

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 12-117  
A RESOLUTION APPROVING THE PACIFIC RESIDENTIAL LLC LAND DIVISION  
571 MCCLAY ROAD, NOVATO  
ASSESSOR'S PARCEL 146-180-46

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**SECTION I: FINDINGS**

- I. WHEREAS, WHEREAS, The applicant is requesting Land Division approval to divide a 3.24 acre lot into a 1.24-acre lot (identified on the submitted plans as Parcel 2) and two 1-acre lots (Parcels 1 and 3), respectively. Parcels 1-3 are proposed to be accessed by an existing driveway coming off McClay Road which extends through Parcel 2. The driveway is to be improved to become a 30-foot wide (20-foot paved) roadway, drainage, and utility easement.

The applicant has identified an existing metal barn (crossing proposed Parcels 1 and 2), a horse stall (Parcel 2), and an existing "building structure" (Parcel 2) for removal. The existing residence and garage on proposed Parcel 1 is to remain. The building envelopes for all three lots are different than those required for the A-2:B-4 zoning district, which is 30 feet in the front, 20 feet on the sides, and 20% of the lot depth to a maximum of 25 feet in the rear.

The applicant has identified a 16,504 square foot building envelope on Parcel 1. The building envelope encompasses an area with the following setbacks: 1) 55 foot northerly front; 2) 25 foot southerly rear; 3) 20 foot easterly side, and 4) a 40 foot westerly side setback.

Parcel 2 has a 17,626 square foot building envelope which includes setbacks of: 1) 30 feet from the proposed 50 foot wide roadway, drainage, and utility easement at the easterly front of the property; 2) 35 feet on the southerly side; 3) 20 feet on the northerly side; and 4) 25 feet from westerly rear property line.

Parcel 3 has a 12,727 square foot building envelope which includes setbacks of: 1) 30 feet from southerly front; 2) 25 feet from the North Marin Water District pipeline easement along the northerly rear; 3) 25 feet from the proposed Novato Sanitary District access and utility easement along the easterly side; and 4) 100 feet from the westerly rear property line.

The subject property is located at **571 McClay Road in Novato** and is further identified as **Assessor's Parcel 146-180-46**.

- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly-noticed public hearing November 29, 2012, 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 both exempt from the requirements of the California Environmental Quality Act, per Section 15061(b)(3) and otherwise Categorically Exempt per Section 15315, Class 15 of the CEQA Guidelines because it entails a minor land division that would have no adverse impact on the environment.
- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Marin Countywide Plan for the following reasons:
  - A. The project would be consistent with the SF3 (Single Family, 1 dwelling unit per 1-5 acres) land use designation;
  - B. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.
  - C. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.
  - D. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.
  - E. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.
  - F. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.
  - G. The project is consistent with CWP earthquake reduction policies (CWP Policies EH-2.1, EH-2.3, and CD-2.8) because all future residences would be constructed in conformance with County earthquake standards, as verified during review of the Building Permit application and the subject property is not constrained by unusual geotechnical problems, such as existing fault traces.
  - H. The project is consistent with CWP fire hazard management policies (EH-4.1, EH-4.2, EH-4.5) because it will meet all fire safety requirements, as verified by the local fire protection district during review of the Building Permit application.
  - I. The project is consistent with CWP aesthetic policies and programs (DES-4.1 and DES-4.e) because it would protect scenic quality and views of ridgelines and the natural environment from adverse impacts related to development.

- J. The project is consistent with CWP residential design policies and programs (HS-2.1, HS-2.2, HS-2.3, DES-3.1, and DES-3.b) because the lots fit within the context of the neighborhood.
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent land use policies of the Indian Valley Specific Plan because per Policies 3.1.1 and 3.1.2 it creates new lots which meet the minimum lot area required by the zoning, along with considerations of existing slope, and also maintains the rural lot sizes found within the surrounding community.
- VII. Whereas, the Marin County Deputy Zoning Administrator finds that the Mandatory Findings for a Design Review per Section 22.84.060 of the Marin County Zoning Code can be made. The proposed project is within the intent and objectives for a Tentative Map, based on the following findings:

In order to approve a Tentative Map and conditions of approval, the Review Authority shall first make the following findings. In determining whether to approve a Tentative Map, the Review Authority shall apply only those ordinances, policies, and standards in effect at the date the Agency determined that the application was complete in compliance with Section 22.40.050 (Initial Application Review), except where the County has initiated Marin Countywide Plan, Community Plan, or Development Code changes, and provided public notice as required by Map Act Section 66474.2.

