

**1. COASTAL PERMIT, SUBDIVISION AND DESIGN REVIEW AMENDMENTS:  
(Project I.D. 2011-0342): BAR-OR (HOPPE) SG**

The subject property is located at **11815 State Route One, Point Reyes Station**, and is further identified as **Assessor's Parcel 119-182-26**.

On December 15, 2011, after a request was made by the applicant, the Deputy Zoning Administrator continued the Bar-Or Coastal Permit and Design Review Extension until March 1, 2012. The applicant subsequently requested another continuance beyond the March 1, 2012 date. The continuances were needed in order for the applicant to consider modifications to the application.

As staff noted in its staff report for the December 15, 2011 hearing, the Use Permit allowing the construction of the affordable unit was not vested and expired on December 14, 2009. The second residence on the subject lot, which was linked to the Coastal Permit and Design Review extensions in perpetuity inclusionary housing requirement. This would be accomplished through deed restriction of a new unit on one of the newly created lots, based on an agreement reached between the owner and the County. The previously approved two units, one of which was affordable in perpetuity through deed restriction, required Coastal Permit and Design Review approval. The Coastal Permit and Design Review approvals however do not act as an extension to the Use Permit, which permitted the second residence to be constructed onsite.

Since the Use Permit has expired, the condition of approval for satisfying the affordable housing requirement remains outstanding, and it would be inappropriate to consider a time extension for both units. Subsequent to the December 15, 2011 public hearing before the Deputy Zoning Administrator, the applicant submitted a request to amend the Coastal Permits (06-10 and 10-5), Subdivision (06-1), and Design Review (10-15) by satisfying the condition of approval governing the affordable housing unit by designating an off-site residence to a deed-restricted affordable rental unit in perpetuity. This change will require an amendment to the conditions of approval from the original Coastal Permit and Subdivision approvals, which required that the affordable unit be constructed on one of the newly created lots.

The Deputy Zoning Administrator (DZA) 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 supplemental memorandum dated March 27, 2012, from Bridger Mitchell, regarding a prior subdivision and the affordable housing issue.

The public testimony portion of the hearing was opened.

The applicant/owner, Bruce Berman, representing Cheryl and Gail Bar-Or, spoke regarding the favorable elements of the project, including the following:

- An agreement drawn up with their attorneys in negotiating with the County, for an alternative site for the affordable unit that is now complete;
- Intention to submit a letter shortly stating that the affordable housing work has been completed; and
- Intention to provide a \$50,000 line of credit in case any issues come up regarding the affordable unit renovation, to remove the uncertainty of the financing agreement

Members of the public objecting to the project included: Bridger Mitchell, Kim Thompson, CLAM of West Marin, and Michael Mery.

Detrimental elements of the project were noted by members of the public, including the following:

March 29, 2012

DZA Minutes Bar-Or

Detrimental elements of the project were noted by members of the public, including the following:

- The owners actions and the lawsuit;
- Financing feasibility;
- Only one dwelling allowed on any lot in the zoning district;
- Owner has not yet vested the permits;
- A deed restriction needs to be in perpetuity;
- Two lots were already sold that would provide money for financing and the delay should have been unnecessary;
- The original required location on Viento Way is a preferable location for the affordable housing;

It was noted that the County was close to finalizing an agreement for an affordable unit in perpetuity.

The public testimony portion of the hearing was closed.

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

- Support of the proposed amendments via the Conditions of Approval;
- Assurance in writing from all parties involved that the affordable unit is near completion;
- The approval shall not be vested until the applicant enters into the amended agreement; and
- The agreement shall occur within 60 days.

The Deputy Zoning Administrator (DZA) approved the project with the following modifications to the project:

- Add Condition of Approval 4: "Within 60 days of this decision, an Amended and Restated Affordable Rental Housing Agreement shall be finalized between the County and the applicant, and recorded. No less than 10 days before the expiration date, the applicant may apply in writing for an extension, which may be granted by the Community Development Director if the applicant can show that he has acted in good faith to comply with the conditions and terms and that circumstances beyond his control have resulted in not being able to meet the deadline.";
- SECTION IV: VESTING AND APPEAL RIGHTS: "The applicant must also vest the Bar-Or Coastal Permit and Design Review approval by complying with all conditions of approval, obtaining Building Permits for the approved work, and substantially completing approved work 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 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 and 22.82.130I of the Marin County Code.

The Deputy Zoning Administrator (DZA) concurred with staff's findings and conditions of approval in the Resolution, and approved the Bar-Or (Hoppe) Coastal Permits, Subdivision and Design Review Amendments.

The Deputy Zoning Administrator (DZA) informed all parties of interest that this action may be appealed to the Marin County Planning Commission within five (5) working days.