

**MARIN COUNTY DEPUTY ZONING ADMINISTRATOR**

**RESOLUTION 12-106**

**A RESOLUTION APPROVING  
THE KIRSCHMAN (TRIVELPIECE) COASTAL PERMIT**

**ASSESSOR'S PARCEL 188-100-35**

**5959 STATE ROUTE ONE, BOLINAS**

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**SECTION 1: FINDINGS**

- I. WHEREAS, Richard Kirschman, on behalf of Wayne and Susan Trivelpiece, proposes to obtain a Coastal Permit for a common domestic well (Well 2) constructed in 1987 that provides water to two single-family residences. The subject well provides water for a mutual water supply system to two existing residences at 5959 and 5963 State Route One, Bolinas. The County of Marin, Department of Health and Human Services, Environmental Health Services issued a "Permit to Operate Mutual Water Supply System" with this well in 1985. This permit to operate includes a provision that it is valid only after approval of a Coastal Permit for the well. The well is located 50 feet from the front (northeastern) property line and 60 feet from the side (northwestern) property line, approximately 310 feet from Copper Mine Creek and 100 feet from Cronin Creek. The subject property is within the C-ARP-5 zoning district and is located at 5959 State Route One, Bolinas, further identified as Assessor's Parcel 188-100-35.
- II. WHEREAS, the Marin County Deputy Zoning Administrator held a duly noticed public hearing on November 17, 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 continued the public hearing to an unspecified date and directed the application to prepare additional geotechnical studies based on exploratory trenches within the proposed Building Envelope, and to prepare driveway plans that would comply with the requirements of the Bolinas Fire Protection District.
- IV. WHEREAS, on January 12, 2012 Richard Kirschman submitted a formal written request withdrawing the Master Plan Waiver, Land Division, and Precise Development Plan application and amending the project to only proceed with the Coastal Permit application for existing Well 2.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, pursuant to Section 15301, Class 1(a) of the CEQA Guidelines because it entails the legalization of an existing well and mutual domestic water supply system for two single-family residences that would not result in depletion of water supply, grading, vegetation or tree removal, physical changes in any identified sensitive habitat area, or other potentially adverse impacts on the environment.

VI. 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 Interim Zoning Code) as described below

A. Water Supply:

The Community Development Agency, Environmental Health Services Division staff determined that a common water supply system can be approved for the as-built well and distribution system with minor upgrades for treatment facilities at the storage tank. The existing well and 4,200-gallon storage tank would be adequate to supply water to two single-family residences. Well testing for Well 2 documented pumping of 21 gallons per minute without drawdown of the water table. Conditions of approval will require an upgrade to the water system permit to indicate any treatment facilities that may be required to meet current standards.

B. Septic System Standards:

Marin County Environmental Health Services staff reviewed the proposed project and recommended approval with conditions of approval.

C. Grading and Excavation:

No grading or excavation is proposed.

D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. A Cultural Resources Study was completed in 2007 for the Buckenmeyer project that found no cultural resources on the previously proposed lot. The steep slope of the proposed lot is unlikely to have supported Native American habitation. However, no grading or site disturbance is proposed.

E. Coastal Access:

The project is located more than two miles inland of the Pacific Ocean and one mile from Bolinas Lagoon at an elevation of approximately 300 feet and would not impede coastal access.

F. Housing:

The proposed project would not result in the removal of a residential unit that would provide housing opportunities for people of low or moderate income. The project would not affect the availability of affordable housing within the Bolinas community.

G. Stream and Wetland Conservation Protection:

The project site is located along protected blue-line creeks -- Copper Mine Creek bisects the property, and approximately 50 feet of the northwest side of the property is within 100 feet of

Cronin Creek. The site also contains two constructed ponds that the National Wetlands Inventory identifies as Freshwater Ponds. While a complete delineation of hydric soil and hydrophytic vegetation was not prepared, the applicant mapped a 100-foot wetlands buffer around the edge of the ponds based on Section 404 of the Clean Water Act. The 100-foot creek buffer along Copper Mine Creek is also mapped on a Composite Constraints Map. The existing common driveway crosses Copper Mine Creek over a two culverts, permitted Well 1 is within the 100-foot creek buffer area, and as-built Well 2 was constructed in 1985 within the 100-foot wetland buffer area mapped. No fill is proposed within the mapped wetlands or the creek and no work is proposed within the buffer areas.

However, Well 2 is subject to a Coastal Permit and shall be evaluated for conformance with LCP Policy 18, "To the maximum extent feasible, a buffer strip, a minimum of 100 feet in width, shall be maintained in natural condition along the periphery of all wetlands as delineated by the Department of Fish and Game and in accordance with Section 30121 of the Coastal Act and with the criteria developed by the U.S. Fish and Wildlife Service. No uses other than those dependent upon the resources shall be allowed within the buffer strip." The wells and appurtenant facilities of the mutual water system are dependent on the water resources in the wetlands and are allowable as incidental public services within the wetland buffer pursuant to Section 30233(5) of the Coastal Act. Permitting the well to remain is the least environmentally damaging alternative because relocating it would entail additional ground disturbing activities.

