

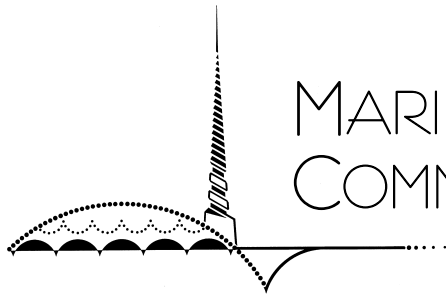
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR MINUTES
Marin County Civic Center, Room #328 - San Rafael
MEETING – September 16, 2010

Hearing Officer Johanna Patri, AICP, Consulting Planner

Staff Present: Kristina Tierney, Planner
 Veronica Corella Pearson, Planner

Joyce Evans, Recording Secretary

Convened at 9:02 A.M.
Adjourned at 10:23 A.M



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **STINSON BEACH COUNTY WATER DISTRICT**

Application (type and number): Coastal Permit (CP 10-9)

Assessor's Parcel Number: 199-040-41

Project Location: Panoramic Highway, near the Steep Ravine water tank site

For inquiries, please contact: Kristina Tierney, Planner

Decision Date: September 16, 2010

DETERMINATION: Approved with Conditions

Resolution of the September 16, 2010, Deputy Zoning Administrator's hearing is attached specifying action and applicable conditions 1-14.

Marin County Community Development Agency

Jeremy Tejirian, AICP
Hearing Officer

H1. COASTAL PERMIT (CP 10-9): STINSON BEACH COUNTY WATER DISTRICT KT

A proposal to consider the Stinson Beach Water District Coastal Permit to construct a new well and above ground well house at the Steep Ravine water tank site. The well would be drilled to a depth of 250 to 300 feet deep and is anticipated to produce up to 25 gallons per minute. The new well would increase the reliability of the Stinson Beach County Water District's total water supply and serve as a replacement source in lieu of surface water during dry periods. The project site is currently developed with a 210,000 gallon water storage tank. The well house would be 7.8 feet high and 35 square feet. and be located 8 feet from the southerly front property line, 11 feet northwest of the existing water tank, 43 feet from the westerly side property line, and 33 feet from the northerly rear property line. Associated improvements also include installation of approximately 50 feet of underground pipe, 90 feet of underground electrical line. All of the facilities will be installed on a graveled and previously-graded area within the existing parcel. Installation of the utility lines and underground water line will require minor trenching to a depth of approximately 2 feet within the existing graded and graveled area. The new well pump will be installed below ground, and would not be audible from the ground surface. Well drilling spoils will be contained within a portable tank and disposed of off-site. Site construction activities are anticipated to last one to two days. Backup power when needed will be supplied by a portable generator; no backup generator will be stored on site. The zoning for this parcel OA (Open Area). The subject property is located at **Panoramic Highway near the Steep Ravine water tank site**, and is further identified as **Assessor's Parcel 199-040-41**.

In response to the Hearing Officer, staff stated that no additional correspondence had been received since the issuance of the staff report. She noted corrections to the parcel number and asked that the merits comments from the Department of Public Works be incorporated into Condition of Approval #10. Scott Callow, Environmental Health Services stated in an e-mail that the well monitoring plan would be captured by a State agency.

The public testimony portion of the hearing was opened.

Members of the public speaking in favor of the project included:

- Lawrence Baskin, President of the Stinson Beach County Water District; and
- Ed Schmidt, General Manager of the Stinson Beach County Water District

The Stinson Beach County Water District members thanked staff for their work on the project.

The public testimony portion of the hearing was closed

The Deputy Zoning Administrator made several comments pertaining to the project, including but not necessarily limited to the following:

- No nexus to require ongoing monitoring allows Condition of Approval #4 to be struck; and
- Enter the project description as the first Condition of Approval.

