

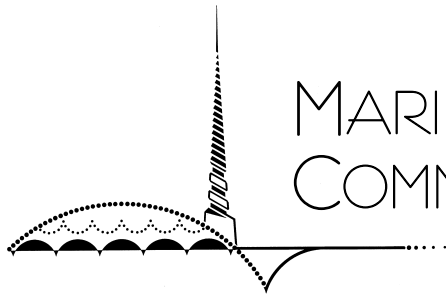
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – August 26, 2010

Hearing Officer Johanna Patri, AICP, Consulting Planner

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

Joyce Evans, Recording Secretary

Convened at 9:05 A.M.
Adjourned at 12:30 P.M



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **DAVID JABLONS**

Application (type and number): Coastal Permit (CP 10-30) And Use Permit (DR 10-15)

Assessor's Parcel Number: 100-050-29

Project Location: 5488 Middle Road, Petaluma

For inquiries, please contact: Lorene Jackson, Planner

Decision Date: August 26, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 26, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-12.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

**C1. COASTAL PERMIT (CP 10-30) AND USE PERMIT (UP 10-15) (ID 10-0005):
DAVID JABLONS**

LAJ

A proposal to consider the Jablons Coastal Permit and Use Permit application to install a new 197-foot high meteorological research tower on a 160-acre agricultural parcel. The tower would be located on a ridge and maintain the following setbacks: 572 feet from the northerly property line, 1,046 feet from the southerly property line, and 400 feet from the easterly property line. The following would be attached to the tower: small meteorological research devices, bat monitoring devices, and a solar panel to power the various instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads and trails. The devices on the towers would collect meteorological data to inform future decisions regarding the suitability of the area for wind energy production. The data collected would be transmitted wirelessly for further analysis off-site. The zoning for this parcel is C-APZ-60 (Coastal, Agricultural Production Zone, 1 unit/60 acres.) The subject property is located at **5488 Middle Road, Petaluma**, and is further identified as **Assessor's Parcel 100-050-29**.

In response to the Hearing Officer, staff summarized two supplemental memorandums, and letters from the Environmental Action Committee of West Marin and the Marin Conservation League.

The public testimony portion of the hearing was opened.

Cliff Graham, on behalf of the applicant, NextEra Energy Resources, indicated they are agreeable to a three year temporary use instead of a five year. In response to the Hearing Officer, he explained the reasons for locating the project on a ridgeline.

Barbara Salzman (Marin Audubon Society), Roger Roberts (Marin Conservation League), Beverly Childs McIntosh, Kit McSweeney, Helen Kozoriz, and Louise Gregg spoke expressing the following concerns:

- Danger of birds flying into the guy wires;
- Possible sharing of the wind data for potential future projects;
- Putting ribbons on the guy wires to make them easier to see;
- Need for more research on the impacts of the project;
- Noise; and
- Need for an environmental review.

William Shook and David Jablons, spoke in support of the project.

The public testimony portion of the hearing was closed.

The Hearing Officer revised Finding V, VI, and VII, and Conditions of Approval 3,4,5, and 7. A new condition 8 was added requiring a Decommissioning and Reclamation Plan.

The Hearing Officer revised the timeline for the Use Permit from five to three years of operation.

Based on the Findings in the modified Resolution, the Hearing Officer concurred with staff's analysis and recommendation, and approved the Jablons Coastal Permit and Use Permit,.

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. 10-135

A RESOLUTION APPROVING
JABLONS COASTAL PERMIT (10-30) AND USE PERMIT (10-15)
5488 MIDDLE ROAD, PETALUMA
PROJECT ID 10-0005

ASSESSOR'S PARCEL 100-050-29

SECTION I: FINDINGS

- I. WHEREAS NextEra Energy Resources, on behalf of property owners David Jablons and Tamara Hicks, proposes to install a temporary 197.7-foot high meteorological research tower on a 157-acre agricultural parcel. The stand-alone tower would be a 10-inch diameter galvanized steel tube that tapers to 8 inches at the top. The tower would be anchored by twelve ¼-inch guy wires: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower would be located on a ridge and maintain the following setbacks: 572 feet from the northerly property line, 400 feet from the easterly property line, and 1,046 feet from the southerly property line. Small meteorological research and bat monitoring devices will be attached to the tower, along with a solar panel to power the instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads. The meteorological instruments would collect data to inform future decisions regarding the suitability of the area for wind energy production. The collected data would be transmitted wirelessly for further analysis off-site. The temporary research tower would be removed within 1-5 years of installation. The subject property is located at **5488 Middle Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-29**.
- 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 finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15303, 15304, and 15306 of the CEQA Guidelines because it entails construction of a temporary accessory structure that would collect meteorological and bat information. The project would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with principally permitted uses and the C-APZ-60 (Coastal, Agricultural Production Zone, 60-acre minimum lot size), zoning district development standards due to the following factors:

While the C-APZ-60 zoning district is one of the most restrictive districts in Marin County and prohibits most forms of development that are unrelated to agricultural production, the construction or alteration of electric facilities may be authorized in these districts by a Use Permit approval pursuant to Marin County Code (MCC) Section 22.57.033.17I. The proposed

project is considered an electrical facility because its' purpose is to provide meteorological data to ascertain whether the area is suitable for the production of wind-generated electricity. The project is deemed minor and incidental to the development on the property because the met towers would be installed and operated on a temporary basis, and are therefore exempted from Design Review requirements pursuant to MCC Section 22.82.030I.

- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) due to the following factors:

The proposed project is consistent with the C-AG1 (Coastal, Agriculture, 1 unit/30-60 acres) land use designation for the subject property and surrounding area since it would be an accessory use that is ancillary to and compatible with agricultural use of the property. The project constitutes 1.5% of the property and is consistent with Agriculture and Food Policy AG-1.6 which calls for dwellings and non-agricultural development to be less than 5% of the land area of a property.

The proposed project is consistent with the CWP Energy and Green Building Policy EN-2.1 to protect local renewable resources, as the proposed project is intended to identify possible future sites for production of wind energy, as called for in Implementing Program EN-2.b. Wind data collected from the research tower could be shared with County staff to expand data on wind energy potential in the area, consistent with Implementing Program EN-2.a. The proposed project has the potential to further the objectives of the Energy and Green Building policies contained in the CWP, without compromising the agricultural productivity of the properties.

Any future wind energy conversion systems (WECS) proposal would be subject to the County's permitting process and provisions, including submittal of a Wind Study per Marin County Code, Section 22.71.080I.

Additionally, the proposed project would not result in any grading or the removal of vegetation, would not adversely affect riparian areas, wetlands, or habitats of special-status species, and would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (MCC Section 22.56.130I) and that this project conforms to the requirements of Local Coastal Program, Unit II, as specified below.

A. Water Supply

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

B. Septic System Standards

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

C. Grading and Excavation

No grading will be required for this project. No road and site improvements are required for access during construction and operation.

D. Archaeological Resources

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of archaeological sensitivity; however, the proposed project would not entail substantial site grading or disturbance of the soil. Nonetheless, as a standard condition of approval, if archeological resources are discovered during site preparation or construction, the applicants would have to follow archeological preservation protocol, including cessation of work and evaluation by a qualified archeologist to determine if any modification to the project would be required.

E. Coastal Access

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

F. Housing

The proposed project will have no impact upon the availability of affordable housing stock because no modifications to existing residences are entailed in the temporary development.

G. Stream and Wetland Resource Protection

The project site is not situated in an area subject to the County riparian protection policies as identified on the Natural Resources Map for Unit II of the Local Coastal Program or near any ephemeral or intermittent stream indentified on the USGS Quadrangle Maps for the project area.

H. Dune Protection

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

I. Wildlife Habitat

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered animal species at or near the project site. No significant alteration of land or removal of vegetation indentified for habitat protection in the Local Coastal Plan is proposed. Further, an integral part of the project will be to collect data on bat presence and activity, including seasonal changes in species composition.

J. Protection of Native Plant Communities

Review of resource maps and field inspection by Planning staff indicates there are no known rare or endangered plant species at or near the project site. No significant alteration of land or removal of vegetation is proposed.

K. Shoreline Protection

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

L. Geologic Hazards

The project site is not located in the Alquist Priolo Zone. The Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code.

M. Public Works Projects

The proposed project will not affect any existing or proposed public works project in the area.

N. Land Division Standards

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

O. Visual Resources

The tower is located in an area where no existing coastal views would be impaired or obstructed. The project is over 2,000 feet from the nearest farmhouse and public viewing places and would not obstruct significant views. Given the temporary nature of the project, the narrow diameter of the tower, and the distance to public viewing sites, the proposed project will be barely visible and will not be incompatible with the current use and character of the surrounding rural area.

P. Recreation/Visitor Facilities

The project would have no impact upon recreation or visitor facilities.

