



**STAFF REPORT TO THE MARIN COUNTY
DEPUTY ZONING ADMINISTRATOR**

Lee Coastal Permit, Use Permit and Second Unit Permit

RECOMMENDATION: **Approval with conditions**
HEARING DATE: **December 15, 2011**

Project ID No:	2011-0346	Applicant:	Jan T. Lee
Agenda Item:	1	Owners:	Louis and Jan Lee, Trustees
Last Date for Action:	January 9, 2012	Assessor's Parcel No:	102-130-04
		Property Address:	3875 Tomales-Petaluma Road, Tomales
		Project Planner:	Curtis Havel
		Signature:	

Countywide Plan Designation: C-AG2 (Coastal, Agriculture, 1 unit per 10 to 30 acres)
 Community Plan Area: None
 Zoning: C-ARP-20 (Coastal, Agricultural, Residential, Planned District, 1 unit per 20 acres maximum density)
 CEQA: The project is Categorical Exempt from CEQA pursuant to CEQA Guidelines Section 15303, Class 3 because it would not result in substantial grading, vegetation removal or other potential impacts to the environment.

PROJECT DESCRIPTION

The applicants and property owners, Louis and Jan Lee, are proposing to process apples harvested from the existing on-site organic apple orchard into apple cider, and to convert the existing 560 square foot detached guest house into a second unit.

The proposed processing facility would be approximately 300 square feet in size and would be located within the existing 1,650 square foot barn. The applicants are proposing to produce approximately 100 gallons of apple cider annually. The project does not include a proposal to hire additional staff to assist with the harvesting, processing and distribution activities. The cider is proposed to be sold at farmers markets and other local venues; no tasting facilities or retail sales area is proposed on the property. The cider is proposed to be "hard" and will have an alcohol content of approximately 5 to 6% (slightly less potent than beer).

PROJECT SETTING

The approximately 3.3-acre property is located just outside of the Tomales village area and outside of the Tomales Community Plan boundaries. Land uses in the immediate vicinity are primarily agricultural in nature and are supported by residential development. Development on the property represents the transitional nature from the sparsely populated ranchland in the surrounding area to the more densely developed area in the center of the village.

The project site descends gradually towards Tomales-Petaluma Road and is developed with the following agricultural and residential improvements: (1) an approximately 2,100 square foot single family residence; (2) an approximately 1,650 square foot barn; (3) a 556 square foot detached guest house; (4) an approximately 200 apple tree orchard (200 more are planned to be installed over the next two years); (5) a vegetable garden, aviary, herb garden and seed nursery; and (6) appurtenant improvements such as driveway, parking area, fences, well and septic system to serve the existing residential and agricultural uses. The existing improvements were approved in 2007 and have been built out consistent with that approval with the exception of 200 additional apple trees as noted above. The fruits and vegetables grown at AppleGarden Farms are certified organic. The crops produced on-site are sold at farmer's markets and local markets.

PROJECT ANALYSIS

The property owners, Jan and Louis Lee, are proposing to diversify the existing organic agricultural operation (AppleGarden Farm) by processing the apples grown on-site into a value-added product (hard cider). The applicant is proposing to produce approximately 100 gallons of cider annually. This figure represents a very low percentage of the total production potential as will be described in further detail below.

The existing apple orchard contains two hundred trees with plans to plant an additional 200 trees. A mature apple tree can produce from 75-100 pounds of apples per year. At full maturity, the orchard could be producing up to 40,000 pounds of apples annually.

Based on information provided by the applicant, approximately 15 pounds of apples will produce one gallon of juice. The production of 100 gallons of cider would represent 3.75 percent of the total apples harvested (or 1,500 pounds of apples). More than 96 percent of the apple harvest (or 38,500 pounds of apples) would remain to be sold at the market.

The project applicant has indicated that it is not their intention to grow the proposed operation into a larger production facility. However, the proposed project is so minor in its scope that staff has concerns that modest increases in growth may be inadvertently prohibited if a Use Permit were granted based on the proposed levels of production.

For matters of comparison, Ace Cider of Sebastopol (a medium-sized cider production facility) produces approximately 400,000 gallons of cider annually. The orchards at AppleGarden Farm could, at maximum, produce 2,600 gallons of cider annually. This level of production would still be considered a boutique production facility and likely not qualify even as a small-scale facility.