The Hearing Officer concurred with staff's analysis and recommendation, and approved the Stinson Beach County Water District Coastal 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 10-139

A RESOLUTION CONDITIONALLY APPROVING THE STINSON BEACH
COUNTY WATER DISTRICT COASTAL PERMIT
PANORAMIC HIGHWAY, STINSON BEACH
ASSESSOR'S PARCEL 199-040-41

SECTION I: FINDINGS

- I. WHEREAS the Stinson Beach County Water District is requesting a Coastal Permit to construct a new well and above ground well house at the Steep Ravine water tank site. The well would be drilled to a depth of 250 to 300 feet deep and is anticipated to produce up to 25 gallons per minute. The new well would increase the reliability of the Stinson Beach County Water District's total water supply reliability and to serve as a replacement source in lieu of surface water during dry periods. The project site is currently developed with a 210,000 gallon water storage tank. The well house would be 7.8 feet high and 35 square feet and be located 8 feet from the southerly front property line, 11 feet northwest of the existing water tank, 43 feet from the westerly side property line, and 33 feet from the northerly rear property line. Associated improvements also include installation of approximately 50 feet of underground pipe, 90 feet of underground electrical line. All of the facilities will be installed on a graveled and previously-graded area within the existing parcel. Installation of the utility lines and underground water line will require minor trenching to a depth of approximately 2 feet within the existing graded and graveled area. The new well pump will be installed below ground, and would not be audible from the ground surface. Well drilling spoils will be contained within a portable tank and disposed of off-site. Site construction activities are anticipated to last one to two days. Backup power when needed will be supplied by a portable generator; no backup generator will be stored on site. **The subject property is located on Panoramic Highway at the Steep Ravine water tank site in Stinson Beach, and is further identified as Assessor's Parcel 119-040-41.**
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on September 16, 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 consistent with the mandatory findings to approve a Coastal Permit (Marin County Code Section 22.56.130I) and finds that this project conforms to the requirements of Local Coastal Program, Unit I, as follows:

A. Water Supply

The proposed well will help facilitate the Stinson Beach County Water District's ability to serve water to the Stinson Beach community and its visitors. The new well will provide operational flexibility, allowing the District to alternate between use of well water and surface water supplies. It would particularly increase the reliability of supply during summer periods of peak demand. The well is not intended to nor will it increase overall capacity to support new development. Additionally, the increased operational flexibility and supply reliability provided by the new well will help the District replenish storage tank depletions and increase fire protection.

The project is in conformance with LCP Unit 1 policies on public services and water supply. Public Services Policy 1 requires that utility service expansions be limited to the minimum amount necessary to serve development as identified by LCP land use policies. LCP policies on Location and Density of New Development identified a potential build-out for Stinson Beach of 900 dwelling units. Actual growth in the area has been much slower than projected with only 685 single family homes being served by the Stinson Beach County Water District's service area in 2008. This is far below the growth permitted by the LCP. The new well will assist meeting peak demand associated with public use of visitor-serving facilities operated by the state and federal governments, not to support new residential development.

The anticipated yield of the well is approximately 25 gallons per minute (gpm). During dry periods when demand is high due to coastal visitors, the District can produce potable water at a rate of approximately 160 gpm from all existing sources of supply. Therefore, 25 gpm represents approximately 15 percent of the District's existing production capacity (160 gpm) during peak demand periods.

The project is in conformance with Public Services Policy 1 because there is no expansion or new development associated with the project, the project would serve the existing tourist and visitor population.

In addition to Public Services Policy 1, the project is also in compliance with LCP Unit 1 Water Supply Policy 4, which states:

"New community and mutual water wells serving 5 or more parcels shall demonstrate by professional engineering studies, including as necessary, long-term monitoring programs, that such ground water withdrawal will not adversely affect coastal resources, including groundwater aquifers. Such engineering studies shall provide the basis of establishing safe sustained yields from these wells"

In order to demonstrate compliance with these policies, the applicant submitted a memorandum from Peter Pyle, P.G., C.Hg with Stetson Engineers Inc (dated October 27, 2009) and a more detailed report by Stetson Engineers dated August 5, 2010. These professional reports conclude new well would not adversely affect groundwater aquifers or the surface water resources of Webb Creek. Groundwater aquifers would not be affected as the production zone for the proposed well is not considered an aquifer in the conventional sense. The well will be drilled in fractured, hard rock, and water pumped from the well would be classified as "percolating groundwater", as opposed to groundwater in a subterranean stream flowing through a known and definite channel that contributes to a surface water source (utilizing the State Water Resources Control Board's terminology).

