluated at the time of application to address all current development code standards regarding structural design, drainage, erosion, grading, and landscaping. Based on the above, staff finds that a Master Plan/Precise Development Plan waiver is acceptable provided that a condition of approval be added that requires the Parcel Map state that all structures and development shall be within the designated building and sewage disposal areas and outside of the Stream Conservation Area in conformance with the recorded Notice of Decision. Staff recommends that conditions of project approval require that all development be located outside of the building and sewage disposal areas except for the new road, fencing, garden sheds no greater than 120 square feet in size, and garden beds.

Special Status Plant Species

A search of the California Natural Diversity Database was conducted and a list was compiled of all plant species with potential habitat near the property. The search resulted in a list of 16 species with potential to be located near the property. Of the 16 species, 13 species had potential habitat within the area of proposed development. Site visits were conducted in 2005 and 2010 by a qualified biologist, and no special status plant species were observed.

Special Status Wildlife Species

A search was conducted of all wildlife species with potential habitat near the property. The search resulted in a list of six species with potential to be located near the property. Of the six species, Point Reyes mountain beaver, Coho salmon, and Steelhead were found to have potential habitat near the project site. A survey was conducted for Point Reyes mountain beaver, and no evidence was found of their presence. Of the other two species, it was determined that potential future development would not be located within their creek habitat area.

Historic Resources

A search for all historical records and literature on file for the subject property was conducted by the California Historical Resources Information System. No recorded Native American or historic cultural resources listed with the Historical Resources Information System were found and State and Federal inventories list no historic properties within the project area. A study was conducted in 1977 that included the proposed 2-acre lot and no cultural resources were identified.

Geology

A geotechnical evaluation was conducted in 1999, and it was found that the site is composed of Franciscan Melange, which is the predominate bedrock type in the area. The parcel is overlain by colluvial soils that have been transported from the upper slopes and consist of silty and sandy clays with rock fragments, and indications are that this composition is relatively consistent to the bedrock surface and has satisfactory foundation properties. The rising slopes to the south show some topographic variations that reflect surficial soil creep. Such features are typical for such hillsides and they show no signs that reflect general instability. It was concluded that the site is buildable.

Water and Septic

The existing residence and potential new development on proposed Parcel 1 would be served by an existing well. Well testing was conducted during the dry season in July of 2005 and the well demonstrated a sustainable production capacity of approximately 18 gallons a minute, over 25,000

gallons a day. Based on the estimated residential water consumption needs for two residences, future potential development would use less than 11% of the well's production capacity. It was also determined by a civil engineer that the aquifer that the well draws from is not source water for Halleck Creek, and the proposed development would not impact the source waters that feed Halleck Creek. Prior to approval of a Parcel Map, the applicant would be required to create a Common Water System and Maintenance Plan to serve both lots, and before development on Parcel 1, the Common Water System permit would need to be issued.

A site review was conducted on Parcel 1, and it was determined that the site is adequate for a Class 1 Septic System. Prior to any future development on Parcel 1, the applicant would be required to obtain a construction permit from EHS for a Class 1 Septic System.

Affordable Housing

In-lieu affordable housing fees will be required pursuant to Marin County Code Sections 22.22.050 and 22.22.080. Provision of affordable housing is based on 20% of the total number of parcels, or 0.2 inclusionary unit. In instances where less than one-half a residential unit is proposed, the Code allows for payment of a fee in-lieu of affordable housing provision. The proposed project would add only one additional lot, and due to the remoteness of the parcels, staff recommends that an in-lieu fee be applied. The fee for 0.2 inclusionary unit would be determined at the time the applicant files the Parcel Map and collected before recordation of the Parcel Map. The current fee currently is \$46,400, based on 0.2 times the current \$232,000 in-lieu fee per unit.

Parkland Dedication

The project will be required to contribute in-lieu parkland fees pursuant to Marin County Code Section 22.98.040 and the State Land Division and Precise Development Plan Map Act Sections 66477 et seq. (Quimby Act). The payment of in-lieu fees to the Community Development Agency for parks or recreational purposes with a new Land Division is required. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.

Streams

In order to protect Halleck Creek and to ensure that development is located outside of SCA, conditions of approval have been recommended that require the applicant to provide a survey of the top of bank for Halleck Creek, the edge of riparian vegetation, and to document the Stream Conservation Area, prior to approval of any new structures. This would ensure that all development maintains the required distance from Halleck Creek based on the current conditions at the time of project approval. It is also recommended that all structures be located outside of the SCA.