Q. Historic Resource Preservation

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

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

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

1. The proposed project would be temporary and incidental to the primary agricultural use of the land.
2. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, and on-site drainage. The proposed temporary use has been determined to be categorically exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15303, 15304, and 15306.
3. Since there is no plumbing associated with this project, there would be no impact on existing water or sewer to the subject or surrounding properties.
4. The installation of this research tower would have no adverse impact on existing traffic and parking.
5. The proposed project would not result in significant adverse visual impacts because of the small diameter of the tower and because the distance to public viewing areas is nearly 0.4 miles. Please see Section VI.O above.
6. As conditioned, the granting of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood. Since the tower would be situated on a ridgeline, aviation lights and a colored band would be required on the top of the tower for safety. There is no public health risk associated with the project. Power needs of the tower would be met with a small solar panel. Communication of collected data would be via a cellular connection contained in the tower's electronics.
7. The Marin County Planning Department provided public notice of the project to all properties within 600 feet of the subject property and, at the time this report was prepared, no adverse comments have been received
8. The proposed project is consistent with Marin County Code Section 22.88.010.11I, which would allow for the processing of a future Use Permit application proposing the construction and operation of wind energy conversions systems, per Marin County Code Section 22.71.020I and subject to the provisions of a separate Use Permit and the standards and requirements of Marin County Code Chapter 22.71I.

SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Jablons Coastal Permit (CP 10-30) and Use Permit (UP 10-15) subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.56.130I (Coastal Permit) and 22.88.020I (Use Permit) of the Marin County Code, the Jablons Coastal Permit and Use Permit are approved to install a 197.7-foot high meteorological research tower with a maximum diameter of 10 inches and supported by twelve guy wires to be located as follows: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower is approved to maintain the following approximate setbacks: 572 feet from the northerly property line, 400 feet from the easterly property line, and 1,046 feet from the southerly property line. The tower is approved to support small meteorological research and bat monitoring devices, all of which would be solar powered. No grading is approved for installation or access. The subject property is located at **5488 Middle Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-29**.
2. Development and use of the facility shall conform to site plans identified as **Exhibit A**, entitled "Proposed Meteorological Tower Location" for the Jablons/Hicks property, consisting of 7 sheets prepared by NextEra Energy Resources, received June 18, 2010, and **Exhibit B**, entitled "60-Meter NRG Met Tower", consisting of 8 pages prepared by NextEra Energy Resources, received January 8, 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 the following changes and requirements. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A1** and shall supersede Exhibit A.
 - a. Revise plans to include the installation of an orange aviation warning ball near the top of the tower;
 - b. Submit written verification from the Federal Aviation Administration that all requirements regarding regulations for tower lighting have been satisfied and that any required lighting is at the lowest intensity level allowed; and
 - c. Plans shall clearly show the guy wires marked with bird deterrent devices in accordance with U. S. Fish and Wildlife Service, California Department of Fish and Game, or PRBO Conservation Science standards and recommendations.
4. All components of the project shall consist of appropriately subdued and non-reflective surfaces.
5. Except for aviation warning lights required in accordance with Federal Aviation Administration regulations, as outlined in Condition 3.b above, no exterior lighting is approved as part of this application.

6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Use Permit Conditions of Approval as notes.
7. A post-construction avian and bat monitoring program shall be submitted every six months to the Marin County Community Development Agency, which shall consist of monitoring during periods of nesting, roosting, foraging, and migration, including nocturnal migration. The monitoring program shall be in accordance with criteria established by the U. S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), or PRBO Conservation Science. The required monitoring program shall be conducted by a professional biologist or an ornithologist approved by the Marin County Environmental Coordinator. The purpose of the monitoring is to gather additional research data to evaluate the need for any resources protection measures.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the owner/operator of the meteorological tower (Met Tower) shall enter into a Met Tower Decommissioning and Reclamation Plan and Agreement with the County, outlining the anticipated means and cost of removing the Met Tower at the end of its serviceable life or upon becoming a discontinued use if it remains inoperable for a period of more than one year.
9. 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.
10. 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.
11. 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.

12. This Use Permit is subject to revocation procedures contained in Section 22.88.0401 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **August 26, 2012**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for up to **3 years of operation** from the date of the Final Building Permit Inspection, unless the conditions of approval are violated, in which case the Use Permit may be revoked. The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit. Should the Use Permit expire without benefit of a renewal, all equipment and structure shall be removed and the site shall be returned to its preexisting conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, before **4:00 p.m. on September 2, 2010**.

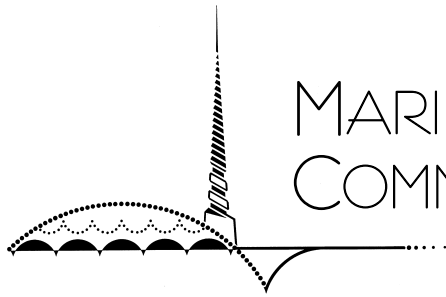
SECTION IV: ACTION

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
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: **GREGORY AND DIANE CORNETT**
Application (type and number): Coastal Permit (CP 10-31) and Use Permit (10-16):
Assessor's Parcel Number: 100-050-07
Project Location: 2640 Whitaker Bluff Road, Petaluma
For inquiries, please contact: Lorene Jackson, Planner
Decision Date: August 26, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 26, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-12.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

**C2. COASTAL PERMIT (CP 10-31) AND USE PERMIT (UP 10-16) (ID 10-0006):
GREGORY AND DIANE CORNETT**

LAJ

A proposal to consider installation of a research tower on a 291.4-acre agricultural parcel. The tower would be located on a ridge and maintain the following setbacks: 222 feet from the northerly property line, 1,149 feet from the westerly property line, and 2009 feet from the easterly property line. The following would be attached to the tower: small meteorological research devices, bat monitoring devices, and a solar panel to power the various instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads and paths. The devices on the towers would collect meteorological data to inform future decisions regarding the suitability of the area for wind energy production. The data collected would be transmitted wirelessly for further analysis off-site. The zoning for this parcel is C-APZ-60 (Coastal, Agricultural Production Zone, 1 unit/60 acres.) The subject property is located at **2640 Whitaker Bluff Road, Petaluma**, and is further identified as **Assessor's Parcel 100-050-07**.

In response to the Hearing Officer, staff summarized two supplemental memorandums, and the letters from the Environmental Action Committee of West Marin and the Marin Conservation league

The public testimony portion of the hearing was opened.

Cliff Graham, applicant, clarified that the project description includes bird diverters on the guys wires

Barbara Salzman (Marin Audubon Society), Roger Robert, (Marin Conservation League), Beverly Childs McIntosh, Kit McSweeney, Helen Kozoriz, and Louise Gregg indicated they had the same concerns as with the Jablons project::

- Danger of birds flying into the guy wires;
- Sharing of the wind data with the County for future projects;
- Putting markers on the wires and a light on the tower to make them easier to see;
- Need for more research on the impacts of the project;
- Noise impacts; and
- Need for an environmental review.

William Shook, Pt Reyes National Seashore, expressed concern about the towers being seen from the National Seashore.

In response to Roger Roberts, Marin Conservation League, the applicant commented on the effectiveness of the diverters.

The public testimony portion of the hearing was closed.

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

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

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-136

A RESOLUTION APPROVING
CORNETT COASTAL PERMIT (10-31) AND USE PERMIT (10-16)
2640 WHITAKER BLUFF ROAD, PETALUMA
PROJECT ID 10-0006

ASSESSOR'S PARCEL 100-050-07

SECTION I: FINDINGS

- I. WHEREAS NextEra Energy Resources, on behalf of property owners Diane, Gregory, and Francis Cornett, proposes to install a temporary 197.7-foot high meteorological research tower on a 291.4-acre agricultural parcel. The stand-alone tower would be a 10-inch diameter galvanized steel tube that tapers to 8 inches at the top. The tower would be anchored by twelve ¼-inch guy wires: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower would be located on a ridge and maintain the following setbacks: 222 feet from the northerly property line, 1,149 feet from the westerly property line, and 2,009 feet from the easterly property line. Small meteorological research and bat monitoring devices will be attached to the tower, along with a solar panel to power the instruments. Installation of the met towers would not result in substantial grading. Access to the tower would be by existing farm roads. The meteorological instruments would collect data to inform future decisions regarding the suitability of the area for wind energy production. The collected data would be transmitted wirelessly for further analysis off-site. The temporary research tower would be removed within 1-5 years of installation. The subject property is located at **2640 Whitaker Bluff Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-07**.
- 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 finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15303, 15304, and 15306 of the CEQA Guidelines because it entails construction of a temporary accessory structure that would collect meteorological and bat information. The project would not result in potentially significant impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with principally permitted uses and the C-APZ-60 (Coastal, Agricultural Production Zone, 60-acre minimum lot size), zoning district development standards due to the following factors:

While the C-APZ-60 zoning district is one of the most restrictive districts in Marin County and prohibits most forms of development that are unrelated to agricultural production, the construction or alteration of electric facilities may be authorized in these districts by a Use

Permit approval pursuant to Marin County Code (MCC) Section 22.57.033.171. The proposed project is considered an electrical facility because its' purpose is to provide meteorological data to ascertain whether the area is suitable for the production of wind-generated electricity. The project is deemed minor and incidental to the development on the property because the met towers would be installed and operated on a temporary basis, and are therefore exempted from Design Review requirements pursuant to MCC Section 22.82.030I.

- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) due to the following factors:

The proposed project is consistent with the C-AG1 (Coastal, Agriculture, 1 unit/30-60 acres) land use designation for the subject property and surrounding area since it would be an accessory use that is ancillary to and compatible with agricultural use of the property. The project constitutes 0.8% of the property and is consistent with Agriculture and Food Policy AG-1.6 which calls for dwellings and non-agricultural development to be less than 5% of the land area of a property.

The proposed project is consistent with the CWP Energy and Green Building Policy EN-2.1 to protect local renewable resources, as the proposed project is intended to identify possible future sites for production of wind energy, as called for in Implementing Program EN-2.b. Wind data collected from the research tower could be shared with County staff to expand data on wind energy potential in the area, consistent with Implementing Program EN-2.a. The proposed project has the potential to further the objectives of the Energy and Green Building policies contained in the CWP, without compromising the agricultural productivity of the properties.

Any future wind energy conversion systems (WECS) proposal would be subject to the County's permitting process and provisions, including submittal of a Wind Study per Marin County Code, Section 22.71.080I.

Additionally, the proposed project would not result in any grading or the removal of vegetation, would not adversely affect riparian areas, wetlands, or habitats of special-status species, and would not impact water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (MCC Section 22.56.130I) and that this project conforms to the requirements of Local Coastal Program, Unit II, as specified below.

A. Water Supply

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

B. Septic System Standards

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

C. Grading and Excavation

No grading will be required for this project. No road and site improvements are required for access during construction and operation.

D. Archaeological Resources

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is located in an area of archaeological sensitivity; however, the proposed project would not entail substantial site grading or disturbance of the soil. Nonetheless, as a standard condition of approval, if archeological resources are discovered during site preparation or construction, the applicants would have to follow archeological preservation protocol, including cessation of work and evaluation by a qualified archeologist to determine if any modification to the project would be required.

E. Coastal Access

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

F. Housing

The proposed project will have no impact upon the availability of affordable housing stock because no modifications to existing residences are entailed in the temporary development.

G. Stream and Wetland Resource Protection

The project site is not situated in an area subject to the County riparian protection as identified on the Natural Resources Map for Unit II of the Local Coastal Program or near any ephemeral or intermittent stream identified on the USGS Quadrangle Maps for the project area.

H. Dune Protection

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

I. Wildlife Habitat

Review of resource maps indicates there are no known rare or endangered animal species at or near the project site. No significant alteration of land or removal of vegetation identified for habitat protection in the Local Coastal Plan is proposed. Further, an integral part of the project will be to collect data on bat presence and activity, including seasonal changes in species composition.

J. Protection of Native Plant Communities

Review of resource maps indicates there are no known rare or endangered plant species at or near the project site. No significant alteration of land or removal of vegetation is proposed.

K. Shoreline Protection

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

L. Geologic Hazards

The project site is not located in the Alquist Priolo Zone. The Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code.

M. Public Works Projects

The proposed project will not affect any existing or proposed public works project in the area.

N. Land Division Standards

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

O. Visual Resources

The tower is located in an area where no existing coastal views would be impaired or obstructed. The project is over 2,400 feet from the nearest farmhouse and public viewing places and would not obstruct significant views. Given the temporary nature of the project, the narrow diameter of the tower, and the distance to public viewing sites, the proposed project will be barely visible and will not be incompatible with the current use and character of the surrounding rural area.

P. Recreation/Visitor Facilities

The project would have no impact upon recreation or visitor facilities.

Q. Historic Resource Preservation

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

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

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

1. The proposed project would be temporary and incidental to the primary agricultural use of the land.
2. The proposed project would not adversely affect the surrounding natural environment relative to vegetation, species habitats, and on-site drainage. The proposed temporary use has been determined to be categorically exempt from the requirements of the California Environmental Quality Act pursuant to Sections 15303, 15304, and 15306.
3. Since there is no plumbing associated with this project, there would be no impact on existing water or sewer to the subject or surrounding properties.
4. The installation of this research tower would have no adverse impact on existing traffic and parking.
5. The proposed project would not result in significant adverse visual impacts because of the small diameter of the tower and because the distance to public viewing areas is nearly 0.5 miles. Please see Section VI.O above.
6. As conditioned, the granting of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood. Since the tower would be situated on a ridgeline, aviation lights and a colored band would be required on the top of the tower for safety. There is no public health risk associated with the project. Power needs of the tower would be met with a small solar panel. Communication of collected data would be via a cellular connection contained in the tower's electronics.
7. The Marin County Planning Department provided public notice of the project to all properties within 600 feet of the subject property and, at the time this report was prepared, no adverse comments have been received
8. The proposed project is consistent with Marin County Code Section 22.88.010.11I, which would allow for the processing of a future Use Permit application proposing the construction and operation of wind energy conversions systems, per Marin County Code Section 22.71.020I and subject to the provisions of a separate Use Permit and the standards and requirements of Marin County Code Chapter 22.71I.

SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Cornett Coastal Permit (CP 10-31) and Use Permit (UP 10-16) subject to the conditions as specified below:

Marin County Community Development Agency - Planning Division

1. Pursuant to Sections 22.56.130I (Coastal Permit) and 22.88.020I (Use Permit) of the Marin County Code, the Cornett Coastal Permit and Use Permit are approved to install a 197.7-foot high meteorological research tower with a maximum diameter of 10 inches and supported by twelve guy wires to be located as follows: three guy wires placed on each of four axes at intervals of 131, 148, and 167 feet from the tower. The tower is approved to maintain the following approximate setbacks: 222 feet from the northerly property line, 1,149 feet from the westerly property line, and 2,009 feet from the easterly property line. The tower is approved to support small meteorological research and bat monitoring devices, all of which would be solar powered. No grading is approved for installation or access. The subject property is located at **2640 Whitaker Bluff Road, Petaluma** and is further identified as **Assessor's Parcels 100-050-07**.
2. Development and use of the facility shall conform to site plans identified as **Exhibit A**, entitled "Proposed Meteorological Tower Location" for the Cornett property, consisting of 7 sheets prepared by NextEra Energy Resources, received June 18, 2010, and **Exhibit B**, entitled "60-Meter NRG Met Tower", consisting of 8 pages prepared by NextEra Energy Resources, received January 8, 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 the following changes and requirements. Once approved, the plans shall be incorporated into the approved project file as **Exhibit A1** and shall supersede Exhibit A.
 - a. Revise plans to include the installation of an orange aviation warning ball near the top of the tower;
 - d. Submit written verification from the Federal Aviation Administration that all requirements regarding regulations for tower lighting have been satisfied and that any required lighting is at the lowest intensity level allowed; and
 - e. Plans shall clearly show the guy wires marked with bird deterrent devices in accordance with U. S. Fish and Wildlife Service, California Department of Fish and Game, or PRBO Conservation Science standards and recommendations.
4. All components of the project shall consist of appropriately subdued and non-reflective surfaces.
5. Except for aviation warning lights, required in accordance with Federal Aviation Administration regulations, as outlined in Condition 3.b. above, no exterior lighting is approved as part of this application.

6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Use Permit Conditions of Approval as notes.
7. A post-construction avian and bat monitoring program shall be submitted every six months to the Marin County Community Development Agency, which shall consist of monitoring during periods of nesting, roosting, foraging, and migration, including nocturnal migration. The monitoring program shall be in accordance with criteria established by the U. S. Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), or PRBO Conservation Science. The required monitoring program shall be conducted by a professional biologist or an ornithologist approved by the Marin County Environmental Coordinator. The purpose of the monitoring is to gather additional research data to evaluate the need for any resources protection measures.
8. BEFORE ISSUANCE OF A BUILDING PERMIT, the owner/operator of the meteorological tower (Met Tower) shall enter into a Met Tower Decommissioning and Reclamation Plan and Agreement with the County, outlining the anticipated means and cost of removing the Met Tower at the end of its serviceable life or upon becoming a discontinued use if it remains inoperable for a period of more than one year.
9. 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.
10. 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.
11. 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.