It is noted that the mapped buffer is likely smaller than the buffer would be if based upon the United States Fish and Wildlife Service wetlands classification system, which defines wetlands based on one or more of the three attributes: 1) The land supports predominately hydrophytic vegetation; 2) The substrate is predominately undrained hydric soil; and 3) The substrate is saturated with water or covered by shallow water at some time during the growing season of each year. The construction of Well 2 occurred 27 years ago and additional disturbance of the site is not proposed or required for maintenance. The project would comply with the stream and wetland conservation protection 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 nine special-status wildlife species occurring in the project area including the Marin hesperian (*Vespericola marinensis*), Ricksecker's water scavenger beetle (*Hydrochara rickseckeri*), American Badger (*Taxidea taxus*), California black rail (*laterallus jamaicensis coturniculus*), black swift (*Cypeloides niger*), saltmarsh common yellowthroat (*Geothlypis jamaicensis coturniculus*), California red-legged frog (*Rana draytonii*), hoary bat (*Lasiurus cinereus*), and the northern spotted owl (*Strix occidentalis caurina*). The habitat associations for four of these species do not exist on the project site and the small-scale scope of the project would not adversely affect the existing habitat. However, there is

suitable habitat for Marin hesperian, Ricksecker's water scavenger beetle, American badger, California red-legged frog, and northern spotted owl, although none were observed during the biologist's field surveys. A saltmarsh common yellowthroat was observed in the study area, but no nests were located in the wetlands area. The beetle and semi-aquatic snail require very specialized wetlands of perennial seeps or shallow streams that would not be disturbed by the project. The project would not result in improvements that would impact wildlife habitat and the project would protect wildlife consistent with LCP policies.

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 may contain habitat for Marin manzanita (*Arctostaphylos virgata*) and the Coast yellow leptosiphon (*Leptosiphon croceus*). The Marin manzanita requires sandstone or granite outcroppings that are not located on the project site. The Coast yellow leptosiphon is plant found in Coastal bluff scrub and Coastal prairie that are not present on the project site. In addition, the project would not involve new work that would 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 entirely within the Earthquake Hazard Zone along the San Andreas Fault Zone and would be subjected to strong ground shaking during a proximate seismic event. The project would not involve new work or substantial improvements to the existing well and mutual domestic water supply system, and as a condition of project approval, the applicant shall execute and record a waiver of liability holding the County, other governmental agencies and the public, harmless of any matter resulting from the existence of geologic hazards.

M. Public Works Projects:

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

N. Land Division Standards:

A land division is not a part of this project.

O. Visual Resources:

The project would not involve new work or substantial improvements to the existing well and mutual domestic water supply system and would not affect visual resources.

P. Recreational/Commercial/Visitor Facilities:

The project site is governed by C-ARP-5 (Coastal, Agricultural Residential, Planned District) zoning regulations and would not affect the established character of the Bolinas village commercial area in the VCR zoning district. The project would have no effect on recreation, commercial, or visitor facilities.

Q. Historic Resource Preservation:

The property is not located within the boundaries of the Bolinas Historic District and no historic resources would be affected by the project.

## SECTION 2: ACTION

NOW, THEREFORE, LET IT BE RESOLVED, that the Deputy Zoning Administrator approves the Kirschman Coastal Permit application pursuant to Marin County Interim Coastal Zoning Code Section 22.56.130I. This Coastal Permit approves the as-built common domestic water supply well (Well 2) on a 10-acre lot.

## SECTION 3: CONDITIONS OF PROJECT APPROVAL

1. The County of Marin Deputy Zoning Administrator approves the Kirschman (Trivelpiece) Coastal Permit (Project ID 2009-0377) pursuant to Marin County Interim Zoning Code Section 22.56.130I (Coastal Permit) for a domestic water supply well (Well 2) that was drilled in 1987 on a 10-acre lot. The existing well is located 50 feet from the front (northeast) property line and 60 feet from the side (northwest) property line and provides water for a mutual domestic water supply system to two single-family residences at 5959 State Route One and 5963 State Route One. The subject property is located at 5959 State Route One, Bolinas and is further identified as Assessor's Parcel 188-100-35.
2. Except as modified herein, plans submitted for a Water Permit Amendment for the approved project shall substantially conform to plans on file in the Marin County Community Development Agency (CDA), Planning Division, identified as Exhibit A, "Lands of Kirschman, Site Plan", consisting of one sheet prepared by ILS Associates, Inc., Civil Engineering and Land Surveying, date stamped received March 19, 2012.
3. The applicant shall apply for a Water Permit Amendment within 60 days of this project approval and shall diligently pursue said Amendment to approval within 180 days of this project approval.
4. BEFORE ISSUANCE OF A WATER PERMIT AMENDMENT, the applicant shall record a Waiver of Public Liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic actions associated with the San Andreas Fault through the property. The Waiver of Public Liability shall be submitted to the Community Development Agency Director for review and approval before recordation.
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, shall be halted until proper authorization for the modifications are obtained by the applicant.

Marin County Environmental Health Services: Water Supply

6. BEFORE ISSUANCE OF A WATER PERMIT AMENDMENT, the applicant shall submit a water treatment proposal plan to install water treatment equipment in the form of filtration and disinfection.

**SECTION 4: VESTING AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Kirschman (Trivelpiece) Coastal Permit (Project ID 2009-0377) approval by obtaining a Water Permit Amendment before March 29, 2014, 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 Agency 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 April 5, 2012.

**SECTION 5: DECISION**

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 29<sup>th</sup> day of March, 2012.

  
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JEREMY TEJIRIAN  
DEPUTY ZONING ADMINISTRATOR

Attest:

  
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Joyce Evans  
Deputy Zoning Administrator Secretary