Access

The Department of Public Works has reviewed the project and determined that adequate access is provided to the subject property and has recommended a number of conditions of approval to address access through the Remainder Parcel to Parcel 1. These conditions require the owner to 1) submit a maintenance agreement that provides for the ability of the drainage and driveway improvements to be maintained by the associated parcels; and 2) provide an access easement on the remainder parcel to Parcel 1.

CONCLUSION:

Staff finds that the proposed Land Division, as conditioned, would comply with all codes and policies and would adequately protect the surrounding community environment, including forested lands, Halleck Creek, the Nicasio watershed, and agricultural resources. No trees would be removed in the development area boundary. The building envelope is located on a gentle slope, and any future development would require a minor amount of grading with limited potential for erosion. Further, the location and design of future residential structures and accessory buildings on proposed Parcel 1 would be subject to Design Review. Following Design Review approval, building permit approval would be required for the construction of a residence. During building permit review an erosion and sediment control plan, and a drainage plan would be required.

The Department of Public Works and Environmental Health Services has recommended a number of conditions of approval to ensure that future development on Parcel 1 would have adequate infrastructure to serve development and that all future development can be accessed safely. These include the recommendation for an easement and covenant agreement for access through the remainder parcel to Parcel 1, the development of a Common Water System and Maintenance Agreement for the Remainder Parcel and Parcel 1, and the development of a Class 1 septic system on Parcel 1. In addition to these conditions, staff is recommending conditions of approval to ensure that all future development be located outside of the Stream Conservation Area.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached Resolution approving the Phillips Land Division based on the findings and subject to the conditions contained therein.

- Attachments:**
1. Proposed Resolution recommending approval of the Phillips Negative Declaration
 2. Proposed Resolution recommending approval of the Phillips Land Division
 3. Location Map
 4. Assessor's Parcel Map
 5. Tentative Map
 6. Marin County Department of Public Works Memo, dated 4/14/10
 7. Marin County Environmental Health Services-Water Memo, dated 12/23/09
 8. Marin County Environmental Health Services – Sewage Memo, dated 11/18/09
 9. Results of Special Status Species Assessment, Laurence P. Stromberg, Ph.D, dated 4/28/05
 10. Addendum to 2005 Letter Report, Laurence P. Stromberg, Ph.D, dated 1/15/010
 11. Geotechnical Feasibility and Negative Declaration, Geoengineer, Inc, dated 4/28/05
 12. Re-evaluation of 4/28/05 Geotechnical Feasibility and Negative Declaration Report, Geoengineering, dated 1/22/10
 13. Letter from Douglas Matteson, dated 1/6/10
 14. Marin Agricultural Land Trust, letters received 1/4/00 and 6/11/08
 15. Grant of Easement, Document 85-15173
 16. Grant of Easement, Document 86-55779
 17. Parcel Map 23-68, Sheet 4 of 4
 18. Letter from Sierra Club Marin Group, dated 10/20/05
 19. Letter from Nicasio Design Review Board, dated 10/21/05
 20. Letter from Nicasio Design Review Board, dated 12/3/09

21. Letter from Halleck Creek Ranch, dated 8/4/10
22. Letters of support from neighboring residents, 9 pages

The following attachment was provided to the Deputy Zoning Administrator only. They are available for public review at the Community Development Agency, Planning Division during regular business hours: Monday through Friday, 8:00 A.M. to 4:00 P.M.

23. Proposed Negative Declaration and Initial Study

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

**A RESOLUTION GRANTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT
FOR THE PHILLIPS LAND DIVISION**

4000 OLD RANCHERIA ROAD, NICASIO

ASSESSOR'S PARCEL 121-100-29, 30

SECTION 1: FINDINGS

I. WHEREAS, the applicant has proposed a land division that would divide a 288-acre lot (Assessor's Parcels 121-100-29 and -30) into two lots (a 2-acre parcel and a 286-acre parcel). The 286-acre lot would include the existing residence and all 270 acres (APN 121-100-29) that are encumbered by conservation agreements held by Marin Agricultural Land Trust and under Williamson Act Contract. Proposed Parcel 1 is not held under a conservation contract by MALT or protected by the Williamson Act. All future residential development on the 2-acre (Parcel 1) lot would be located within a delineated building and sewage disposal area. The building envelope on Parcel 1 would be approximately 8,800 square feet in size and the sewage disposal area would be approximately 4,250 square feet in size. The existing residence would continue to be served by the existing sewage disposal system near the residence. Both proposed lots would be accessed by a private driveway via Old Rancheria Road, through an easement with APN 121-100-22 and would share an existing well. Proposed Parcel 1 is vacant, and no development is proposed at this time.