12. This Use Permit is subject to revocation procedures contained in Section 22.88.0401 of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public interest, health, safety, convenience, or welfare of the County.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this approval by substantially completing all conditions of approval and commencing the allowed use by **August 26, 2012**, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 10 days before the expiration date above and the Community Development Agency staff approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.050.B.3 of the Marin County Code.

NOW, THEREFORE BE IT FURTHER RESOLVED that this Use Permit shall be valid for up to **3 years of operation** from the date of the Final Building Permit Inspection, unless the conditions of approval are violated, in which case the Use Permit may be revoked. The applicant shall submit an application to renew the Use Permit at least 60 days prior to the expiration of the Use Permit. Should the Use Permit expire without benefit of a renewal, all equipment and structure shall be removed and the site shall be returned to its preexisting conditions.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency – Planning Division, Room 308, Civic Center, San Rafael, before **4:00 p.m. on 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
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary

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 a comment letter was received from Linda Emme, neighbor. The applicant requested a continuance so that they could address neighbor concerns.

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

The Hearing Officer continued the item to the hearing of September 16, 2010 and staff was directed to inform the applicant that story poles are to be erected by September 8, 2010.

H1. A. **NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT:)**
PHILLIPS LAND DIVISION (LD 00-9)
B. **PHILLIPS LAND DIVISION (LD 00-9)**

VCP

A proposal to consider the Phillips 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. 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 project address is **4000 Old Rancheria Road, Nicasio California** and is further identified as **Assessor's Parcels 121-100-29, -30.**

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.

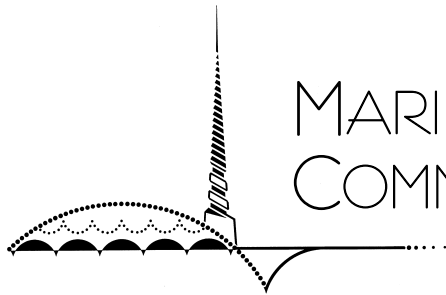
Guy Phillips, Applicant/Owner, commented on the Halleck Creek Ranch letter and potential traffic impacts.

Roger Peters, Halleck Creek Ranch and Julie Cassel, Executive Director, stated that the Initial Study did not adequately address traffic impact and existing property rights. Peters provided copies of the existing easements between the two properties and associated exhibits.

The public testimony portion of the hearing was closed.

Michel Jeremias, Department of Public Works stated that staff would need to review the newly provided exhibits from Halleck Creek Ranch before commenting on the accuracy of Halleck Creek Ranches' arguments.

The hearing officer continued the item to September 16, 2010 to allow staff and Department of Public Works time to review the new additional documents presented at the meeting regarding the easement



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **LOUISE PATTERSON**
Application (type and number): Design Review and Variance (I.D. 10-0075):
Assessor's Parcel Number: 195-310-20
Project Location: 316 Seadrift Road, Stinson Beach
For inquiries, please contact: Scott Greeley, Planner
Decision Date: August 26, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 26, 2010, Deputy Zoning Administrator's hearing are attached specifying action and applicable conditions 1-30.

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

**H2. 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 memorandum dated August 23, 2010, and the letter from the neighbor's attorney regarding the noise.

The public testimony portion of the hearing was opened.

Sandy Walker, architect, noted that the owner is in possession of an agreement from the two neighbors for the project as proposed. The privacy issue occurred because of the bay windows and most of the decks are on the southeast side of the homes.

The public testimony portion of the hearing was closed.

The Hearing Officer revised Condition of Approval #2, to soften the deck from the view.

The Hearing Officer concurred with staff's analysis and recommendations pertaining to privacy, but informed Mr. Walker that he may propose alternatives for staff's consideration in meeting this finding at the building permit stage.

The Hearing Officer concurred with staff's analysis and recommendation, and approved the Patterson Coastal Permit, Design Review and 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 five (5) working days.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-137

A RESOLUTION APPROVING THE PATTERSON COASTAL PERMIT, DESIGN REVIEW, AND VARIANCE

316 SEADRIFT ROAD, STINSON BEACH
ASSESSOR'S PARCEL 195-310-20

SECTION I: FINDINGS

- I. WHEREAS, Eric Davies, on behalf of Arthur and Louise Patterson, is seeking Coastal Permit, Design Review, and Variance approvals 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 high fence, as well as a new deck. The two-level residence will have a floor area ratio of 17.8% and attain a height of 37.50 feet North American Vertical Datum (NAVD)/34.81 feet Mean Lower Low Water (MLLW)/23 feet 4 inches total height above grade and will maintain the following setbacks: 1) 25 feet from the northerly front property line; 2) 6 feet from the easterly side property line; and 3) 6 feet from the westerly side property line. A Coastal Permit is required because the project is in the coastal zone and Design Review is required because the proposed residence is within a planned district. Pursuant to Section 22.57.094I of the Interim Development Code, a Variance is required because the finished floor exceeds 18 feet and the total height exceeds 33 feet. **The subject property is located at 316 Seadrift Road in Stinson Beach, and is further identified as Assessor's Parcel 195-310-20.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held duly-noticed public hearings on August 12, 2010 and 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 finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15303, Class 3 of the CEQA Guidelines because it entails demolition of an existing residence and construction of a new, larger residence in a planned, residential zoning district and would not result in potentially significant impacts to the environment.
- 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 would be consistent with the C-SF5 (Coastal, Single Family, 2-4 units per acre) land use designation;
 - B. The project will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies Noise Policies NO-1.1, NO-1.3);

- C. The project has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. (CWP Policies Environmental Hazards Policies EH-2.1, EH-2.3, EH-3.m, EH-3.n, EH-4.c, Community Design Policies DES-1.1, DES-1.c, DES-4.c, DES-5.1);
 - D. The project, as designed and conditioned, will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services and facilities. To minimize the risk of fires and ensure adequate fire protection, the project at building permit will need to comply with fire safety codes and standards enforced by the Stinson Beach Fire Protection District. (CWP Policies, Environmental Hazards Policies, EH-4.1 and EH-4.c);
 - E. The project is being built within the established building limit line and is minimal in scope and as such will not impact special status species habitats or established wildlife corridors (CWP Policies Biological Resources, BIO-1.1, BIO-2.1, BIO-2.2, BIO-2.7);
 - F. The residence will comply with the current green building standards of Marin County (CWP Policies, Energy and Green Building EN-3.1 and EN-3.a).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent land use policies of the Stinson Beach Community Plan including:
- A. The project was transmitted to both the Stinson Beach Village Association and Seadrift Property Owners Association and comments have been received and included as an attachment to the staff report (Stinson Beach Community Plan, Land Use Policy J).
 - B. The project is being built within the established building line of development established with the creation of the Seadrift Subdivision, thereby protecting the beach and other natural resources (Stinson Beach Community Plan, Environmental Goals and Policies, General Goal).
- VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve the Coastal Permit application (Section 22.56.130I of the Marin County Code) as specified below.
- A. Water Supply

The lot is already served by the Stinson Beach County Water District. The water district has found that water supply is adequate. Prior to final inspection, the applicant will need to satisfy all water standards required by the Stinson Beach County Water District. Therefore, the project is consistent with this finding.
 - B. Septic System Standards

The existing residence is served by an existing private on-site septic system. The new residence will be served a new septic system, which the Stinson Beach County Water District has reviewed and found to be adequate. Therefore, the project is consistent with this finding.

C. Grading and Excavation

The project site is relatively flat. In addition, the project, as designed and conditioned, will keep grading to the minimum amount necessary. Therefore, the project is consistent with this finding.

D. Archaeological Resources

The project is in an already highly developed part of Stinson Beach and therefore the discovery of archaeological resources on the site is unlikely. In addition, a standard condition of approval has been applied to the project requiring that in the event 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. Therefore, the project is consistent with this finding.

E. Coastal Access

The subject property, while located adjacent to the shoreline, is a residentially-developed lot with an established building limit line that the proposed residence conforms to. The proposed residence will not affect existing coastal access. Therefore, the project is consistent with this finding.

F. Housing

The proposed project will have no impact upon the availability of affordable housing stock within the Stinson Beach community because it does not involve removing any existing housing stock. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection

The proposed project is not located within the vicinity of any recognized sensitive streams or creeks subject to stream protection of the Local Coastal Program. Therefore, the project is consistent with this finding.

H. Dune Protection

The proposed project entails demolition of an existing residence and construction of a new residence within the established building limit line for the parcel. There are no natural dunes in this area. Therefore, the project is consistent with this finding.

I. Wildlife Habitat

The subject parcel is located in the community of Stinson Beach, which has been identified by federal and state authorities as being home to several federal and state listed species including the Snowy Plover, the Sandy Beach Tiger Beetle, and the California Clapper Rail, all of which, if on the property, would be found away from the residence, on the beach. None of the species were seen on the site. In addition, the subject parcel is located in the Seadrift Subdivision in the community of Stinson Beach which has established building limit lines, which this project does not exceed. Therefore, the project is consistent with this finding.