**A. A Tentative Map shall be approved if the following findings can be made for each proposed parcel as well as the entire subdivision, including any parcel designated as a remainder in compliance with Map Act Section 66424.6.**

**1. The proposed subdivision including design and improvements is consistent with the Marin Countywide Plan and any applicable Community Plan or Specific Plan.**

The project is consistent with the goals and policies of the Countywide Plan and Indian Valley Specific Plan because it would create two additional residential lots within the City-Centered Corridor consistent with existing low density residential development in the vicinity without adversely impacting natural resources or disrupting existing public services for water supply, fire protection, waste disposal, schools, traffic, circulation or other services. The proposed project would not result in substantial grading or tree removal, or other adverse impacts on the environment consistent with Environmental Hazards and Community Development element policies of the Countywide Plan. The Pacific Residential LLC Tentative Map is a 3-lot land division of a 3.24-acre lot. The proposed lots meet the minimum lot standards

**2. The site is physically suitable for the type and proposed density of development.**

The Pacific Residential LLC Tentative Map is a 3-lot land division of a 3.24-acre lot that is consistent with the Marin Countywide Plan land use designation of SF3, Single Family, 1 unit per 1 acre to 5 acres. As noted above in Section I: Findings, subsections IV, V, and VI(A)((1)), the proposed project complies with the SF3 policies of the General Plan and the Indian Valley Specific Plan. The resultant density would be 1 unit per 1.08 acres – consistent with the density range. Overall, the project is

consistent with the goals and policies of the Countywide Plan because it would create two additional residential parcels within the City-Centered Corridor, consistent with existing low density residential development in the vicinity without adversely impacting natural resources or disrupting existing public services for water supply, fire protection, waste disposal, schools, traffic, circulation or other services. Finally, the proposed project, based on the new lots' physical characteristics would not result in substantial grading or tree removal, or other adverse impacts on the environment, consistent with Environmental Hazards and Community Development Element policies.

- 3. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or injure fish or wildlife or their habitat.**

The design of the land division is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife. The Biological Assessments prepared by Clinton Kellner, Biologist with LSA Associates indicate that the project would not result in significant impacts. The proposed project would protect the environment by minimizing grading and tree removal.

An Archaeological Assessment prepared by Sally Evans, Archaeologist with Archaeological Resource Services, in conjunction with the Native American Heritage Commission, also found the proposed project to have no impact on cultural resources.

- 4. The design of the subdivision and type of improvements is not likely to cause serious public health or safety problems.**

The design of the land division and proposed improvements are not likely to cause serious public health problems because the proposed project would result in the installation of access and drainage improvements to the three properties. Finally, conditions of approval require the applicant to comply with fire safety, access, water and sanitary service standards as required by the Novato Sanitary District, the North Marin Water District, the Novato Fire Protection District, the Environmental Health Services Division, and the Department of Public Works.

- 5. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large for access through or use of property within the proposed subdivision. This finding may be made if the Review Authority finds that alternate easements for access or use will be provided, and that they will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record, or to easements established by judgment of a court of competent jurisdiction, and no authority is hereby granted to the Review Authority to determine that the public at large has acquired easements of access through or use of property within the proposed subdivision.**

The proposed land division includes a new 30 foot access easement, which extends along the existing driveway through the property which is used to access the lot through 'Parcel 2'. This easement will be used to access the three newly created lots. The proposed land division will also include a new 15 foot wide access and utility easement in favor of the Novato Sanitary District on 'Parcels 1 and 3' and a 50 foot wide roadway, drainage, and utility easement on 'Parcel 2'. The proposed easements do not extend beyond the existing property or proposed lots. As proposed, the design of the land division would not conflict with any easements for access or use of the property within the proposed land division.

- 6. The proposed subdivision is consistent with the Subdivision Design Standards contained in Chapter 22.82 of this Development Code, all other applicable provisions of this Development Code, and any other applicable provisions of the County Code, and the Map Act.**

The proposed Pacific Residential LLC Land Division would be consistent with the Subdivision Design Standards and all other relevant provisions of the Development Code because it meets the minimum lot size requirements of the SF3 land use designation and also the minimum lot standards outlined for new lots with less than a 10% slope in Indian Valley. The land division, prior to recordation, shall also comply with the standards outlined by Title 24 for roads, driveways, and utilities.