Halleck Creek traverses through the northern property line of proposed Parcel 1, and is designated a perennial stream and is protected by the Marin County Stream Conservation Area Policies (SCA). On Parcel 1, the building envelope, sewage disposal system, and driveway would be located outside of the SCA. The building envelope would be approximately 130 feet from the top of bank for Halleck Creek, and the sewage disposal area would be approximately 136 feet. Parcel 1 would have access through the Remainder Parcel via a 20-foot wide access easement, and would have a 12-foot wide driveway that would be approximately 112 feet from the top of bank for Halleck Creek. The property is located at 4000 Old Rancheria Road, Nicasio, and is further identified as Assessor's Parcel 121-100-29, 30.

II. WHEREAS, the Marin County Community Development Agency - Planning Division prepared an Initial Study for the project and it was determined that there is no evidence that the project may have a significant effect on the environment.

III. WHEREAS, the Marin County Environmental Coordinator has determined that, based on the Initial Study, a Negative Declaration of Environmental Impact is required for the project pursuant to the California Environmental Quality Act (CEQA).

IV. WHEREAS, on July 16, 2010, an Initial Study and proposed Negative Declaration of Environmental Impact were completed and distributed to agencies and interested parties to commence a 20-day public review period for review and comment on the Negative Declaration, and a Notice of the public review period and Marin County Deputy Zoning Administrator hearing date to consider granting final approval of the Negative Declaration was published in a general circulation newspaper pursuant to CEQA.

V. WHEREAS, after the close of the 20-day public review period on August 4, 2010, the Marin County Deputy Zoning Administrator reviewed and considered the information contained in the draft Negative Declaration, and Initial Study.

SECTION 2: ACTION

NOW, THEREFORE, LET IT BE RESOLVED that the Marin County Deputy Zoning Administrator hereby makes the following findings:

1. Notice of the initial public review period and hearing on the Negative Declaration was given as required by law and said hearing was conducted pursuant to Sections 15073 and 15074 of the State CEQA Guidelines and the County CEQA process.
2. All individuals, groups and agencies desiring to comment on the Negative Declaration were given the opportunity to address the Marin County Deputy Zoning Administrator.
3. The Negative Declaration of Environmental Impact for the project consists of the Negative Declaration, Initial Study, responses to comments, and all supporting information incorporated by reference therein.
4. The Negative Declaration of Environmental Impact was completed in compliance with the intent and requirements of CEQA, the State CEQA Guidelines, and the County's CEQA process.

LET IT BE FURTHER RESOLVED that the Marin County Deputy Zoning Administrator hereby grants the Negative Declaration of Environmental Impact for the Phillips Land Division application as an adequate and complete environmental document for purposes of approving the project and declares that the Negative Declaration has been completed and considered in conjunction with the comments thereto, in compliance with CEQA, the State CEQA Guidelines, and the County's CEQA process.

SECTION 3: DECISION

GRANTED 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
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

**A RESOLUTION APPROVING WITH CONDITIONS
THE PHILLIPS LAND DIVISION**

4000 OLD RANCHERIA ROAD, NICASIO

ASSESSOR'S PARCEL 121-100-29, 30

SECTION 1: FINDINGS

I. WHEREAS, the applicant has proposed a land division that would divide a 288-acre lot (Assessor's Parcels 121-100-29 and -30) into two lots (a 2-acre parcel and a 286-acre parcel). The 286-acre lot would include the existing residence and all 270 acres (APN 121-100-29) that are encumbered by conservation agreements held by Marin Agricultural Land Trust and under Williamson Act Contract. Proposed Parcel 1 is not held under a conservation contract by MALT or protected by the Williamson Act. All future residential development on the 2-acre (Parcel 1) lot would be located within a delineated building and sewage disposal area. The building envelope on Parcel 1 would be approximately 8,800 square feet in size and the sewage disposal area would be approximately 4,250 square feet in size. The existing residence would continue to be served by the existing sewage disposal system near the residence. Both proposed lots would be accessed by a private driveway via Old Rancheria Road, through an easement with APN 121-100-22 and would share an existing well. Proposed Parcel 1 is vacant, and no development is proposed at this time.