The recommended resolution contains conditions of approval that would allow for production levels up to 1,000 gallons of cider annually, additional staff of up to 5 individuals, and tastings by appointment only. These measures would enable the agricultural producers at AppleGarden Farm to respond to seasonal harvest demands, modest increases in production levels, and provide an opportunity for tasting and tours to occur on a limited basis. There is ample on-site parking to accommodate additional staff and guests. Finally, a 1,000 gallon tank is approximately 36 to 40 square feet in area and approximately 8 to 10 feet tall; adequate space is available on-site for additional storage tanks.

This project is consistent with the C-ARP zoning district and policies contained within the Marin Countywide Plan because it diversifies small-scale diversification (Policy AG-2.3) and keeps land in agricultural production (Policy AG-1.3). As discussed in the Marin Countywide Plan, the establishment of new agricultural operations has severely declined due to the high property values, and the difficulty in creating a profitable agricultural business.

This project reflects the current trend of agricultural producers in Marin County shifting towards value-added, boutique products. This trend enables small-scale producers to be profitable in a market where traditional agricultural activities are dominated by the massive industrial-agricultural operations of California's Central Valley. It is for these reasons that staff is recommending conditions of approval that would support potential future growth of this operation.

RECOMMENDATION:

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution approving the Lee Coastal Permit, Use Permit and Second Unit Permit based upon the findings and subject to the conditions contained in the attached Resolution.

Attachments:

1. Recommended Resolution approving the Lee Coastal Permit and Design Review
2. CEQA Categorical Exemption
3. Location Map
4. "Exhibit A", project plans
5. Project description entitled, "AppleGarden Farm," date stamped October 13, 2011

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION _____

A RESOLUTION APPROVING THE LEE COASTAL PERMIT, USE PERMIT
AND SECOND UNIT PERMIT
3875 TOMALES-PETALUMA ROAD, TOMALES
ASSESSOR'S PARCEL 102-130-04

SECTION I: FINDINGS

- I. WHEREAS the applicants and owners, Jan and Louis Lee, have submitted a Coastal Permit, Use Permit and Second Unit Permit application for a proposal to process apples harvested from the existing on-site organic apple orchard into apple cider, and to convert the existing permitted 556 square foot studio into a second dwelling unit. The 300 square foot storage and processing facility would be located within the existing 1,650 square foot barn. The applicants are proposing to produce approximately 100 gallons of "hard" (approximately 5-6% alcohol content) apple cider annually. The project does not include a proposal to hire additional staff to assist with the harvesting, processing and distribution activities. The cider is proposed to be sold at farmers markets and other local venues; no tasting facilities or retail sales area is proposed on the property. The zoning for this parcel is C-ARP-20 (Coastal, Agricultural, Residential, Planned District, 1 unit per 20 acres maximum density). The subject property is located at 3875 Tomales-Petaluma Road, Tomales, and is further identified as Assessor's Parcel 102-130-04.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 15, 2011 to consider the merits of the project, and hear testimony regarding the project. The Community Development Agency, Planning Division has provided public notice identifying the applicant(s), describing the project and its location, and giving the scheduled date of the public hearing in accordance with California Government Code requirements. This notice has been mailed to all property owners within 600 feet of the subject property and to interested parties and organizations.
- 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 15303 Class 3 because it would not result in substantial grading, vegetation removal or other potentially adverse impacts to the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan (CWP) for the following reasons:
 - A. The project would comply with the C-AG2 Coastal, Agricultural land use designation (*CWP Policy CD-8.5*).
 - B. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services.
 - C. The project is compatible with the rural agricultural character of the local community, results in small-scale diversification (*Policy AG-2.3*), and keeps land in agricultural production (*Policy AG-1.3*).