The reports by Stetson Engineers demonstrate that Webb Creek would be unaffected by the project. The proposed well would be drilled in a hard-rock geologic formation which has a very low permeability and other geologic characteristics (such as faults and folds) which will limit the yield of the well and the area of influence affected by the well. As the distance between the well and the creek increases, the likelihood of a flow connection between the well and the creek decreases, simply because there is more impediment to flow created by the increased distance, or volume of rock, through which water must pass. The proposed well will be located over 400 feet (laterally) from Webb Creek and the perforations in the well casing (the screened interval through which water is drawn into the well) are planned for 50 to 150 feet vertically below the creek bed elevation. Stetson states that these distances are sufficiently far enough

such that the nature of the geology (low permeability, faults, and other impediments to flow) and the distance, or the volume of rock formation separating the well from the creek, will limit the yield of the well and the well's area of influence, thereby preventing potential adverse impacts to Webb Creek.

Therefore, as the project would serve the existing tourist population in the Stinson Beach community and not increase development potential while avoiding impacts to water resources.

B. Septic System Standards

The project has no septic system as the project site would not have any onsite employees or a residence that would require a septic system. The applicant, the Stinson Beach County Water District is responsible for septic systems in the project area.

C. Grading and Excavation

Total grading and excavation would be limited to the amount necessary to construct the 35 square foot well house. Excavation would total 2.0 cubic yards and fill would total 1.2 cubic yards. The Department of Public Works, Land Use and Water Resources Division, has reviewed and approved the project to ensure consistency with Marin County requirements.

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 not located in an area of high archaeological sensitivity. Conditions of project approval would require that 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 1, where public access is desirable or feasible. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

F. Housing

The proposed project would not negatively affect the housing stock of the Stinson Beach community because it does not involve demolition.

G. Stream and Wetland Resource Protection

The proposed project is not situated in an area subject to the County streamside conservation policies as identified on the Natural Resources Map for Unit 1 of the Local Coastal Program and is located over 300 feet from Webb Creek.

H. Dune Protection

The proposed project is not located in a dune protection area as identified by the Natural Resources Map for Unit 1 of the Local Coastal Program.

I. Wildlife Habitat

The Natural Resources Map for Unit 1 of the Local Coastal Program and the California Natural Diversity Database indicate that the subject property is not located in an area potentially containing rare wildlife species. The Mitigated Negative Declaration prepared for the project did not identify any potential impacts to wildlife or wildlife habitat.

J. Protection of Native Plant Communities

The Natural Resources Map for Unit 1 of the Local Coastal Program and the California Natural Diversity Database indicates that the subject property is located in an area containing the Marin checker lily (*Fritillaria lanceolata* var. *tristulis*). The Mitigated Negative Declaration prepared for the project did not identify any potential impacts to native plants or native plant communities.

K. Shoreline Protection

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

L. Geologic Hazards

Review of the Alquist-Priolo Special Studies Zone maps indicates that the subject property does not lie within the delineated boundaries of the San Andreas Fault zone. Two faults are located in the vicinity of the project site, however. The project site could be subject to seismic ground shaking in the event of an earthquake. Structures will be constructed to current earthquake standards and will not be used for human habitation or as other type of shelter. Active human presence at the site will continue to be minimal.

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 is proposed as part of this project.

O. Visual Resources

The project entails the construction mostly below grade improvements and a modest 7.8 foot high, 35 square foot well house. The project site is located on a hairpin turn off Shoreline Highway, adjacent to the Mount Tamalpais State Park, behind a stand of Eucalyptus trees and next to an existing 36 foot high water tank. The project would not impact any neighbors or visual resources in the area.

P. Recreation/Visitor Facilities

The proposed project would not provide commercial or recreational facilities, and the project site is not governed by VCR (Village Commercial Residential) zoning regulations which require a mixture of residential and commercial uses have any impact upon recreation or visitor facilities. It does, however, facilitate water service to visitors by ensuring adequate water supply to the Stinson Beach community.