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II. WHEREAS, the Marin County Deputy Zoning Administrator held a duly noticed public hearing on August 26, 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 reviewed and considered testimony in favor of, and against, a proposed Negative Declaration and determined, subject to the conditions of project approval contained herein, that this project will not result in any potentially significant environmental impacts, and qualifies for a Negative Declaration of Environmental Impact in

compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the County's CEQA process.

- 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 is consistent with the all applicable policies regarding species and habitat preservation (Policy BIO-1.1; Policy BIO-1.3; and Policy BIO-2.4) because the project proposes a building and sewage disposal envelope that will protect all land that is of high value to wildlife.
 - B. The project is consistent with Policy BIO-3.1 (WCA) because no wetlands have been identified in any area proposed for future development.
 - C. The project is consistent with Policy BIO-4.1, which requires that development be restricted in the Stream Conservation Area since no development is proposed within 100 feet of the top of banks for Halleck Creek, or within 50 feet of the edge of riparian vegetation. In addition conditions of approval have been added that require the following for the protection of all SCA areas: 1) a survey of the top of bank for Halleck Creek, the edge of riparian vegetation, and to document the Stream Conservation Area, prior to approval of any new structures to ensure that all development maintains the required distance from Halleck Creek based on the current conditions at the time of project approval and 2) all structures shall be located outside of the SCA and within the designated building and sewage disposal areas with the exception of trellises, pergolas, fencing, garden sheds no greater than 120 square feet in size, and garden beds.
 - D. The project is consistent with all policies regarding the avoidance of erosion and sedimentation (Policy WR-2.3 and Policy BIO-4.15) since any future development would be required to provide a drainage plan that shows all runoff infiltrated on-site and an erosion and sediment control plan, which would be reviewed during Design Review and during the building permit review stage.
 - E. The project is consistent with all policies regarding the avoidance of hazards (Policy EH-2.1, Policy EH-2.3, and Policy EH-3) since the project would not result in hazardous conditions related to geophysical issues because the subject property is not located within an Earthquake Study Zone and no active faults were identified on the property, and any future development would require Building Permit approval to insure that it is designed in compliance with the recommended construction practices identified in the Geotechnical Report by Geotechnical Engineering, Inc.
 - F. The project is consistent with all policies regarding the protection of structures from fire (Policy 4.1) since standard building permit requirements would ensure that any future development would incorporate fire protection measures into construction.
 - G. The project is consistent with all policies regarding the protection of visual resources (Policy DES-1.2, and Policy DES-4.1) since the building envelope is located in an area that is secluded and has no visibility to neighboring properties or the public.
 - H. The project is consistent with all policies regarding the reduction of greenhouse gas emissions and protection of the atmosphere (Policy AIR-4.1) since the proposed project would not result in potentially significant impacts on air quality relating to greenhouse gas

emissions with implementation of development standards for energy conservation and use of renewable energy systems in future development applications.

- I. The project is consistent with all policies regarding the protection of Agricultural lands and resources (Policies AG 1.1-1.11) since the applicant has a conservation easement with MALT for 270 acres of the 288 acre lands and the project would result in a density that is consistent with the AG1 land use designation of 1 unit per 31 - 60 acres. All areas that are proposed for development are located outside of conservation easements and were found to have no benefit for agricultural production. All remaining residual development potential will be relinquished through approval of this Land Division.

V. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the applicable Nicasio Community Plan findings below:

A. Agricultural lands, natural environmental resources and rural vistas should be identified and preserved.

The proposed land division would not result in a new parcel that could be developed in an area with rural vistas. The proposed development area for proposed Parcel 1 is not located in an area with prime agricultural land or with sensitive habitats or environmental resources that require protection.

B. Property boundaries for proposed parcels should be designed with particular consideration given to natural topography, natural drainage courses, vegetation, ridge lines, valleys and meadows.

Proposed Parcel 1 is located at the bottom of a hillside on a relatively level site, and the development area is located over 130 feet away from any water way.

C. Location of lot lines must consider the integrity of existing land uses, buildings, roads, septic leachfields, drainage and utility connections.