J. Protection of Native Plant Communities

Based on review of the California Natural Diversity Database, this region of Stinson Beach does not contain any recognized protected native plant communities. Therefore, the project is consistent with this finding. Therefore, the project is consistent with this finding.

K. Shoreline Protection

A rip-rap wall was constructed in 1983 by the Seadrift Property Owners Association which extends through the property and provides the necessary shoreline protection. Therefore, the project is consistent with this finding.

L. Geologic Hazards

The project site is located outside of the Alquist-Priolo Special Study Zone. However, the site is located within one mile of the San Andreas Fault Zone and would be subjected to strong ground shaking during a seismic event. The project has been designed to conform with safety standards required by FEMA. In addition, the Marin County Community Development Agency – Building and Safety Division will determine seismic compliance with the Uniform Building Code and as a condition of project approval, the applicant shall agree to hold the County, other governmental agencies, and the public harmless of any matter resulting from the existence of geologic hazards or activities on the subject property. This shall be in the form of a signed waiver of liability by the owners. Therefore, the project is consistent with this finding.

M. Public Works Projects

The proposed project will not affect any existing or proposed local public works projects in the area. Therefore, the project is consistent with this finding.

N. Land Division Standards

No land division or property line adjustment is proposed as part of this project. Therefore, the project is consistent with this finding.

O. Visual Resources

The project is located in a residentially dense portion of Stinson Beach. The property, at its rear does face out towards the Pacific Ocean and is located in a visually prominent area, however the height and scale of the proposed residence is compatible with neighboring residence on the ocean facing side, as well as the surrounding community. Therefore, the project is consistent with this finding.

P. Recreation/Visitor Facilities

The project is located in a residential community and not near any existing recreation or visitor facilities. Therefore, the project is consistent with this finding.

Q. Historic Resource Preservation

The subject property is not located within any designated historic preservation boundaries as identified in the Marin County Historic Study for the Local Coastal Program, and the proposed project does not entail alterations to a structure that was constructed prior to 1930. The existing residence was built in 1970. Therefore, the project is consistent with this finding.

VII. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Design Review per Section 22.82.040I of the Marin County Zoning Code can be made. The proposed project is within the intent and objectives for Design Review, based on the following findings:

A. **It is consistent with the Countywide Plan and any applicable community plan and Local Coastal Program;**

The proposed project entails the demolition of an existing residence and construction of a residence in a planned residential zoning district. As noted above in Section I: Findings, subsections IV and V, the proposed project complies with the C-SF5 policies of the General Plan and the Stinson Beach Community Plan. Therefore, the project is consistent with this finding.

B. **It will properly and adequately perform or satisfy its functional requirements without being unsightly or creating substantial disharmony with its locale and surroundings;**

The project has been designed to be consistent with the design, color, scale, and material commonly found in the surrounding community and will not increase the perceived height or bulk of the residence. Therefore, the project is consistent with this finding.

C. **It will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way;**

The residence will increase in overall height, in order to be consistent with the Federal Emergency Management Agency (FEMA) flood control guidelines. The rear of the proposed residence will include a deck on the upper level on the easterly side property line. This is known to be in line with the neighboring residence's master bedroom at 314 Seadrift Road and may, as a result, be otherwise inconsistent with this finding. The neighboring resident has proposed switching the location of the deck to the westerly side of the residence, however this would simply shift the problem to the other neighbor. A safety railing is already part of the proposed residence along the easterly side of the residence from the start of the stairs to the chimney. In order to be consistent with this finding, the applicant shall: (a) install a lattice from the ground level, which extends from the stairway to the chimney, to a height of six feet above the floor of the deck, and in addition, the property owner shall install five or more climbing vine plants to grow in and up the lattice work; or (b) an alternative generally consistent remedy providing privacy between the project site and the neighboring property. The applicant shall submit a revised landscaping plan to the Community Development Agency which will be subject

to approval by the Planning Division. As conditioned, the project would not interfere with the use, enjoyment, or future development presently enjoyed by neighboring properties. Therefore, the project would be consistent with this finding.

- D. **It will not directly, or in a cumulative fashion, 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 project, based on it not developing beyond the established building limit line, and overall design, will not limit potential development on neighboring properties and should not have an impact on further investment or improvements on this or any other properties in the area. Therefore, the project would be consistent with this finding.

- E. **It will be properly and adequately landscaped with maximum retention of trees and other natural material;**

The proposed project will not result in significant removal of native trees or protected vegetation. The applicant has also presented a landscape plan for the residence. Therefore, the project would be consistent with this finding.

- F. **It 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 scale, mass, height, area and materials of buildings and structures,

The residence has been designed to be consistent with the scale, size, design, and construction of other structures found in the surrounding community.

2. Drainage systems and appurtenant structures,

The project should not result in substantial changes to existing drainage patterns. In addition, the Department of Public Works will review and approve a drainage plan prior to Building Permit issuance.

3. Cut and fill or the reforming of the natural terrain, and structures appurtenant thereto such as retaining walls and bulkheads,

The site is not subject to steep slopes and, as such, the proposed project would result in a minimal level of ground disturbance.

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

The proposed project is entirely upon the owner's property and will not result in an increase in overall traffic and should have no impact on pedestrian, animal, or vehicular access.

5. Other developments or improvements which may result in a diminution or elimination of sun and light exposure, views, vistas and privacy;

The proposed project entails the demolition of an existing residence and construction of a new, larger residence. The residence will increase in overall height, in order to be consistent with the Federal Emergency Management Agency (FEMA) flood control guidelines. The rear of the proposed residence will include a deck on the upper level on the easterly side property line. This is known to be in line with the neighboring residence's master bedroom at 314 Seadrift Road and may, as a result, be otherwise inconsistent with this finding which protects privacy. The neighboring resident has proposed switching the location of the deck to the westerly side of the residence, however this would simply shift the problem to the other neighbor. A safety railing is already part of the proposed residence along the easterly side of the residence from the start of the stairs to the chimney. In order to be consistent with this finding, the applicant shall install a lattice from the ground level, which extends from the stairway to the chimney, to a height of six feet above the floor of the deck. In addition, the property owner shall install five or more climbing vine plants to grow in and up the lattice work. The applicant shall submit a revised landscaping plan to the Community Development Agency and is subject to approval by the Planning Division. As conditioned, the project would not result in impacts upon sun and light exposure, views, vistas and privacy presently enjoyed by neighboring properties.

Therefore, the project would be consistent with this finding.

G. It may contain 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 materials, coloring, design, and scale are consistent with others found in the surrounding community. The project will also need to satisfy all energy saving standards required by the Building Division prior to issuance of building permit. Therefore, the project would be consistent with this finding.

VIII. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Variance per Section 22.86.025I of the Marin County Zoning Code can be made. The proposed project is within the intent and objectives for Variance, based on the following findings:

A. Because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other properties in the vicinity under an identical zoning district.

The project site is located on the seaward side of Seadrift Road and abuts the Pacific Ocean. The property is zoned C-RSPS-2.9. Pursuant to Section 22.57.094I of the Interim Marin County Code, for Seadrift Subdivisions 1 & 2, finished floor elevation shall not exceed 18 feet above mean lower low water. In addition, total height of the structure shall not exceed 33 feet above mean lower low water, however in order to meet FEMA standards which require that Property owners exceed Base Flood Elevation by 1 foot or

more, meeting the height requirement outlined by the Interim County Code is not otherwise achievable. The strict application of the zoning height standards for roof elevation (33 feet above Mean Lower Low Water (MLLW) and finished floor elevation (18 feet MLLW) would not allow the proposed residence. Presently, a residence exists on the site, however it does not comply with current FEMA standards. In order not to jeopardize Marin County's participation in the Federal flood insurance program, it is necessary that the project be designed to conform to FEMA standards regarding minimum Base Flood Elevations (BFE) with a finished floor elevation of 19.31 feet MLLW. Therefore, Variance approval is necessary to comply with the FEMA standards..

B. The granting of a variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.

With exception to the deviation of the height limit, the proposed addition would comply with all other development standards applicable to the governing zoning district. In addition, as noted above in Section I: Findings, Subsections IV, V, and VII, the proposed project complies with the C-SF5 policies of the Countywide Plan and the Stinson Beach Community Plan. The 34.81 foot MLLW visible height of the proposed two-level residence is comparable in height, size, and scale with other more recently approved nearby residences that have been developed in compliance with FEMA standards. The project's maximum height would not result in significant detrimental effects on the public welfare and surrounding properties.