- D. The project is consistent with CWP natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*) because the project is located on a previously developed site and would not entail the removal of any mature, native trees or other vegetation.
 - E. The project would not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*) because no new construction is proposed, and a biological assessment provided by the project applicant for a previous project at the subject property verified that no special-status species of plants or animals were present at the property.
 - F. The project would not significantly impact the ecotones on the project site (*CWP Policies BIO-2.3 and BIO-2.4*) because the subject property is located far enough from the shoreline to avoid being constrained by ecotones.
 - G. No wetlands or stream conservation areas would be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*) because there are no wetlands or streams on or adjacent to the subject property.
 - H. The project would not result in significant storm water runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*) because the existing drainage system complies with the standards and best management practices required by the Department of Public Works.
 - I. The Marin County Fire Department has verified that development on the property is consistent with policies related to adequate fire protection (*CWP Policy EH-4.1*), water for fire suppression (*CWP Policy EH-4.c*), defensible space and compliance with Marin County fire safety standards (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structures (*CWP Policy EH-4.h*).
 - J. The project entails no new construction and thereby preserves the visual quality and protects scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin County Local Coastal Program Unit II and mandatory findings to approve the Coastal Permit application (Section 122.56.130 of Marin County Code) as specified below.

A. Water Supply:

Environmental Health Services staff has verified that the existing water system and the current oversized water storage capacity meet water demand requirements. Therefore, the project is consistent with this finding.

B. Septic System Standards:

The agricultural and residential land uses present at the property are served by an existing septic system approved by the Environmental Health Services Division. The existing system can accommodate the proposed project as verified by Environmental Health Services staff. Therefore, the project is consistent with this finding.

C. Grading and Excavation:

The project does not entail any grading or excavation. Therefore, the project is consistent with this finding.

D. Archaeological Resources:

The property is located in an area of project required no grading or soil disturbance and would not for the agricultural operations would also be minimal because the orchard would not require soil tilling. Therefore, the project is consistent with this finding.

E. Coastal Access:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

F. Housing:

The subject property is not governed by the C-VCR zoning district and would not result in the demolition of any housing. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection:

There are no streams or wetlands on or immediately adjacent to the subject property. Therefore, the project is consistent with this finding.

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 Plan. Therefore, the project is consistent with this finding.

I. Wildlife Habitat:

There are no special status animal species that have been identified in the area by the Natural Diversity Database, and the property lacks the wetland or riparian habitats that would generally be suitable for the widest diversity of special status animals.

J. Protection of Native Plant Communities:

The project site hosts an active agricultural operation in an agricultural zoning district. The applicant provided a biological assessment as part of a past project that verified special-status plant species were not present at the site. The project does not provide opportunities for reestablishment of native plant species either on or off the site. Therefore, the project is consistent with this finding.

K. Shoreline Protection:

The subject property is not adjacent to the shoreline and would not affect coastal access. Therefore, the project is consistent with this finding.

L. Geologic Hazards:

According to the information in the Marin County GIS provided by the USGS and State Division of Mines and Geology, the subject property is not within the Alquist-Priolo Zone, in close proximity to a mapped fault trace, or in an area of high shaking amplitude during an earthquake. Therefore, the project is consistent with this finding.

M. Public Works Projects:

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

N. Land Division Standards:

No Land Division or Lot Line Adjustment is proposed as part of this project. Therefore, the project is consistent with this finding.

O. Visual Resources:

The visual resources of the area will not be altered because no new construction is proposed as part of this project. Therefore, the project is consistent with this finding.

P. Recreation/Visitor Facilities:

The proposed project would have no effect on visitor or recreation facilities. Therefore, the project is consistent with this finding.

Q. Historic Resource Preservation:

The project site is not located within any designated historic district boundaries as identified in the Marin County Historic Study for the Local Coastal Plan. Therefore, the project is consistent with this finding.

VI. WHEREAS the Marin County Deputy Zoning Administrator finds that the project would be consistent with the mandatory findings for Use Permit approval (Section 122.82.020(3) of the Marin County Code) as discussed below.

The apple cider processing operation is allowed as a conditional use within the governing C-ARP-20 (Coastal, Agricultural, Residential, Planned District, 1 unit per 20 acres maximum density) zoning district, and is compatible with existing agricultural land uses on the subject and surrounding properties. The granting of the Use Permit consistent with project modifications contained within the conditions of approval will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located because the project exemplifies the type of development that reinforces the rural, agricultural character of the Tomales area and supports the diversification of agriculture in Marin County. The size and operating characteristics of the apple cider processing facility is compatible with and on a much smaller scale than agricultural land uses on the subject and adjacent properties. The conditions of approval will allow for production levels up to 1,000 gallons of cider annually, additional staff of up to 5 individuals, and tastings by appointment only. These measures will enable the agricultural producers at AppleGarden Farm to respond to seasonal harvest demands, have flexibility for modest increases in production levels, and provide an opportunity for tasting and tours to occur

on a limited basis by appointment only. The modifications will not adversely impact parking in the area because there is ample on-site parking to accommodate additional staff and guests. The allowance for elevated production levels will not alter the visual character of the site because adequate space is available within the existing operation to house a 1,000 gallon tank. Finally, the project is served by adequate on-site septic and water service, and will not result in significant noise or traffic impacts on the community. Based on these factors, the grant of this Use Permit would not be detrimental to the health, safety, morals, comfort, or welfare of persons residing in the surrounding community.