The proposed new lots can be adequately served with the existing well, and the proposed new septic system. The proposed location of the new lot would not affect adjacent properties since it is adequately separated from existing development, which includes utilities and infrastructure. Existing utilities can be expanded to serve proposed Parcel 1.

D. Building envelopes should be sited away from unstable or hazardous portions of the property.

A geologic investigation was conducted and the new development areas would not be located near unstable or hazardous portions of the property.

E. Dedication of land for agricultural/open space, parks, schools and pedestrian/equestrian access uses may be required.

The subject lot has existing easements for equestrian access and has dedicated 270-acres of land to MALT for conservation.

F. The design of subdivisions should provide for passive or natural heating and cooling opportunities for future residences.

The proposed project is for a land division, not a subdivision.

- G. All major site improvements including, but not limited to roads, utilities, drainage and grading, must be designed and constructed in accordance with the rural residential standards required by Marin County Code Titles 20, 22, 24 and all improvements are required by the approval of a Tentative Map.**

All development would be reviewed during the building permit process for conformance with MCC 20, 22, and 24.

- H. Site grading must be held to a minimum by designing lots and development to fit on the natural land forms.**

Site grading would be reviewed during the Design Review permit process for conformance with MCC Section 22.42 that addresses site design, grading and disturbance.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Tentative Map (Marin County Code Section 22.84.060) because:

- A. The proposed project involves a two-lot Land Division, and future construction of one single-family residence, which is a principally permitted use on the property consistent with the Marin Countywide Plan and the Nicasio Community Plan. No findings for denial in Subsection D can be made.
- B. In the interest of the public health and safety, as a prerequisite to the orderly development of the surrounding area, the construction of road improvements are not required within a specified time frame.
- C. The findings for waiver of Parcel Map are not applicable to this project.
- D. The findings requiring denial cannot be made pursuant to State Subdivision Map Act Section 66474 as follows:
1. The proposed Land Division would be consistent with the Marin Countywide Plan, the Nicasio Community Plan, and zoning standards because the two proposed residential lots on 288 acres would result in an overall density of one unit per 144 acres. The Land Use Designations allows for a maximum of 1 unit per 31-60 acres, and the zoning allows for maximum density of 1 unit per 60 acres.
 2. The 288 acre property is suitable for division into two lots, one that is already developed, and one lot that could have a future single-family residence. The proposed lot sizes would comply with the minimum lot sizes based on Lot Slope pursuant to the Subdivision Design standards in Table 6-1 of Marin County Code Section 22.82.050.
 3. The design of the land division and access improvements would not cause substantial environmental damage or injure fish, wildlife, or their habitat.

4. The design of the land division would not cause serious public health or safety problems.
5. The design of the land division and access improvements will not conflict with easements.
6. The land division is consistent with all applicable provisions of the Development Code, other County Codes, and the Map Act. With the following conditions of approval for Affordable Housing and Parkland Dedications:
 - A. In-lieu affordable housing fees will be required pursuant to Marin County Code Sections 22.22.050 and 22.22.080. Provision of affordable housing is based on 20% of the total number of parcels, or 0.2 inclusionary unit. In instances where less than one-half a residential unit is proposed, the Code allows for payment of a fee in-lieu of affordable housing provision. The proposed project would add only one additional lot, and due to the remoteness of the parcels, staff recommends that an in-lieu fee be applied. The fee for 0.2 inclusionary unit would be determined at the time the applicant files the Parcel Map and collected before recordation of the Parcel Map. The current fee currently is \$46,400, based on 0.2 times the current \$232,000 in-lieu fee per unit.
 - B. The project will be required to contribute in-lieu parkland fees pursuant to Marin County Code Section 22.98.040 and the State Land Division and Precise Development Plan Map Act Sections 66477 et seq. (Quimby Act). The payment of in-lieu fees to the Community Development Agency for parks or recreational purposes with a new Land Division is required. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.

VII. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Master Plan/Precise Development Plan Waiver (Marin County Code Section 22.44.040 because staff has reviewed the Tentative Map and the applicant has provided all required information for a determination that the Master Plan/Precise Development Plan can be waived based on the following:

- A. All future development potential would be extinguished, and all 270 acres would be held under a MALT conservation agreement.
- B. The applicant has proposed a Tentative Map with a designated building and sewage development envelope that prohibits future development of any structures outside of the designated building envelopes.
- C. The project has been reviewed through an Initial Study and it has been determine that the project can be: adequately served by public safety personnel and equipment; the project would not result in adverse noise, hazardous waste, or flooding; the development areas are located outside any resource protection areas and would not impact rare, threatened or endangered species; and the project would preserve views from public and private viewing points.

