

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION 11-135**

**A RESOLUTION APPROVING  
THE LEVIN COASTAL PERMIT AMENDMENT**

**ASSESSOR'S PARCEL 199-283-11**

**25 AHAB DRIVE, MUIR BEACH**

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**SECTION 1: FINDINGS**

- I. WHEREAS, Jerry Kler, on behalf of the property owners William Levin and Laurel Simes, proposes to construct a the repair of a small landslide 20 feet downslope of the residence and approximately 35 feet from the rear property line, 37 feet from the east side property line, and 145 feet from the west side property line. The Department of Public Works and the Community Development Agency concurred with the determination of Nersi Hemati, P.E., G.E., Consulting Soil Engineer that the slide repair work should occur before the rainy season to prevent impacts to the drainage facilities and neighboring residences downslope. Department of Public Works issued an emergency Grading Permit (GP 11-002) on October 17, 2011. The slide repair has been substantially completed with an estimated 730 cubic yards of excavation of the slide area and placement of 800 cubic yards of rock revetment with subdrains leading to the existing drainage ditch. Temporary soil storage areas were located upslope to the east, and downslope to the south, of the slide area. The subject property is within the C-RA:B4 zoning district and is located at 25 Ahab Drive, Muir Beach, further identified as Assessor's Parcel 199-283-11.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 1, 2011, 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 15304, Class 4 of the CEQA Guidelines because the repair of a small landslide downslope of an existing single-family residence would not result in adverse impacts on the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Local Coastal Program, Unit I and the Marin Countywide Plan because:
  - A. The proposed project would comply with Marin County standards for geotechnical engineering and seismic safety, and include improvements to protect lives and property from hazard;
  - B. The proposed project would repair a small landslide downslope of an existing single-family residence, a principally permitted use under the governing CSF-3 general plan designation;

- C. The proposed project would comply with governing development standards related to grading, flood control, drainage and utility improvements as verified by the Department of Public Works;
- D. The proposed project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services; and
- E. The proposed project would minimize soil disturbance and maximize protection of natural vegetation.

V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings for Coastal Permit approval pursuant to the requirements and objectives of the Local Coastal Program, Unit I (§22.56.130I of the Marin County Code) as described below.

A. Water Supply:

The Muir Beach Community Services District serves the subject property and has reviewed the project and made no comments.

B. Septic System Standards:

Marin County Environmental Health Services reviewed the proposed project and recommended approval with conditions of approval that require the proposed subdrains to be a minimum of 10 feet laterally, and 25 feet downslope, of the septic tanks, and that structures maintain 5-foot setbacks from the septic system on the subject property.

C. Grading and Excavation:

The subject property is 45% slope and moderate grading is proposed for 730 cubic yards of excavation and 800 cubic yard of fill. All grading and excavation work would be subject to the review and approval of the Grading Permit (GP 11-002) issued by the Department of Public Works, Land Use and Water Resources Division, to ensure consistency with Marin County requirements.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of archaeological sensitivity. However, the moderate grading proposed adjacent to the septic tanks would not likely disturb cultural resources because most of the site has previously been disturbed. A project condition requires that in the event cultural resources are discovered during construction, all work shall be immediately stopped and the services of a qualified consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures.

E. Coastal Access:

The project is located more than ¼-mile inland of the Pacific Ocean at an elevation of approximately 180 feet and would not impede coastal access.

F. Housing:

The proposed project would not result in the removal of a residential building that provides housing opportunities for people of low or moderate income, and would not affect the availability of housing stock within the Muir Beach community.

G. Stream and Wetland Conservation Protection:

The project site is not located near a creek or in an area subject to the streamside conservation policies of the Local Coastal Program.

H. Dune Protection:

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

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is located in an area of sensitive wildlife resources. Also, review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is located adjacent to the habitat area for the federally listed endangered Monarch Butterfly (Danaus plexippus). However, the project will have a minimal impact to the habitat value of the known habitat area because it involves the repair of a small landslide a developed single-family residential site within the Seacape Subdivision.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare, threatened, or endangered plant species. In addition, the relatively small-scale project on previously disturbed property would not have an adverse impact on the habitat of native plant communities.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline, and the proposed project would not result in adverse affects to the shoreline. The project would not require additional shoreline protection.