Q. Historic Resource Preservation

The subject property is not located within any designated historic preservation boundaries of the Stinson Beach Community 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 1931.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Stinson Beach County Water District Coastal Permit (CP 10-9) subject to the following conditions:

Community Development Agency – Planning Division

1. Pursuant to Interim Zoning Code Sections 22.56.130I (Coastal Permits) the Stinson Beach County Water District is approved to construct a new well and above ground well house at the Steep Ravine water tank site. The well shall be drilled to a depth of 250 to 300 feet deep and produce up to 25 gallons per minute. The well house would be 7.8 feet high and 35 square feet and be located 8 feet from the southerly front property line, 11 feet northwest of the existing water tank, 43 feet from the westerly side property line, and 33 feet from the northerly rear property line. Associated improvements also include installation of approximately 50 feet of underground pipe, 90 feet of underground electrical line. All of the facilities will be installed on a graveled and previously-graded area within the existing parcel. Installation of the utility lines and underground water line will require minor trenching to a depth of approximately 2 feet within the existing graded and graveled area. The new well pump will be installed below ground, and would not be audible from the ground surface. Well drilling spoils will be contained within a portable tank and disposed of off-site. Site construction activities are anticipated to last one to two days. Backup power when needed will be supplied by a portable generator; no backup generator will be stored on site.

The subject property is located on Panoramic Highway at the Steep Ravine water tank site in Stinson Beach, and is further identified as Assessor's Parcel 119-040-41.

2. Construction plans shall substantially conform to plans identified as "Exhibit A," entitled, "Proposed Well at Steep Ravine Tank Site," consisting of 3 sheets prepared by Stetson Engineers Inc., dated October 27, 2009 and received November 5, 2009, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

3. Approved exterior building materials and colors shall substantially conform to the color/materials sample board which is identified as "Exhibit B," prepared by Stetson Engineers, dated November 5, 2009, and on file with the Marin County Community Development Agency including:
 - a. Tan wood siding
 - b. Grey composite shingle roof
 - c. Aqua blue double doors

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

4. The applicant shall revise the site plan or other first sheet of the office and job site copies of the plans to list these Coastal Permit conditions of approval as notes.
5. Exterior lighting shall be located and/or shielded so as not to cast glare on nearby properties.
6. 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.
7. 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.

8. 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
9. 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.
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.

(The following condition incorporates the mitigation measures contained in the Initial Study and Negative Declaration. The respective mitigation/monitoring measure it implements is listed at the end of the condition.)

11. Ground disturbance and any tree removal shall occur between September 1st and January 31st. If it is not possible to conduct work during this period, pre-construction surveys should be conducted within 15 days prior to tree removal to determine if nesting birds are present. If nesting birds are observed during pre-construction surveys, trees containing nests will be avoided and a suitable buffer will be established around occupied nests until all nesting young birds have fledged. Buffer distance is species-specific and would need to be determined by a qualified biologist. As part of the pre-construction breeding bird survey, it is also recommended that the woodland area be surveyed for the potential presence of roosting bats. The site has a low potential to support these species due to the existing level of disturbance, but edge habitat preferred by many bat species is abundant in the area. If trees are removed between September 1 and October 31, no bat roost surveys would be necessary **(Mitigation Measure Bio-1)**.

Community Development Agency – Environmental Health Services

12. The well must be drilled under permit from Environmental Health Services and conform to the requirements in the Waterworks Standards and the Well Bulletin in regards to well construction for a public water system, including but not limited to the installation of a check valve, vent, sampling port, flush valve, and production meter.
13. The water district is expected to apply for a permit amendment with the State agency and receive approval prior to adding the well to the water system.

Marin County Department of Public Works

14. The improvement plans are accepted as presented providing that the new water well is not within any recorded easements; except that of an easement specifically dedicated for the water well.