C. The granting of a variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.

Approving the application would not constitute a grant of special privilege because other properties in Stinson Beach under the C-RSPS-2.9 zoning district are not faced with the same physical constraints as the subject property. The purpose of the development standards for the C-RSPS-2.9 zoning district is to minimize adverse effects to the surrounding area that would otherwise result from inappropriate development. New improvements that comply with the current FEMA BFE standards cannot be constructed without a Variance approval; therefore, approval of the Variance to allow the proposed addition would not be a grant of a special privilege that is inconsistent with the limitations placed on other surrounding properties in the Seadrift Subdivision. The proposed project that complies with FEMA standards would not result in inappropriate development.

D. The granting of a variance for the property does not authorize a use or activity which is not otherwise expressly authorized by the particular zoning district regulations governing such property.

The property is zoned C-RSPS-2.9, which is a planned single family residential zoning district. The granting of a Variance for the additional height would not authorize a use or activity that is not authorized by the governing C-RSPS zoning district. The proposed project entails the demolition of a residence which does not presently meet FEMA flood control standards and construction of a new residence which does. In addition, a residence is a principally permitted use, consistent with the provisions of the zoning district.

SECTION II: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapters 22.56I (Coastal Permit), 22.82I (Design Review), and 22.86I (Variance) of the Marin County Interim Development Code, the Patterson Coastal Permit, Design Review, and Variance is approved to allow the demolition of an existing 1,624 square foot residence and construction of 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 shall remove the existing septic system and replace it with a new septic system, construct a new 6 foot high fence, as well as a new deck. The two-level residence shall have a floor area ratio of 17.8% and attain a height of 37.50 feet North American Vertical Datum (NAVD)/34.81 feet Mean Lower Low Water (MLLW)/23 feet 4 inches total height above grade and shall maintain the following setbacks: 1) 25 feet from the northerly front property line; 2) 6 feet from the easterly side property line; and 3) 6 feet from the westerly side property line. The subject property is located at **316 Seadrift Road, Stinson Beach** and is further identified as **Assessor's Parcel 195-310-20**.
3. Plans submitted for a Building Permit shall substantially conform to plans identified as "File Copy," entitled, "Patterson Residence," consisting of ten sheets prepared by Walker & Moody Architects A.I.A., dated March 20, 2010, with revisions on May 26, 2010 and received on May 26, 2010 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

The applicant shall:

- a. Install a lattice along the easterly side of the property from the ground level, which extends from the stairway to the chimney, to a height of six feet above the floor of the deck. In addition, the property owner shall install five (5) or more climbing vine plants to grow in and up the lattice work. The applicant shall submit a revised landscaping plan to the Community Development Agency and is subject to approval by the Planning Division; or
- b. Submit an alternative generally consistent remedy providing privacy between the project deck and the neighboring property
4. Approved exterior building materials and colors for the residence and garage shall substantially conform to the color/materials sample board which is identified as "Exhibit B," received March 31, 2010, and on file with the Marin County Community Development Agency including:
 - a. "Western Red Cedar" siding, window trim, and fencing
 - b. Black window frames

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

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.

6. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a waiver of public liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic or flooding actions. The waiver of public liability shall be prepared by the Community Development Agency.
7. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a revised landscape plan which includes a lattice along the easterly side of the property from the ground level, which extends from the stairway to the chimney, to a height of six feet above the floor of the deck. In addition, the property owner shall install five (5) or more climbing vine plants to grow in and up the lattice work. The revised landscape plan is subject to approval by the Planning Division.
7. 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.
8. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties
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. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of

an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

11. BEFORE FINAL INSPECTION, the applicant shall submit a Certificate of Completion prepared by a certified or licensed landscape design professional confirming that the landscaping installed conforms to the revised landscaping plan which has been approved by the Planning Division.
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.

Marin County Public Works Department, Land Development Division

14. BEFORE ISSUANCE OF A BUILDING PERMIT, the project is in known Special Flood Hazard Area, Zone VE and 0.2% Zone-X, as show on the Flood Insurance Rate Map (FIRM Community-Panel Number 06041C0441D revised May 4, 2009). The County has determined the Base Flood Elevation (BFE) to be 22.0-feet NAVD88 for the Zone VE. Therefore, all new construction within the VE Zone shall have the lowest horizontal structural members at or above the BFE. There are no requirements for 0.02% Zone-X.
15. BEFORE ISSUANCE OF A BUILDING PERMIT, FEMA has changed its designation for Zones-B to Zone-X. Plans shall be revised to depict the change.
16. BEFORE ISSUANCE OF A BUILDING PERMIT, label the BFE on all elevations as "FEMA Base Flood Elevation".
17. BEFORE ISSUANCE OF A BUILDING PERMIT, all new construction below the BFE shall be constructed with materials resistant to flood damage. For example, any electrical, sanitary utilities, etc. shall meet FEMA Technical Bulletins TB2-08 and TB11-01.
18. All new construction within Zone VE shall be elevated above the BFE on pilings or columns and shall be constructed so that the pile or column foundations and the structure attached thereto are anchored to resist flotation, collapse, and lateral movement due to the combined effects of wind and water loads acting simultaneously on all building components. BEFORE ISSUANCE OF A BUILDING PERMIT, a registered professional engineer or architect shall review the structural design, specifications, and plans for the construction, and shall certify to the County that the design and methods of construction to be used are in accordance with these requirements. *Reference to the FEMA Coastal Construction Manual and Technical Bulletins is strongly recommended.*

19. The plans shall indicate that all new construction within the Zone VE have the space below the lowest horizontal portion of the structure either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system in accordance with FEMA Technical Bulletins TB9-08 and TB5-08. A breakaway wall shall have a design safe loading resistance of not less than 10 lbs/ft² and no more than 20 lbs/ft². BEFORE ISSUANCE OF A BUILDING PERMIT, designs for meeting this requirement must be certified by a registered civil engineer or architect (preferably a registered structural engineer). Also, upon completion of construction and prior to final inspection by the Building and Safety Division, a registered professional engineer or architect shall certify to the county that the completed construction is in accordance with these requirements.
20. BEFORE ISSUANCE OF A BUILDING PERMIT, solid horizontal structures perpendicular to wave action below the BFE within the VE Zone are prohibited. Horizontal beams perpendicular to flood water flow are allowed only for seismic stability requirements of the columns and shall be below the existing surface so as not to interfere with or divert flood waters.
21. BEFORE ISSUANCE OF A BUILDING PERMIT, solid foundations of any type below the BFE within the VE Zone are prohibited (including, but not limited to rat-slab concrete). Revise the plans to remove the concrete rat slab floor within the VE Zone.
22. BEFORE ISSUANCE OF A BUILDING PERMIT, all exterior stair risers below the BFE, within the VE Zone, shall either be break-away or shall be constructed to allow the passage of wave action and still meet the minimum 2007CBC requirements.
23. BEFORE ISSUANCE OF A BUILDING PERMIT, the propane tank shall be securely anchored to resist flotation or lateral movement.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, manmade alteration of sand dunes which would increase potential flood damage is prohibited.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, the final set of plans (after all revisions required by public agencies have been made) shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
26. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer prior to Building Final.
27. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a note on the site plan depicting the location of easement Items-10 and 11 in the Title Report. No portion of any recorded easement shall be used for anything other than its intended use.

28. BEFORE FINAL INSPECTION, prior to the foundation-pour inspection, and upon completion of construction (prior to final inspection), a FEMA elevation certificate [Form 81-31, Mar-09], prepared by a registered civil engineer, licensed architect, or licensed land surveyor, shall be submitted to the Department of Public Works (2 Elevation certificates throughout the project are required).

Stinson Beach County Water District

29. BEFORE FINAL INSPECTION, the applicant shall provide written confirmation from the Stinson Beach County Water District that all requirements have been met.

Stinson Beach Fire Protection District

30. BEFORE FINAL INSPECTION, the applicant shall provide written confirmation from the Stinson Beach Fire Protection District that all requirements have been met.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest this Coastal Permit and Design Review approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved 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 Section 22.88.050I of the Marin County Code.

The Building Permit approval expires if the building or work authorized in this 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 **September 2, 2010**.