SECTION II: CONDITIONS OF APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Lee Coastal Permit, Use Permit and Second Unit Permit as modified by the conditions of approval listed below.

Community Development Agency – Planning Division

1. This Lee Coastal Permit, Use Permit and Second Unit approval allows the processing of apples harvested from the existing on-site organic apple orchard into apple cider, and the conversion of the existing permitted 556 square foot studio into a second dwelling unit. This approval allows for the production of up to 1,000 gallons of cider annually, the hiring of up to 5 staff, and tastings/tours by appointment only. Sales of product may take place during arranged tasting/tours. The subject property is located at 3875 Tomales-Petaluma Road, Tomales, and is further identified as Assessor's Parcel 102-130-04.
2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Louis and Jan Lee: AppleGarden Farm," consisting of 2 sheets prepared by Jan Lee, dated September 12, 2011 and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
3. 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 the Lee Coastal Permit, Use Permit and Second Unit Permit, for which action is brought within the applicable statute of limitations.
4. Any changes or additions to the project shall be submitted to the Community Development Agency (CDA) in writing for review and approval before the contemplated modifications may be initiated. Subject to written request by the applicant, the CDA may administratively authorize changes or additions to the project that are determined to be minor and consistent with the findings herein, including but not limited to levels of production, numbers of employees, and sources of apples for cider production. Activities that are incidental and accessory to the increased level of production operation approved herein are allowed on site within the existing buildings. Construction involving modifications that do not substantially comply with the approval, as determined by the CDA, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

Marin County Community Development Agency – Environmental Health Services Division

Sewage

5. The orchard plans must be revised to provide a minimum distance of ten feet from the sand of the mound septic system (and the mound septic system reserve area) to the drip line of any tree.

Food Establishment

6. The facility must possess a processed food registration permit from the California State Food and Drug Board as well as an alcohol production license from the California State Department of Alcoholic Beverage Control.

Water

7. The applicant shall apply and obtain a permit amendment to the domestic water system for the Second Unit.

Marin County Department of Public Works - Land Use and Water Resources Division

8. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to verify that the existing fire hydrant on-site is clearly accessible. The plans currently depict the parking space for the second unit located in front of the existing fire hydrant. The parking space may be relocated away from the hydrant, or the applicant can obtain verification in writing from the Marin County Fire Department that verifies the hydrant can be accessed if a vehicle is parked in the parking space in front of the hydrant.
9. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the plans to identify the detached second unit as a "Second Unit" and delete the reference to "Guest House (B&B)".

Marin County Fire Department

10. An automatic fire sprinkler system is required for the shop/barn (NFPA 13D) and the second unit (NFPA 13). Plans and calculations shall be submitted under permit with the Marin County Fire Department for review and approval.
11. Knox key access shall be installed conforming to Marin County Fire Department requirements.

SECTION III: VESTING AND APPEAL RIGHTS

NOW THEREFORE, BE IT RESOLVED that the applicant must vest this approval by obtaining a Building Permit or other construction permit, if required, for the approved work and substantially completing the improvements in accordance with the approved permits, and commencing the allowed use on the property, in compliance with the conditions of approval; by December 15, 2013, 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 I22.56.120 of the Marin County Code.

This Use Permit is subject to revocation procedures contained in Sections I22.88.040 and I22.88.045 of the Marin County Code in the event any terms of this approval are violated or if the uses are conducted or carried out in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood, or be detrimental to the public welfare or injurious to the property or improvements in the neighborhood, or if the uses are conducted in violation of the conditions of this permit. Failure to comply with any of the terms contained in this approval shall constitute grounds for revocation of this Use Permit.

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 December 22, 2011.**

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 15th day of December, 2011.

BENJAMIN BERTO, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
DZA Secretary