L. Geologic Hazards:

The project site is located within 3 miles of the San Andreas Fault Zone and would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building Inspection Division will determine seismic compliance with the California Building Code. The property owner previously recorded a waiver of liability for construction of the residence and garage holding 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.

**M. Public Works Projects:**

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

**N. Land Division Standards:**

No land division is proposed as part of this project.

**O. Visual Resources:**

The project would repair a landslide in the previously developed portion of the property adjacent to the septic tanks, and would result in no adverse visual effects.

**P. Recreation/Visitor Facilities:**

The project site is governed by C-RA:B4 (Coastal, Residential Agricultural) zoning regulations that allows for a residential uses. The project would have no affect on recreation or visitor serving facilities.

**Q. Historic Resource Preservation:**

The existing residence on the subject property is not historically significant.

## **SECTION 2: ACTION**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Levin Coastal Permit Amendment application pursuant to Marin County Interim Zoning Code Section 22.56.130I. This Coastal Permit approval permits the repair of a small landslide 20 feet downslope of the residence and approximately 35 feet from the rear property line, 37 feet from the east side property line, and 145 feet from the west side property line. The Department of Public Works and the Community Development Agency concurred with the determination of Nersi Hemati, P.E., G.E., Consulting Soil Engineer that the slide repair work should occur before the rainy season to prevent impacts to the drainage facilities and neighboring residences downslope. Department of Public Works issued an emergency Grading Permit (GP 11-002) on October 17, 2011. The slide repair has been substantially completed with an estimated 730 cubic yards of excavation of the slide area and placement of 800 cubic yards of rock revetment with subdrains leading the existing drainage ditch.

## **SECTION 3: CONDITIONS OF PROJECT APPROVAL**

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Levin Coastal Permit Amendment application subject to the following conditions:

1. Plans submitted for a Grading Permit for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division, identified as Exhibit A, "Levin, 25 Ahab Drive, Muir Beach" consisting of six sheets prepared by ILS

Associates, Inc. dated 9/27/11, and two sheets prepared by Imprints Landscape Architecture, dated 12/27/09 and revised 9/25/11.

2. 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.
3. 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.
4. 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 the approval of the project, for which action is brought within the applicable statute of limitations.
5. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Department of Public Works, Land Use and Water Resources

6. All merits comments provide for the previous Coastal Permit project (PID 2010-0120) for the garage and driveway improvements shall carry over to this project.
7. A Grading Permit is required for the proposed grading repair work.
8. An Encroachment Permit is required for any work and/or equipment staging proposed within the Ahab Drive right-of-way.
9. BEFORE FURTHER REVIEW OF THE GRADING PERMIT, the applicant shall submit a cash deposit for the amount of \$12,500 to the Department of Public Works for the repair of the road along 25 Ahab Drive. Cash deposit will be used by DPW if the existing pavement section is determined to be damaged as result of slide repair project.

Marin County Environmental Health Services

10. Refer to the revised Sketch SK-1 by ILS Associates, dated 9/20/11, and letter dated 9/21/11 signed and stamped by Nersi Hemati, P.E. regarding setback requirements between sub drains and the septic tanks in the area of the slide repair. Ten feet lateral and 25 feet downslope.
11. Maintain a 5-foot setback between the driveway and the sand filter. Maintain a 5-foot setback between the garage and the sand filter.

**SECTION 3: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Levin Coastal Permit Amendment approval by substantially completing all of the approved work pursuant to Grading Permit (GP 11-002), before December 1, 2013, or all rights granted in this approval shall lapse unless the applicant applies for an extension at least 30 days before the expiration date and the Community Development Director approves it.


NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency, Planning Division, Room 308, Marin County Civic Center, San Rafael, no later than 4:00 p.m. on December 8, 2011.

**SECTION 4: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 1<sup>st</sup> day of December, 2011.

  
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JEREMY TEJIRIAN  
DEPUTY ZONING ADMINISTRATOR

Attest:

  
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Joyce Evans  
Deputy Zoning Administrator Secretary