SECTION III: VESTING, PERMIT DURATION, AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant/owners must vest the Stinson Beach County Water District Coastal Permit (CP 10-9) approval by substantially completing all approved work by September 16, 2012, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date above and the Deputy Zoning Administrator approves it. An extension of up to four years may be granted for cause pursuant to Section 22.56.120I of the Marin County Code. Failure to comply with the conditions of this approval will result in the invalidation of the approvals.

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 23, 2010.**

SECTION IV: ACTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 16th day of September 2010.

JEREMY TEJIRIAN, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Recording Secretary

C1. COASTAL PERMIT AND DESIGN REVIEW (I. D. 09-356): MY T LE

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**.

The Hearing Officer acknowledged receipt of a supplemental memorandum from staff dated September 9, 2010 asking for a continuance to the hearing of September 30, 2010.

The public testimony portion of the hearing was opened and seeing that there was no one present to comment, the hearing was closed.

The Hearing Officer noted for the record that storey poles have been put up but the applicant is modifying the plans, which have yet to be submitted.

The Hearing Officer continued the project until the hearing date of September 30, 2010, and due to the Permit Streamlining Act the project may only be continued at the request of the applicant.

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.**

The Hearing Officer stated that she was in receipt of a supplemental memorandum from staff asking for a continuance to the hearing of September 30, 2010 so that the applicant, Guy Phillips, can draft a new access easement with the adjacent neighbor, Halleck Creek Ranch.

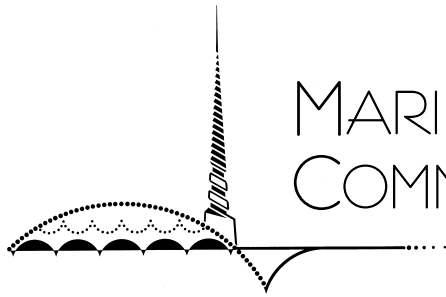
In response to the Hearing Officer, staff stated that an addendum to the Initial Study may be needed if County Counsel determines that there is no legal access through Halleck Creek Ranch.

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

Staff responded to questions from the DZA to clarify several issues including, but not necessarily limited to the following:

- Documents presented to the Hearing Officer and the Department of Public Works staff are under review with County Council;
- The applicant is working with Halleck Creek Ranch to draft a new access easement.
- The item is not under the Permit Streamlining Act because it is still under completeness review for CEQA compliance.

The Hearing Officer continued the item to the hearing date of October 14, 2010 to allow staff time to review any documents submitted, determine if an addendum to the Initial Study is needed, and for staff to draft a Staff Report to the Hearing Officer.



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
BRIAN C. CRAWFORD, DIRECTOR

NOTICE OF DECISION

Applicant's Name: **THOMAS LIPPMAN**

Application (type and number): Coastal Permit (CP 05-7), Design Review (DR 05-13) and Second Unit (SU 08-19) :

Assessor's Parcel Number: 112-300-40

Project Location: 95 Highland Way, Inverness

For inquiries, please contact: Veronica Corella Pearson, Planner

Decision Date: September 16, 2010

DETERMINATION: Denied

Marin County Community Development Agency

Johanna Patri, AICP
Hearing Officer

H2. COASTAL PERMIT (CP 05-7), DESIGN REVIEW (DR 05-13) AND SECOND UNIT (SU 08-19): THOMAS LIPPMAN VCP

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

The Hearing Officer acknowledged additional comment letters from staff dated September 14 and 15, 2010, an e-mail from Sid Van Der Ryn and a letter from Galea Wildlife Consulting.

Staff summarized the issues raised in the documents including:

- Deficiencies in the report prepared by Ibis Environmental, Inc and the letter by Galea Wildlife Consulting;
- The existing wells being illegal; and
- Insufficient permit fees.

The public testimony portion of the hearing was opened.

Thomas Lippman, applicant spoke regarding:

- Fees paid;
- The prior staff recommendation for approval;
- Wetlands on the property; and
- The existing well, and well reports provided to EHS.

The Hearing Officer and staff discussed issues raised including:

- Prior hearing discussions; and
- Comments received from Environmental Health Services and Code Enforcement regarding the existing well.

The applicant and Hearing Officer discussed the applicant's inability to provide evidence that the existing wells are legal non- conforming. Discussion followed on the need for a wetland delineation. Staff stated that the applicant had been informed that a full wetland delineation was not needed, just a letter from a qualified biologist stating that they meet the Army Corps of Engineers or the California Coastal Commission's definition of a wetland.

Bridger Mitchell spoke regarding concerns with the distributed agenda and the noticing of the proposed project.

The public testimony portion of the hearing was closed.

Due to the information for environmental review being incomplete, the Hearing Officer concurred with staff's analysis and recommendation, and denied the Stinson Lippman Coastal Permit, Design Review 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 10-140

A RESOLUTION CONDITIONALLY DENYING THE LIPPMAN COASTAL PERMIT (05-7)
AND DESIGN REVIEW (DR 05-13)
95 HIGHLAND WAY, INVERNESS
ASSESSOR'S PARCEL 112-300-40

SECTION I: FINDINGS

- I. WHEREAS the applicant, Stephen Antonaros, has applied for Coastal Permit, Design Review, and Second Unit approval, on behalf of the owner, Thomas Lippman, for new development on a lot with an existing garage/barn. The applicant is proposing a new three-story residence with an attached two car garage, a new accessory structure that would be used as a second unit, a new septic system, a domestic well, and other appurtenant structures. The residence would be 5,568 square feet in size and would attain a height of 24 feet. The accessory structure would be 743 square feet in size and attain a height of 15 feet. Also proposed is the legalization of an existing garage/barn and a storage shed that are 1,035 square feet and 350 square feet in size respectively. The garage will be modified by removing a minimum of 1 foot, 6 inches of foundation, wall and roof that encroaches onto the neighboring property on the western property line. The subject property is located at 95 Highland Way, Inverness and is further identified as Assessor's Parcel 112-300-40.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on June 27, 2008 to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project. On June 25, 2008, the applicant requested a continuance to address concerns from the neighbors and to provide additional information to the Planning Division to address conditions of project approval. The public hearing was opened and seeing no one present in the audience to speak for or against the application, the hearing item was continued to a date unspecified.
- III. WHEREAS on July 30, 2009 the applicant provided additional information regarding the location of the geothermal energy system, building design and energy usage, pool water usage, and vehicular traffic along Highland Way. During submittal review, after a search of the California Natural Diversity Database (CNDDB) staff determined that new species had been added since completion of the provided biological report. The applicant provided a revised biological assessment that concluded that there was potential for special status species and sensitive habitat areas on the property. With this information the Planning Division determined that an

Initial Study is required, along with additional fees and a site assessment. The applicant was notified of this requirement on August 5, 2009.

- IV. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 17, 2009 and was informed of the status of the application. The Deputy Zoning Administrator continued the item indefinitely to give staff time to prepare an initial study in accordance with the provisions of CEQA.
- V. WHEREAS since the hearing date of December 17, 2009, the Community Development Agency has met with the applicant on February 9, 2010, has requested additional items for environmental review on February 12, 2010 and provided further clarification on application needs on March 23, 2010.
- VI. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed hearing on August 12, 2010 and continued the hearing to the date of September 16, 2010 to allow staff to review a Biological Conditions Report prepared by Ibis Environmental Inc. and received by the Community Development Agency on September 15, 2010, and to provide the applicant with a list of items needed for the Planning Division to approve the project without the preparation of an Initial Study.
- VII. WHEREAS the Community Development Agency has reviewed the report provided by Ibis Environmental Inc. and has determined that it adequately states that the project would not impact Point Reyes Mountain Beaver or the Red legged frog. Yet, the report does not directly state that there are no wetlands on the property that may meet the Army Corps of Engineers or the Coastal Commissions definition of a wetland. Therefore, it cannot be determine that the project does not have the potential to result in significant environmental impacts and to Categorically Exempt the project from the California Environmental Quality Act.
- VIII. WHEREAS Mr. Lippman has not provided the Community Development Agency, Planning Division with any written documentation that the existing well proposed for domestic water use is legal non-conforming and the Code Enforcement Division has provided the Planning Division with a copy of a Code Enforcement Hearing Decision that states that no permits had been issued for the operation of a domestic water system and all existing wells are in violation of Marin County Code Section 24.04.235I.
- IX. WHEREAS the applicant has been notified that they have exhausted all permit fees. At the time of application Fee Ordinance 3496 was in place, and under Ordinance 3496 the Planning Division is allowed "the right to charge actual cost (at a rate of \$120 per hour) on large complex, unusual and/or time consuming projects in order to ensure that the fee will cover the actual cost of service." The Community Development Agency sent a letter dated August 18th requested \$2,738 to cover 80.1 hours of staff time. To date these fees have not been submitted.
- X. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project cannot be Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15000.2(a), because there is a reasonable possibility that the project will have a significant effect on the environment. Pursuant to CEQA Section 15109, the project is being denied due to incomplete information and the applicant's inability to provide the required environmental review information and resources in a timely manner, resulting in an unreasonable delay in conducting the environmental review. As such, it cannot be determined

