

**1. COASTAL PERMIT, USE PERMIT, AND DESIGN REVIEW  
(Project ID: 2010-0276): ESTERO MUTUAL WATER COMPANY**

The subject property is located at **100 Ocean View Drive, Dillon Beach**, and is further identified as **Assessor's Parcel 100-100-58**.

The Hearing Officer read the introductory information and the project description.

The Deputy Zoning Administrator asked if staff had any additional comments or had received additional correspondence since the staff report was distributed and the staff responded, noting the following:

- A memorandum from Rachel Warner, Interim Environmental Coordinator, dated August 24, 2011 determining that the CEQA determination cannot be an exemption because of a Countywide Plan Policy for 100-foot wetlands setback;
- A supplemental memorandum dated August 19, 2011, regarding requirements for building permits to be added to Conditions of Approval 2 through 7; and
- Erosion control plans have been received and will be submitted with the Building Permit plans.

The Hearing Officer noted that the Categorical Exemption cannot be supported. The issue is the proximity to wetlands. The Prunuske Chatham, Inc. study found wetland plants and the reservoir is a pond in the National Wetlands inventory and could be a wetland.

A letter from Prunuske Chatham, Inc. (Attachment #10) indicated that native plants are present and the tank is 50 feet from the wetland and 37 feet from the top of bank which requires an Initial Study. Although Coastal Act Section 30233 allows water pipes for public utilities, it does not allow water storage facilities within 100 feet of wetlands. The storage facility may be relocated to be more than 100-feet from the top of bank, or from the edge of the wetland if the wetland is properly delineated. The Hearing Officer continued the item to the hearing of September 29, 2011, for the applicant to evaluate the options. A second option is to refer the project to the Planning Commission to allow it to move forward with an Initial Study and findings that the wetlands would not be affected even though the tank would be less than 100 feet away.

The public testimony portion of the hearing was opened.

The applicant/owner, Jan Lee, Permit Coordinator; John Brezina, Manager; and Marsha Englebrecht, Executive Director, Estero Mutual Water Company spoke regarding the favorable elements of the project, including the following:

- The tank supplies water for both fire emergency and public use in the Oceana Marin subdivision;
- There is an emergency need for the tank replacement because the existing steel tank is delaminating and leaking;
- New grading, site and soil testing will be needed if the tank is moved;
- Wetlands were formed after the reservoir was built and from a leaking tank;
- The existing tank needs to remain in place until the other tank is built.

The public testimony portion of the hearing was closed.

The Deputy Zoning Administrator made several comments pertaining to the project, including the following:

- A continuation date to the Planning Commission is not known;
- More information is needed to delineate the wetlands; and
- There are no wetlands at the top of bank, so a delineation would not be required if 100 feet from the top of bank.

Discussion followed on:

- Project would be a repair of an existing public service facility that could be consistent with the Local Coastal Program and the Countywide Plan;
- The project is in the wetland buffer and needs findings that no environmental impact would result to approve a Coastal Permit;
- The relevance of the fact that the wetlands were created by building the facility;
- The California Coastal Commission has not responded to any of the transmittals; and
- The State Water Resource Board determined the operating permit would be exempt from CEQA.

The Hearing Officer continued the item to the hearing of September 29, 2011 to allow the applicant to work on two issues:

1. The possibility of revising the project to locate the tank 100 feet from the top of bank; and
2. If not feasible to provide the 100-foot setback from top of bank, prepare a wetlands delineation and locate the tank 100 feet from the edge of wetlands.

The Hearing Officer directed staff to make revisions to the resolution:

- **SECTION 1: FINDINGS - G:** Delete any mention of the Countywide Plan and add wetland to the title and discuss the requirements of Coastal Act Section 30233;
- **SECTION 1: FINDINGS - O, Visual Resources:** Delete reference to private views;
- **SECTION 3: CONDITIONS OF PROJECT APPROVAL #2:** Have Rachel Warner review and rewrite as a landscaping requirement with final inspection;
- **SECTION 3: CONDITIONS OF PROJECT APPROVAL #13:** use standard language from template for a. b. c. etc.; and
- **SECTION 3: CONDITIONS OF PROJECT APPROVAL #21:** (b) modify to read “the project shall be modified so that” instead of “we recommend that”.

The Hearing Officer continued the item to the hearing of September 29, 2011.