- D. Any future development would be subject to Design Review and evaluated at the time of application to address all current development code standards regarding structural design, drainage, erosion, grading, and landscaping
- E. The property is within an ARP-60 zoning designation and any future development of proposed Parcel 1 or the Remainder Parcel would require Design Review approval.

SECTION 2: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Phillips Land Division (LD 00-9) application subject to the following conditions:

Community Development Agency – Planning Division

1. Pursuant to Marin County Development Code Section 22.84.060, this Tentative Map for Land Division permits a land division that would divide a 288-acre lot (Assessor's Parcels 121-100-29 and -30) into two lots (a 2-acre parcel and a 286-acre parcel). The 286-acre lot will include the existing residence and all 270 acres (APN 121-100-29) that are encumbered by conservation agreements held by Marin Agricultural Land Trust and under Williamson Act Contract. Parcel 1 is not held under a conservation contract by MALT or protected by the Williamson Act. All future residential development on the 2-acre (Parcel 1) lot will be located within a delineated building and sewage disposal area. The building envelope on Parcel 1 will be approximately 8,800 square feet in size and the sewage disposal area will be approximately 4,250 square feet in size. The existing residence will continue to be served by the existing sewage disposal system near the residence. Both proposed lots will be accessed by a private driveway via Old Rancheria Road, through an easement with APN 121-100-22 and would share an existing well. Proposed Parcel 1 is vacant, and no development is proposed at this time. On Parcel 1, the building envelope, sewage disposal system, and driveway will be located outside of the SCA. The building envelope will be approximately 130 feet from the top of bank for Halleck Creek, and the sewage disposal area will be approximately 136 feet. Parcel 1 will have access through the Remainder Parcel via a 20-foot wide access easement, and will have a 12-foot wide driveway that will be approximately 112 feet from the top of bank for Halleck Creek. The property is located at 4000 Old Rancheria Road, Nicasio, and is further identified as Assessor's Parcel 121-100-29, and APN 121-100-30.
2. Plans submitted for Parcel Map approval shall substantially conform to plans identified as "Exhibit A," entitled, "Tentative Map for the Subdivision of The Lands of Phillips" consisting of 1 sheet prepared by DJ Matteson, dated October 2009 and received November 10, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
 - a. The Parcel Map shall clearly show the exact size and configuration of the existing lot and the newly created lot, with a legend that clearly demonstrates the symbols for each easement with unique and differentiated symbols that are not in conflict with each other and are accurate.
 - b. All lot lines, development area boundaries and easements shall be clearly identified with metes and bounds.
 - c. The Parcel Map shall show the correct Assessor's Parcel Numbers.

- d. The Parcel Map shall state that future development must comply with the Land Division (LD 00-9) Conditions of Approval.
- 3. The Community Development Agency shall record this Notice of Decision on the title of the subject property concurrently with the Parcel Map.
- 4. Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the approved lots shall be as follows:

<u>Parcel</u>	<u>Street Address</u>
One	3000 Old Rancheria Road, Nicasio
Remainder Parcel	4000 Old Rancheria Road, Nicasio