- B. Supplemental findings. In addition to the findings required for approval of a Tentative Map by Subsection A. above (Required Findings for Approval), the following findings are also required when they are applicable to the specific subdivision proposal.**

- 1. It is in the interest of the public health and safety, and it is necessary as a prerequisite to the orderly development of the surrounding area, to require the construction of road improvements within a specified time after recordation of the Parcel Map, where road improvements are required (see Section 22.82.080 (Roads, Sidewalks, Pathways, Driveways)).**

The land division will include improvements to the existing driveway to meet County standards for access to these three new lots. These standards are enforced by the Department of Public Works and the dedication of the access easement will be required prior to map recordation. The paving of the roadway will also be required prior to issuance of a building permit. In addition, a maintenance agreement will be required prior to map recordation.

- 2. Any findings required by Sections 22.88.030 (Condominium Conversions) for condominium conversions.**

The land division does not involve the creation or conversion of apartments into condominiums.

## SECTION II: ACTION

WHEREAS the Marin County Deputy Zoning Administrator hereby approves the Pacific Residential LLC Land Division subject to the conditions of approval listed below. This approval authorizes the division of a 3.24 acre lot into a 1.24-acre lot (identified on the submitted plans as Parcel 2) and two 1-acre lots (Parcels 1 and 3), respectively. Parcels 1-3 shall be accessed by an existing driveway coming off McClay Road which extends through Parcel 2. The driveway shall be improved to become a 30-foot wide (20-foot paved) roadway, drainage, and utility easement.

The existing metal barn (crossing proposed Parcels 1 and 2), a horse stall (Parcel 2), and an existing "building structure" (Parcel 2) shall be removed. The existing residence and garage on Parcel 1 shall include a 16,504 square foot building envelope. The building envelope shall encompass an area with the following setbacks: 1) 55 foot northerly front; 2) 25 foot southerly rear; 3) 20 foot easterly side, and 4) a 40 foot westerly side setback.

Parcel 2 shall include a 17,626 square foot building envelope. The building envelope shall encompass an area with the following setbacks: 1) 30 feet from the proposed 50 foot wide roadway, drainage, and utility easement at the easterly front of the property; 2) 35 feet on the southerly side; 3) 20 feet on the northerly side; and 4) 25 feet from westerly rear property line.

Parcel 3 shall include a 12,727 square foot building envelope. The building envelope shall encompass an area with the following setbacks: 1) 30 feet from southerly front; 2) 25 feet from the North Marin Water District pipeline easement along the northerly rear; 3) 25 feet from the proposed Novato Sanitary District access and utility easement along the easterly side; and 4) 100 feet from the westerly rear property line.

The subject property is located at **571 McClay Road in Novato**, and is further identified as **Assessor's Parcel 146-180-46**.

## SECTION III: CONDITIONS OF APPROVAL

### CONDITIONS OF APPROVAL

#### Community Development Agency – Planning Division

1. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "TENTATIVE PARCEL MAP FOR PACIFIC RESIDENTIAL LLC LAND DIVISION," consisting of eight sheets prepared by Richard Souza, Civil Engineer, with CSW/Stuber-Stroeh Engineering Group, Inc., dated and received July 23, 2012, with revisions received August 21, 2012, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.
2. BEFORE FILING AN APPLICATION FOR PARCEL MAP APPROVAL WITH THE DEPARTMENT OF PUBLIC WORKS, the applicant shall obtain conforming tentative map approval from the Planning Division through submittal of a plan check application. The conforming tentative map must be in substantial conformance with Exhibit A, including, but not necessarily limited to, the proposed lot lines, building envelopes, access, and easements. Conforming tentative map data and form must be in compliance with provisions of Chapter 22.86 of Marin County Code. Information and fees related to

condition compliance shall be submitted with the conforming tentative map plan check application. Subsequent to approval of the conforming tentative map, the applicant shall obtain approval to record a Parcel Map.

3. BEFORE RECORDATION OF THE PARCEL MAP AND APPROVAL OF THE CONFORMING TENTATIVE MAP, the following items must be submitted to the Community Development Agency, Planning Division:
  - a. Verification from the Novato Sanitary District or LAFCO that all three lots have been incorporated into the Novato Sanitary District.
  - b. Verification from the County of Marin Community Development Agency, Environmental Health Services Division, which confirms that, following annexation into the Novato Sanitary District, the septic system serving the existing residence has been properly abandoned.
  - c. Verification from Pacific Gas and Electric, which confirms that all required legal, financial, easements, contracts, and construction agreements have been applied for and completed to provide underground power lines serving the approved lots.
  
4. BEFORE RECORDATION OF THE PARCEL MAP AND APPROVAL OF THE CONFORMING TENTATIVE MAP, the applicant shall submit to the Department of Parks and Open Space, a park fee in-lieu of land dedication for future park improvements. The fees shall be determined in accordance with the provisions of Marin County Development Code Section 22.98.040 (Parkland Dedication and Fees) that provide the formula for determining the in-lieu fee based upon the fair market value of land that would otherwise be required for dedication, plus 20 percent toward costs of off-site improvements.
  