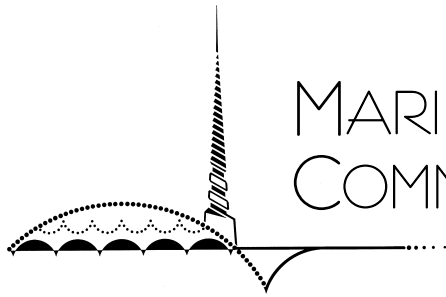
SECTION IV: ACTION

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
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: **BENJAMIN BOUSKILA**

Application (type and number): Design Review (DR 07-49), Use Permit (UP 08-25
and Second Unit Permit (SU 07-25):

Assessor's Parcel Number: 143-171-51, 143-142-17, and 143-142-20

Project Location: 50 H Lane, Novato

For inquiries, please contact: Scott Greeley, Planner

Decision Date: August 26, 2010

DETERMINATION: Approved with Conditions

Minutes of the August 26, 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

**H3. DESIGN REVIEW (DR 07-49), USE PERMIT (UP 08-25) AND
SECOND UNIT PERMIT (DR 07-25): BENJAMIN BOUSKILA**

SG

A proposal to consider the Bouskila Use Permit (UP 08-25), Design Review (DR 07-49), and Second Unit Permit (??07-25) proposing to renovate a former equestrian center, construct a primary residence, and second unit. The equestrian center includes renovation of 5,448 square feet of stables with grooming area and corral that would accommodate up to 45 horses, as well as renovation of an existing 11,653 square foot covered arena, an existing outdoor arena with seating, a covered manure storage area, a dressage with walker area, construction of a new 1,500 square foot hay barn, 13 additional new corrals, and a new 10-foot tall, 288 square foot office. The equestrian center will include parking for up to 32 cars, as well as 8 spaces for horse trailer parking. Equestrian center classes are planned for two days a week and no special events are being proposed. The applicant is also proposing to relocate the existing fence to where?? and install a new gate and erect a 6foot tall wall at the rear of the property. The 2,680 square foot, one-story primary residence would reach a height of 16 feet and have the following setbacks: 1) 22 feet from the westerly front property line; 2) 24 feet from the easterly rear property line; 3) approximately 125 feet from the northerly side property line; and 4) over 600 feet from the southerly rear property line. The proposed primary residence would be served by 4 off -street parking spaces. The 744 square foot, one-story second unit would reach a height of 13 feet and have the following setbacks: 1) 27 feet from the westerly front property line; 2) approximately 39 feet from the easterly rear property line; 3) approximately 37 feet from the northerly side property line; and 4) over 700 feet from the southerly side property line. The proposed second unit would be served by 2 off-street parking spaces. A new septic system is also being proposed. The zoning for these parcels is ARP-2. The subject property is located at **50 H Lane, Novato**, and is further identified as **Assessor's Parcels 143-171-51, 143-142-17, and 143-142-20**.

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

The public testimony portion of the hearing was opened.

Bill Kirsch, applicant, requested a three month extension to allow time to address the new requirements imposed by the Department of Public Works, and to meet with the neighbors about their concerns with the project.

Barbara Salzman, Marin Audubon Society, Hank Barner, Black Point Improvement Club, Jan Fleumer, Oak Ridge Estates, Holly Davis, Tilden Hansen, and Brett Sadoff spoke regarding concerns with:

- A proper vegetation management plan needs to be addressed;
- Clearer language when only part of the project is being approved;
- Portions of the equestrian center being too close to the neighbors property line; and
- Residence built without permits.

The public testimony portion of the hearing was closed.

After making a site visit, the Hearing Officer recommended that the proposed residence and accessory structure which would become a second unit, following a second unit permit being issued by staff, be approved and the equestrian center be denied. She noted that the resolution should have the current owner's name and the title on the resolution be changed. If they choose to do so, Mr. Bouskila may build and live in the second unit until the primary residence is built.

The Hearing Officer revised the following Finding and Conditions of Approval:

- add a condition to Finding IV;
- revise Condition of Approval #6;
- revise Condition of Approval #7;
- Divide Condition of Approval #8 into A & B; and
- Change Condition of Approval #9 to a standard condition.

Michel Jeremias, Department of Public Works noted that the resolution with regards to parking for the primary residence and future second unit should describe the parking as being on-site and not as off-street parking.

The Hearing Officer approved the Design Review, in part, to allow the residence and the accessory structure which would become a second unit and denied the Design Review in part and the Use Permit which was necessary for the equestrian center.

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, which will be September 10, 2010 due to the holiday.

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 10-138

A RESOLUTION APPROVING IN PART AND DENYING IN PART THE AVRAHAM DAYAN (BOUSKILA) PROJECT, WHICH CONDITIONALLY APPROVES THE RESIDENTIAL DESIGN REVIEW COMPONENT AND DENYS THE EQUESTRIAN DESIGN REVIEW AND USE PERMIT COMPONENT

50 H LANE, NOVATO
ASSESSOR'S PARCELS 143-171-51, 143-142-17, 143-142-20

SECTION I: FINDINGS

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

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

II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing July 15, 2010, to consider the merits of the project and hear testimony in favor of and in opposition to the project and continued the public hearing to August 26, 2010 in order to provide the applicant time to submit additional application materials and information and to work with the neighboring property owners and equestrian community.

- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed primary residence and the design of the detached accessory structure proposed for use as a second unit are Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to 15303, Class 3 of the CEQA Guidelines because it entails design and construction of a new residence, which is a principally permitted use, and detached accessory structure and do not result in potentially significant impacts to the environment and would not result in potentially significant impacts to the environment. The equestrian center is Statutorily Exempt from CEQA, pursuant to CEQA Guideline Section 15109, because it is being denied due to incomplete information and the applicant's inability to provide the required information in a timely manner. As such, it cannot be determined whether the proposed equestrian center adequately satisfies the policies and ordinances of the County of Marin, nor the California Environmental Quality Act.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed commercial equestrian facility component of the project is not consistent with the mandatory findings to approve the Use Permit (Section 22.48.040 of the Marin County Code) as specified below.

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

Comments received by the Department of Public Works outlined potential environmental impacts, including, but not necessarily limited to, stormwater management, hydrology, manure management, and potential traffic impacts resulting from the equestrian center, which has made additional environmental review, through preparation of an initial study, necessary. In addition, a feasibility study and management analysis is required pertaining to the boarding and exercising of the proposed number (45) of horses on the project site. As noted above in Section I (III), the applicant has been unable in a timely manner to provide the Community Development Agency with the information and resources to perform an initial study in order to determine whether potentially significant environmental impacts may result from the building and renovation of the equestrian center and, if so, whether they can be properly mitigated. Proper evaluation of the Use Permit is therefore impossible and the merits of the project at this time cannot be made until an initial study is undertaken.

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

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

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

project would respect the surrounding natural environment, and would utilize colors and materials consistent with the prevailing community character. Therefore, the project is consistent with this finding.

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

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

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

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

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

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

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

The proposed single family residence and detached accessory structure would be consistent with the applicable Single-family Residential Design Guidelines. In particular, the project would further the goals of the following guidelines:

- Design Guideline A-1.1: The residence and accessory structure would not result in the removal of healthy, mature, native trees.

- Design Guideline A-1.4: The property is reasonably flat and the amount of grading would be minimal.
- Design Guideline C-1.1: The residence and accessory structure are consistent with the setbacks found in the larger community and will be screened from nearby residences by new landscaping.
- Design Guideline C-1.8: The residence and accessory structure are limited to one story in height, and located on a portion of the property, away from many of the residences adjacent to the property, and will respect neighborhood privacy.
- Design Guideline D-1.1: The residence and accessory structure adequately divides up the mass of the proposed residences to minimize its overall effective visual bulk.
- Design Guideline D-1.7: The residence and accessory structure building materials would compliment the surrounding natural and built environment.
- Design Guideline E-1.1: The residence and accessory structure will comply with the green building requirements of Marin County.

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

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

Therefore, the project is consistent with this finding.

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

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

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

- A. The residence and accessory structure would be consistent with the SF3 (Residential, Single-family) land use designation;

- B. The residence and accessory structure will be consistent with the goals and policies of the Black Point Community Plan including permitting further residential development north of Highway 37 (BPCP Policy 1 and Program 1);
- C. The residence and accessory structure will comply with CWP policies minimizing air, water, and noise pollution and comply with applicable standards for air quality. The project will cause less than significant short-term increases in construction-related emission and short-term construction-generated noise impacts will be minimized by limiting the hours of construction to the hours of 7:00a.m. and 5:00p.m., Monday through Friday, and between the hours of 9:00a.m. and 4:00p.m. on Saturday. (CWP Policies Noise Policies NO-1.1, NO-1.3);
- D. The residence and accessory structure has been designed to avoid hazards from erosion, landslide, floods, and fires, and will result in a built environment which is healthful, safe, quiet, and of good design both functionally and aesthetically. To minimize the risk of fires and ensure adequate fire protection, the Novato Fire Protection District will ensure compliance with fire safety codes and standards including installation of fire sprinklers and an approved vegetation fire management plan. (CWP Policies, Environmental Hazards Policies, EH-4.1, EH-4.2, EH-4.c, EH-4.d, EH-4.e, Community Design Policies DES-1.1, DES-4.c, DES-5.1);
- E. The residence and accessory structure will comply with Marin County development standards related to parking, grading, drainage, flood control, and utility improvements as verified by the Department of Public Works. (CWP Policies, Biological Policy, BIO-4.20);
- F. The residence and accessory structure will not result in impacts to special-status species (CWP Policies Biological Resources, BIO-1.1 and BIO-2.1);
- G. The residence and accessory structure will comply with the current green building standards of Marin County (CWP Policies, Energy and Green Building EN-3.1 and EN-3.a).