whether the proposed project adequately satisfies the policies and ordinances of the County of Marin and the California Environmental Quality Act.

- XI. WHEREAS the Marin County Deputy Zoning Administrator finds that it cannot be determined whether the proposed project is consistent with the Marin Countywide Plan as follows:

The proposed project has been determined not to be Categorical Exempt from CEQA, pursuant to CEQA Guideline Section 15300.2(a) due to biological information provided from the applicant that states that the project site contains listed species and sensitive habitat areas and the project may result in significant impacts to the environment. As noted above in Section V, 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 project. The application is being denied because the applicant has caused an unreasonable delay in conducting an environmental review of the project. Further, it is not possible to determine whether the application is consistent with the Marin Countywide Plan at this time.

- XII. WHEREAS the Marin County Deputy Zoning Administrator finds that it cannot be determined whether the proposed project is consistent with the Inverness Ridge Community Plan as follows:

The proposed project has been determined not to be Categorical Exempt from CEQA, pursuant to CEQA Guideline Section 15300.2(a) due to biological information provided from the applicant that states that the project site contains listed species and sensitive habitat areas and the project may result in significant impacts to the environment. 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 project. The application is being denied because the applicant has caused an unreasonable delay in conducting an environmental review of the project. Further, it is not possible to determine whether the application is consistent with the Inverness Ridge Community Plan at this time.

- XIII. WHEREAS the Marin County Deputy Zoning Administrator finds that it cannot be determined whether the proposed project is consistent with the mandatory findings to approve a Coastal Permit as follows:

The full project is subject to Coastal Permit findings, per Section 22.56.130I. The proposed project has been determined not to be Categorical Exempt from CEQA, pursuant to CEQA Guideline Section 15300.2(a) due to biological information provided from the applicant that states that the project site contains listed species and sensitive habitat areas and the project may result in significant impacts to the environment. 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 project. The application is being denied because the applicant has caused an unreasonable delay in conducting an environmental review of the project. Further, it is not possible to determine whether the application is consistent with the findings for a Coastal Permit at this time.

- XIV. WHEREAS, the Marin County Board of Supervisors finds that it cannot be determined whether the proposed project is consistent with the mandatory findings to approve a Design Review Permit as follows:

The project is subject to Design Review Permit findings, per Section 22.82.040I. The proposed project has been determined not to be Categorical Exempt from CEQA, pursuant to CEQA Guideline Section 15300.2(a) due to biological information provided from the applicant that states that the project site contains listed species and sensitive habitat areas and the project may result in significant impacts to the environment. 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 project. As a result of this, one of the Design Review Permit findings for the project can be made at this time.

SECTION II: ACTION

NOW, THEREFORE BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby denies the Lippmann Coastal Permit and Design Review application because pursuant to CEQA Section 15109 the applicant has caused an unreasonable delay in conducting an environmental review for the project.

SECTION III: APPEAL RIGHTS

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 23rd, 2010.**

SECTION IV: ACTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 16th day of September 2010.

JOHANNA PATRI, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Recording Secretary