- 5. Prior to any future development on Parcel 1, the applicant shall provide a survey from a Licensed Surveyor recording to the Top of Bank for Halleck Creek, edge of riparian vegetation, and document the location of the Stream Conservation Area based on the most current definition in the Marin Countywide Plan.
- 6. All future development shall be located outside of the Stream Conservation Area. No structures or grading shall occur within the SCA.
- 7. The new residence and all new structures shall be located entirely within the designated building and sewage disposal area with the exception of road improvements, fencing, garden sheds no greater than 120 square feet in size, and garden beds.
- 8. Prior to approval of the Parcel Map, the owner shall record a quit claim for the Road and Public Utility Easement from APN 121-250-44 onto Parcel 1.
- 9. BEFORE RECORDATION OF THE PARCEL MAP, the applicant shall submit to the Community Development Agency, Planning Division an in-lieu participation fee for the construction of affordable housing. The fee shall be determined at the time the Parcel Map is filed in accordance with the provisions of Marin County Development Code Chapter 22.22 (Affordable Housing Regulations), which requires that proposed projects resulting in the development of two or more units or parcels shall provide 20 percent of the total number of units or parcels for the development of affordable housing.
- 10. BEFORE RECORDATION OF THE PARCEL MAP, the applicant shall submit to the Department of Parks and Open Space, a park fee in-lieu of land dedication for future park improvements. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.
- 11. The applicant must submit a Parcel Map application, and obtain approval of the Parcel Map from the Planning Division and Department of Public Works County Surveyor. After approval of the Parcel Map, the applicant shall file a Parcel Map with the County Recorder to record the Land Division approved herein. The required Parcel Map must be in substantial conformance with Exhibit "A," including, but not necessarily limited to, the proposed lot lines and easements. Parcel Map data and form must be in compliance with provisions of Chapter 20.64 of the Marin County Code.

12. The Phillips Land Division approval must be vested with the filing of the required Parcel Map in compliance with all conditions of approval within three years after the date it is conditionally approved by the County of Marin. A timely filing is made when all parties having record title interest in the real property submit written consent, and a fully executed Mylar complying with all conditions of approval, including executed versions of all required agreements and paying all required fees, are submitted to the County Surveyor. The Community Development Agency Director may administratively authorize extensions to this mandatory vesting period upon written request by the applicant and payment of the appropriate extension fee for a period not to exceed an aggregate of five years beyond the expiration date. Extension of the Land Division approval may also be permitted pursuant to applicable State law.
13. Pursuant to California Government Code Section 66474.9(b), the County of Marin shall require that the applicant defend, indemnify, and hold harmless the County or its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers and employees to attack, set aside, void, or annul, the approval by the County of the Crandall Land Division, which action is brought within the time period provided for in California Government Code Section 66499.37. The County shall promptly notify the applicant of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
14. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Use and Water Resources

Prior to recordation of the Parcel Map:

15. The project sponsor shall submit a maintenance agreement that provides for the ability of the drainage and driveway improvements to be maintained by the associated parcels. Such agreement shall be provided to the Department of Public Works for review and approval. The agreement shall be recorded concurrent with the Parcel Map, and the recorded agreement provide to DPW.
16. The access easement on the remainder parcel to Parcel-1 shall be described by metes and bound. The access easement shall be a minimum of 20 feet wide and shall in all cases be wide enough to entirely encompass the driveway, and any appurtenant walls, fills, cut banks and utilities. Sufficient information shall be provided on a plan for DPW staff to verify that access easement includes all driveway improvements.
17. Revise the map to show the correct parcel number(s) in the Title Block.

Prior to issuance of the building permit for Parcel 1:

18. Plans shall show turnouts along the driveway on the remainder parcel in compliance with Marin County Title 24 and Fire department requirements.
19. An emergency vehicle turnaround shall be provided on Parcel-1 that shall not encroach in the Stream conservation Area.
20. As per Recorded Document 1986-52924, Agreement with Marin Municipal Water District (MMWD), improvement plans shall be submitted and reviewed by MMWD prior to review and approval by DPW and Development.

Environmental Health Services – Water

Prior to recordation of the Parcel Map:

21. An amended domestic water permit application will need to be submitted to EHS, including a water system plan, and proposed easement and maintenance agreement language, and be ready for issue, prior to completing the Final Map. Domestic water storage capacity will be calculated in addition to fire control and fire sprinkler storage requirements from the Fire Department.

Prior to issuance of the building permit for Parcel 1:

22. Prior to clearing the building permit, the applicant shall obtain a Common Water System permit. Prior to issuing the water permit, the applicant shall record the easement and maintenance agreements on the deeds.

Environmental Health Services – Sewage

Prior to issuance of the building permit for Parcel 1:

23. Meet requirements to obtain a construction permit from Environmental Health Services. A class I septic system with a curtain drain is required.

SECTION 3: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Bar-Or Land Division approval by recording a Parcel Map before August 26, 2013, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it, or unless the vesting period is automatically extended by operation of State law pursuant to Section 20.34.040.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency, Planning Division, Room 308, Marin County Civic Center, San Rafael, no later than 4:00 p.m. on September 9, 2010.

SECTION 4: DECISION

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
DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Deputy Zoning Administrator Secretary