5. BEFORE RECORDATION OF THE PARCEL MAP AND APPROVAL OF THE CONFORMING TENTATIVE MAP, the applicant shall either dedicate one of the newly created lots or pay an in-lieu affordable housing fee, as required pursuant to the Marin County Development Code.
  
6. BEFORE RECORDATION OF THE PARCEL MAP AND APPROVAL OF THE CONFORMING TENTATIVE MAP, The applicant shall identify a street name for the new roadway extending from McClay Road. The new roadway, name, and signage shall meet County street standards, pursuant to MCC§24.04.210 and §24.04.220, and subject to approval by the Department of Public Works.

Unless a public emergency services provider recommends otherwise or unique circumstances necessitate a change, street addressing for the approved lots shall be as follows:

<b>Lot</b>	<b>Street Address</b>
Parcel 1	20 <i>[Street name to be determined]</i>
Parcel 2	40 <i>[Street name to be determined]</i>
Parcel 3	60 <i>[Street name to be determined]</i>

7. BEFORE ISSUANCE OF A BUILDING PERMIT, to implement improvement plans for the subdivision, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Land Division conditions of approval as notes.
8. 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.
9. 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.
10. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.
11. The Pacific Residential LLC Land Division Tentative Map approval must be vested with the recordation of the required Parcel Map in compliance with all conditions of approval within three years after the date the Tentative Map is conditionally approved by the County of Marin. A timely filing is made when all parties having record title interest in the real property submit written consent, and a fully executed Mylar complying with all conditions of approval, including executed versions of all required agreements and paying



all required fees, are submitted to the County Surveyor. The Community Development Agency Director may administratively authorize extensions to this mandatory vesting period upon written request by the applicant and payment of the appropriate extension fee for a period not to exceed an aggregate of six years beyond the expiration date. Extension of the Land Division Tentative Map approval may also be permitted pursuant to applicable State laws.

12. 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 this application, for which action is brought within the applicable statute of limitations.
13. 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.

#### Community Development Agency – Environmental Health Services

14. BEFORE RECORDATION OF THE PARCEL MAP AND APPROVAL OF THE CONFORMING TENTATIVE MAP, the applicant shall provide to the Environmental Health Services Division a copy of the approval letter concerning annexation and Novato Sanitary District's willingness to connect future structures on the proposed lots. In addition, the applicant shall obtain a permit through EHS to properly abandon the existing septic tank serving the existing residence.

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

15. BEFORE RECORDATION OF THE PARCEL MAP, the applicant shall submit a Parcel Map to DPW for review and approval. The Parcel Map shall be prepared in accordance with the Subdivision Map Act and MCC Title-22.
16. BEFORE RECORDATION OF THE PARCEL MAP, the project sponsor shall submit a maintenance agreement to be reviewed and approved by Department of Public Works (DPW) staff. The agreement shall include maintenance responsibilities of the owners for the roadway and drainage improvements by the properties for which the roadway serves. DPW has a sample maintenance agreement available upon request.
17. CONCURRENT TO RECORDATION OF A PARCEL MAP, the applicant shall record a DPW-approved roadway maintenance agreement.
18. CONCURRENT TO RECORDATION OF A PARCEL MAP, All deeds affected by this Land Division shall be revised to include new and re-described easements.
19. BEFORE ISSUANCE OF A BUILDING PERMIT OR GRADING PERMITS, the Parcel Map and all easements associated with this Land Division shall be recorded.
20. BEFORE ISSUANCE OF A BUILDING PERMIT, the access roadway improvements shall be completed prior to any residential building permit(s) for the proposed parcels.

21. BEFORE ISSUANCE OF A BUILDING PERMIT, an Encroachment permit shall be required for improvements constructed in the McClay Road right-of-way (ROW).
22. BEFORE ISSUANCE OF A BUILDING PERMIT, the fire truck turnaround at the head of the 30-foot access easement shall be designed and constructed to County standards pursuant to MCC§24.04.150.
23. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the Grading Notes on Sheet C5 to cite the most current County Construction Standards of May 2008.
24. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall provide an erosion and sediment control plan to accompany the roadway improvement plans.

#### **SECTION IV: VESTING, PERMIT DURATION, AND APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Pacific Residential LLC Land Division by filing a Parcel Map before **December 13, 2015**, 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 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 28, 2012**.

#### **SECTION V: ACTION**

PASSED AND ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 13<sup>th</sup> day of December, 2012.



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BEN BERTO  
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:



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Joyce Evans  
DZA Secretary