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

SECTION II: CONDITIONS OF PROJECT APPROVAL

Marin County Community Development Agency, Planning Division

1. Pursuant to Chapter 22.42 (Design Review) of the Marin County Development Code, the Avraham Dayan (Bouskila) Design Review is approved to construct the residential component of the project which includes a 2,680 square foot, one story primary residence that shall have a maximum height of 16 feet and maintain the following minimum setbacks: 1) 22 feet from the westerly front property line; 2) 24 feet from the easterly rear property line; 3) approximately 125 feet from the northerly side property line; and 4) over 600 feet from the southerly rear property line. The primary residence shall be served by 4 on-site parking spaces. The 744 square foot, one story accessory structure to be used as a second residential unit shall have a maximum height of 13 feet and have the following minimum setbacks: 1) 27 feet from the westerly front property line; 2) approximately 39 feet from the easterly rear property line; 3) approximately 37 feet from the northerly side property line; and 4) over 700 feet from the southerly side property line. The accessory structure shall be served by 2 on-site parking spaces. In addition, the existing fence shall be relocated, a new gate shall be installed, along with construction of a 6 foot tall wall at the rear of the property. A new septic system is also approved. The subject property is located at **50 H Lane, Novato** and is further identified as **Assessors Parcel 143-171-51, 143-142-17, and 143-142-20.**

Pursuant to Chapter 22.42 (Design Review) of the Marin County Development Code, the Avraham Dayan (Bouskila) Design Review for the commercial equestrian component of the project is denied.

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

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

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

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.
5. BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE RESIDENCE OR ACCESSORY STRUCTURE, the applicant shall submit a revised landscaping plan which provides a minimum of 6 additional larger native screening trees along the front and rear of the residences. The landscaping shall be a minimum 15-gallon size and subject to staff approval.
6. Within 3 months of this decision, the applicant must submit a Building Permit or alternatively a demo permit application to the Marin County Community Development Agency to return the illegal residence to its original state as an open walled stable or to otherwise demolish the structure. Returning the structure to its original state would include removing all interior and exterior residential improvements, including plumbing, HVAC, floors, sheetrock and walls. The applicant shall submit plans and/or a detailed list stating what is going to be done and all the specific elements involved in the proposal. Requests for an extension to this timeline must be submitted in writing to the Community Development Agency staff and may be granted for good cause, such as delays beyond the applicant's control.
7. Within 6 months of obtaining the required Building Permit or demo permit for returning the illegal residence to its original state as a stable or complete removal of the structure, the work must be completed. 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. BEFORE FINAL INSPECTION OF THE BUILDING PERMIT OR DEMO PERMIT for resolving the enforcement case against the property, the applicant must: (a) contact Code Enforcement for a site inspection to confirm that the existing illegal residence has been removed; and (b) submit written verification from the Novato Fire Protection District that vegetation management has been completed to the District's satisfaction. 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. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to depict the location and type of all exterior lighting for review and approval of the Community Development Agency staff. Exterior lighting visible from off site shall be permitted for safety purposes only, shall consist of low-wattage fixtures, and shall be directed downward and shielded to prevent adverse lighting impacts on nearby properties. Exceptions to this standard may be allowed by the Community Development Agency staff if the exterior lighting would not create night-time illumination levels that are incompatible with the surrounding community character and would not shine on nearby properties.
10. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing

appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

11. All construction activities shall comply with the following standards:
 - a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
 - b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
12. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
13. BEFORE FINAL INSPECTION, the applicant shall submit a Statement of Completion, signed by a certified or licensed landscape design professional, verifying that all approved and required landscaping has been installed in accordance with the approved landscape plan and Chapter 23.10 of the Marin County Code, where applicable.
14. No application for a commercial equestrian facility shall be accepted for filing until the code enforcement case on the property has been resolved.
15. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Marin County Department of Public Works

16. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and NFPD.
17. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan to locate drainage inlets along Atherton Avenue outside of the road ROW and the proposed 20-foot wide roadway dedication area. Outlet pipes shall be set back at minimum 5-feet from the edge or roadway dedication, to allow surface runoff to infiltrate. Outlet pipes shall include means to dissipate runoff before it enters the road right-of-way.
18. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall dedicate a 15-foot wide area along H Lane and a 20-foot wide area along Atherton Avenue. Remove the two inlets (junction boxes) within the proposed 15-foot wide roadway dedication area along H Lane. The proposed future fence along the property shall not be located within the public road right-of-way or area to be dedicated. The fence along the intersection of Atherton Avenue and H Lane shall be installed according to MCC 24.04.060.
19. BEFORE ISSUANCE OF A BUILDING PERMIT, the traffic impact studies reviewed before in comparison with the current study (Bob Harrison January 31, 2008 and Bob Harrison March, 2009) shows a considerable change in operations that it rightfully merits a routine traffic & operation monitoring to the conformance to that plan. As part of a Use Permit a semi- annual traffic & operations monitoring for 3 years from the start of operation shall be performed by an independent professional.
21. BEFORE ISSUANCE OF A BUILDING PERMIT, a registered Civil Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
22. BEFORE ISSUANCE OF A BUILDING PERMIT, a separate Building Permit is required for site/driveway retaining walls with heights over 4-feet (measured from the bottom of footing to the top of wall) or 3-feet when backfill area is sloped or has a surcharge. Note: Based on the Site Plan topography it appears that retaining walls may be required along the common property between the subject property and APN 143-171-60.
23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit two sets of engineer's calculations for site/driveway retaining walls, which are to be signed and stamped by the design engineer.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide a design level geotechnical investigation. Plans shall be reviewed and approved by the soils engineer. Approval shall be indicated by signature and stamp on the plans or by a signed and stamped letter.
25. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit an Erosion and Siltation Control Plan.

26. BEFORE ISSUANCE OF A BUILDING PERMIT, drain fields shall be located with proper setback from the roadway as required or determined by EHS. The applicant shall submit a letter from EHS certifying that they have reviewed and approved the design and location of the drain field.
27. BEFORE ISSUANCE OF A BUILDING PERMIT, driveway approaches shall conform to UCS 135 or as approved by DPW.
28. BEFORE ISSUANCE OF A BUILDING PERMIT, H Lane shall be provided with a 2 1/2" AC overlay up to the centerline of the travel lane. New pavement shall be 6" AC over 12" Class 2 AB.
29. BEFORE ISSUANCE OF A BUILDING PERMIT, an Encroachment Permit shall be required for any work within the road right-of-way.
30. BEFORE ISSUANCE OF A BUILDING PERMIT, all road right-of-way dedications shall be reviewed and approved by DPW, and recorded prior to issuance of any grading or building permit.
31. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall pay Public Transportation Facilities fees in accordance with Marin County Code Chapter 15.07.
32. As proposed, the fence near the intersection of Atherton Avenue and H Lane, does not meet code requirements. BEFORE ISSUANCE OF A BUILDING PERMIT, plans shall conform to visibility obstruction requirements per MCC Section 13.18.
33. BEFORE ISSUANCE OF A BUILDING PERMIT, the parking spaces assigned to the proposed single-family residence shall be located entirely outside of the roadway easement.
34. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall add a note on the plans that the Design Engineer shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer. Certification letters shall indicate the building permit number, assessor's parcel numbers and address of the project site, as required by the CDA-Building & Safety Division.
35. BEFORE ISSUANCE OF A BUILDING PERMIT, DPW recommends abandoning or vacating the existing 40-access and utility easement along the Eastern property line.
36. BEFORE FINAL INSPECTION, DPW will inspect the removable fences over the existing access and utility easement. Fences shall not be permanent structures.

Marin County Community Development Agency, Environmental Health Services Division

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

North Marin Water District

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

Novato Fire Protection District

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

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE, BE IT FURTHER RESOLVED that the applicant must vest this partial Design Review approval by complying with all conditions of approval within the requisite time frames for the illegal residence, including final inspections. In addition, the applicant must vest this partial Design Review approval by complying with all conditions of approval, obtaining and administrative second unit permit and Building Permits for the approved new primary residence and second unit and substantially completing the approved new residential components 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 extension is granted administratively by the Community Development Agency. Time extensions to vest the approval beyond two years and up to a maximum of four years may only be granted upon the filing of an extension application with required fees pursuant to Section 22.56.050.B.3 of the Marin County Code.

The Building Permit approval for the approved new primary residence and second unit expires if the building or work authorized in this 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 September 10, 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
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary