

# Marin County Community Development Agency

Alex Hinds, Director

## STAFF REPORT TO THE PLANNING COMMISSION

### MORITZ MASTER PLAN WAIVER, COASTAL PERMIT, DESIGN REVIEW AND USE PERMIT

No.:	7.	Application Nos.:	CP 04-26/UP 04-26/DR 04-56
Applicant:	Fernau and Hartman, Architects	Owners:	Michael Moritz and Harriet Heyman
Property Address:	5675 Horseshoe Hill Road, Bolinas	Assessor's Parcel:	188-090-13
Hearing Date:	August 23, 2004	Planner:	Johanna M. Patri, AICP Senior Planner

**RECOMMENDATION:**

**Approve with Conditions**

**APPEAL PERIOD:**

**Five Working Days to the Board of Supervisors**

**LAST DATE FOR ACTION:**

**August 23, 2004**

## SUMMARY RECOMMENDATION

Staff recommends that the Planning Commission approve the Moritz Master Plan Waiver, Coastal Permit, Use Permit, and Design Review applications subject to recommended conditions of approval. Special conditions specifically related to the project would: (a) ensure that the agricultural worker housing unit is maintained in perpetuity as a living unit for agricultural workers in Marin County; (b) provide permanent protection and preservation of potential agricultural lands and the oak woodlands; and (c) protect the natural resources and stream conservation area associated with Pine Gulch Creek. (*Refer to Special Conditions 22 - 24.*)

## PROJECT DESCRIPTION

The applicant, Fernau and Hartman, Architects, on behalf of the property owners, Michael Moritz and Harriet Heyman, is proposing to construct a new 2,996 square foot single-family residence with an approximately 1,230 square feet of porch area and a 979 square foot detached garage and storage structure on a oak woodland knoll upslope and south of the existing development on the 84.33-acre subject property. A new approximately 660-foot long driveway off the existing driveway will provide access to the proposed building site, located approximately 800 feet west of the front (eastern) property line and the existing entrance off Horseshoe Hill Road. The project includes construction of improvements to the existing driveway such as turnouts for emergency vehicles.

The proposed residence, sited approximately 300 feet from the existing historic residence, would have a maximum height of 25 feet above natural grade. The proposed garage, sited 50 feet east of the proposed residence, would have a maximum height of 22.16 feet above natural grade through section and 25 feet at the downslope elevation. Exterior finishes consist of wood cedar siding stained soft, neutral greens, ochres, and amber colors, and an oxidized copper metal roof.

The applicant also is proposing to legalize and convert to agricultural worker housing an existing "as-built" 1,500 square foot single-family residence located off the existing driveway east of the historic development on the subject property. In addition, the applicant is proposing to convert the existing, 1,200 square foot primary single-family residence to a guesthouse by removing the kitchen. The applicant is proposing to demolish two existing guest houses: (a) a 400 square foot structure southwest of the agricultural worker housing unit; and (b) a 420 square foot structure east of the proposed guest house. (The resultant existing and proposed total floor area of development is shown in Table One on Page 11.)

The proposed new residence will be served by construction of an on-site mound sewage disposal system located down slope and east of the proposed residential site and two 10,500-gallon water storage tanks north of the new residential site. The existing development will be served by construction of a new on-site sewage disposal system located at the lower portion of the property. All development and some of the agricultural uses will be served by an on-site existing well. The remainder agricultural uses will be served by an off-site spring on lands owned by the Bolinas Community Public Utility District with use granted by an easement serving the subject property. The proposal does not include the withdrawal or use of water from Pine Gulch Creek.

The property owners propose to continue the existing cattle grazing operation, owned and managed by the current ranch manager who also occupies the agricultural worker residence. The owners propose to convey to the County an Agricultural Conservation and Production Easement and Declaration of Restrictions over an identified "Agriculture Production Zone" to: (a) provide permanent preservation of potential agricultural lands; and (b) restrict and maintain in perpetuity the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by farm workers in Marin County who are actively engaged in the production of agriculture.

The property is currently subject to the provisions of Land Conservation Contract No. 15313 (Williamson Act) entered into with the County on May 14, 1971.

## **GENERAL INFORMATION**

CWP Land Use Designation:	C-AG1 (Coastal, Agriculture, one primary dwelling unit per 30 to 60 acres)
Zoning:	C-APZ-60 (Coastal, Agricultural Production Zone, Planned District, one primary dwelling unit per 60 acres maximum density)
Total Lot Size:	84.33 acres
Adjacent Land Uses:	Agriculture, residential, Bolinas Community Public Utility District lands, and the Point Reyes National Seashore Parklands
Vegetation:	Introduced landscaping around existing development, grassland pastures, chaparral, and Coastal live oak woodlands and understory vegetation
Topography and Slope:	Gentle to medium slopes throughout the project site and steep slopes at the southwest (rear) property boundary
Environmental Hazards:	The subject site is located within the western boundary line of the San Andreas Fault Zone, approximately 1,500 feet from the 1906 fault rupture.

## **ENVIRONMENTAL REVIEW**

As recommended for approval with conditions, the Marin County Environmental Coordinator has determined that this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 (a) of the CEQA Guidelines because the project entails: (a) construction of a new single-family residence; (b) the legalization of an existing "as-built" single-family residence to be used as agricultural worker housing; and (c) conveyance to the County of an Agricultural Conservation and Production Easement, which provides permanent preservation of potential agricultural lands within the coastal agricultural production zone such that the project will not result in any potentially significant impacts on the environment.

All development and agricultural use of the property will be located outside of the County required 100-foot wide Stream Conservation Area along Pine Gulch Creek. The project requires minimal tree removal (one California

bay laurel, three Coast live oaks), grading (780 cubic yards of cut and 630 cubic yards of fill), and site disturbance (approximately 1.25 acres).

The Preliminary Geotechnical Evaluation, prepared by SalemHowes Associates that logged 15 test borings to the depth of the siltstone bedrock, ranging between three and four feet below the topsoil layer, and reviewed by the Department of Public Works (DPW) staff, concludes that construction of the proposed residential development and new driveway is feasible from a geotechnical standpoint. The project is exempt from the provisions of the Alquist-Priolo Earthquake Fault Zoning Act per Section 2621.6 (2) (a and b) because the proposal consists of the construction and legalization of two single-family, wood-frame residences, not exceeding two stories in height, and before issuance of a building permit requires submittal of a final soils stability report to be reviewed by the DPW staff. Standard Marin County Community Development Agency - Building Inspection regulations require that the structures be designed to withstand moderate to strong ground shaking associated with a moderate to intense earthquake in accordance with seismic safety regulations of the County adopted building codes.

During the building permit process, building permit plans will be reviewed by DPW staff to verify that design elements conforming to the Bay Area Stormwater Management Agencies Association, "Start at the Source Design Guidance Manual for Stormwater Quality Protection" have been incorporated into the approved project. In addition, County DPW standards will require that final drainage and grading plans be designed in accordance with the recommendations contained in the final soils stability report and the provisions of Marin County Code, Title 24.

The Marin County Environmental Health Services (EHS) staff preliminary has approved the location and design for construction of an on-site sewage disposal system to serve the new residence and one to serve the existing development. DPW and the Bolinas Fire Protection District (BFPD) staffs have approved the new driveway design and improvements to the existing driveway. The Marin County Agricultural Advisory Committee, which acknowledges the limited agricultural value of the property, has reviewed the owners' Agricultural Management Plan limiting the livestock operation to 25 head of cattle. The resultant total development is: (a) sited on less than 5% of the 84.33 gross acreage (approximately 2.5 acres or 3%, including driveways); (b) does not impact coastal visual resources or natural resources; and (c) preserves the most viable agricultural lands for current and future agricultural use.

## **PUBLIC NOTICE**

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property.

## **HISTORY AND SETTING OF THE SUBJECT PROPERTY**

The subject property, historically known as the Vierra Ranch with access off Horseshoe Hill Road, is an irregularly shaped 84.33-acre parcel subject to the provisions of the C-APZ - 60 (Coastal, Agricultural Production Zone - 1 unit per 60 acres maximum density) zoning district. The property has been used as a dairy and beef cattle grazing since the early 1900's. The Bolinas Community Plan recognizes the Vierra Family as having been one of the oldest ranching families in Bolinas.

County Assessor's records indicate that there were originally two residences on the property, each built circa 1917. The original and existing primary residence was a 650 square foot farmhouse, which was expanded to the current size of 1,200 square feet over the years. An approximately 4,000 square foot barn and other agricultural outbuildings also were constructed circa 1917. The property has one developed well on site for domestic use and is benefited by water rights from an off-site spring on property owned by the Bolinas Community Public Utility District for the cattle operation. (*Refer to Attachment 18, Exhibit G.*) The 1,500 square foot "as-built" residence and detached accessory building (to be demolished) were constructed or totally remodeled and expanded from

existing structures, without County permits, probably in the early 1980's. The Moritzes acquired the property in 1998.

In November 1999, the County approved the Moritz Minor Design Review and Coastal Permit Exclusion applications for the reconstruction of the 4,000 square foot barn, which was in disrepair, and in December 1999, issued a Building Permit for the barn, which is currently under construction.

The project site is located within the Pine Gulch Creek Delta. It consists of gentle southeastern and northwestern facing slopes, which form a small valley with level sites where the existing development is located at an elevation of approximately 200 feet. Slopes on the property are gently to moderately steep, except for the southwestern end of the property, which slopes steeply downward towards Pine Gulch Creek, a perennial stream mapped as a blue line creek on the USGS Bolinas Quad map. Pine Gulch Creek, with riparian habitat lining both sides of the creek, supports anadromous fish (coho salmon and steelhead trout).

The 84.33-acre property generally consists of approximately 27 acres of open pasturelands, 19 acres of gently sloped oak woodlands, approximately 1.3 gross acres devoted to the current residential and associated development, and 37 acres of steep oak woodlands. The agricultural use of the land consists of an annual lease to Robert Heffelfinger, the ranch manager who owns and operates the 20- to 25-head cattle grazing operation on the site. Mr. Heffelfinger also resides in the proposed agricultural worker housing.

The Vierra Ranch property is sited immediately adjacent to and southeast of lands (Assessor's Parcel 188-090-13) owned by the Bolinas Community Public Utility District (BCPUD). A temporary cattle grazing easement, benefiting the Vierra Ranch was retained when the Vierra family transferred ownership of this parcel to BCPUD in 1979. This easement remains in effect only for so long as that property remains in BCPUD ownership. The easement also grants the Vierra Ranch some water rights from a spring on the property, for so long as it remains in BCPUD ownership. (*Refer to Attachment 18, Exhibit G.*) (*Refer to the discussion under the Protection of Pine Gulch Creek and Stream Conservation Area section below.*)

Under the 1979 deed transferring ownership of Assessor's Parcel 188-090-13 to BCPUD, BCPUD was granted a non-exclusive roadway easement for the subject property for purposes of permitting access from Horseshoe Hill Road to the BCPUD parcel for possible future development of a single-family residence and agricultural use. (*Refer to Attachment 18, Exhibit F.*) This is a 10-foot wide floating access easement.

## **BACKGROUND OF PREVIOUS APPLICATIONS AND COMPARISON OF PROPOSALS**

On May 11, 2000, the Planning Commission denied without prejudice the Moritz Coastal Permit and Design Review applications proposing construction of a new 4,853 square foot single-family residence, a 780 square foot guest house, a 636 square foot pool house, an 1,184 square foot barn, an on-site sewage disposal system to serve the new residential compound, an in-ground pool, two 10,000 gallon water storage tanks and an approximately 2,700 foot long new driveway beginning west of the existing development within the historic, two-track farm road, to serve as access to the new residential development site located along the upper western ridge of the property. The Planning Commission denied the project based on: (1) the County Code requirement to cluster development near existing roads; (2) the size of the proposed development; (3) the provision that development should be the minimal amount necessary to support the agricultural use of the land under a Land Conservation Contract (Williamson Act Contract) and governed by the C-APZ zoning; (4) the lack of the proposed development's relationship to, and compatibility with, the agricultural use of the land; (5) the County Code requirement for minimal new road construction and utility extensions; and (6) the siting of the proposed development in a visually prominent location as seen from off-site views, particularly the Federal parklands. In denying the project without prejudice, the Commission directed the applicant to consider alternative sites that would eliminate two distinct clusters of development, reduce the overall floor area of development, and result in new residential development being subordinate to the primary use of the property for agricultural production.

On May 17, 2000, the applicant filed a timely appeal to the Board of Supervisors of the Planning Commission's denial but requested and received from the Agency several time extensions to consider alternative development proposals that would potentially enhance the agricultural production on the subject property.

Subsequent to the Planning Commission's May 11, 2000 denial and the filing of the appeal, the applicant submitted a revised proposal, attempting to address the Planning Commission's concerns. The revised proposal was for the construction of a smaller, new 2,900 square foot single-family residence, a 1,130 square foot detached garage, and related infrastructure including a 2,100-foot long new driveway to serve as access to the new residential development sited at approximately the same upper ridge site as the May 2000 proposal. In addition, the applicant proposed to legalize and convert to agricultural worker housing the existing "as-built" 1,500 square foot single-family residence and to demolish the existing, 1,200 square foot primary single-family residence, a 1,240 square foot garage, and three accessory structures totaling 1,695 square feet. The owners proposed to continue the existing livestock operation and increase the agricultural use of the land by planting an apple/pear orchard.

On August 20, 2001, a noticed Planning Commission public hearing was scheduled for the revised project and a staff report was distributed. The staff report to the Planning Commission recommended conditional approval to legalize and convert the existing "as-built", 1,500 square foot single-family residence to agricultural worker housing subject to implementation of the apple/orchard and continuation of the cattle operation, but recommended denial of the proposed new residential development sited on the upslope portion of the lot. If a new residence were not constructed, the existing, historic, 1,200 square foot single-family residence would become the primary residence. If the orchard and cattle operations were not implemented in accordance with the recommended conditions of approval, the kitchen of one of the two existing residences would have to be removed, thereby resulting in one primary residence on the subject property, since there would not be sufficient agricultural use on the property to support a farm worker residence.

While the 2001 proposal reduced the total amount of floor area of new development over the previous 2000 proposal and proposed to increase the agricultural use of the land with the planting of an apple/pear orchard, staff found that the proposed project did not meet the intent and objectives of the governing County policy and zoning regulations that are in place to cluster non-agricultural development near existing roads, create development subordinate to the agricultural use of the property, and preserve agricultural lands to the greatest extent possible. In addition, staff determined that the development of an orchard on the subject property could be inhibited by the limited amount of water available for agricultural production.

On December 16, 2002, the Planning Commission considered a revised project consisting of construction of a new 2,917 square foot single-family residence with approximately 470 square feet of open porch, and a 1,130 square foot detached garage located on the same upper western ridge of the subject property accessed by the construction of an approximately 2,220-foot long new driveway. In addition, the applicant proposed to legalize and convert to agricultural worker housing the existing "as-built" 1,500 square foot single-family residence and convert the existing, 1,200 square foot primary single-family residence to a guesthouse by removing the kitchen. As part of the proposal, the applicant proposed to demolish several existing accessory structures, thus reducing the overall floor area of development on the subject property.

The owners proposed to continue to lease the property to the ranch manager for a livestock operation and to maintain the agricultural worker housing in perpetuity. The owners proposed to convey to the County an Agricultural Conservation and Production Easement and Declaration of Restrictions over the property that would maintain the property for agricultural use in perpetuity. The terms of the easement required the owners (grantors) to agree in good faith to actively engage in agricultural production (i.e. production of food or fiber). Should the owners, or future owners, successors, or assigns, find that they could not continue to operate the property in a viable agriculture production, the grantors agreed to seek and retain an agricultural production operator who would establish an agricultural use on the property, or alternatively allow the County to seek an agricultural operator. In addition, the grantors agreed to retain in perpetuity one housing unit on the property for agricultural worker housing.

At the continued hearing of December 16, 2002, the Planning Commission, while recognizing the enhancement of the agricultural use of the property, denied the project based on: (1) the continued creation of two clusters of development with the new development lacking relationship to, support of, or being incidental to the agricultural use of the property; (2) the size of the proposed development; (3) excessive road construction and extension of utilities; (4) the inconsistency of the proposed development with the C-APZ development standards as it related to the requirements for minimal new road construction and utility extensions; and (5) the location of the development on the ridgeline and the potential visual prominence of the proposed development, particularly at night with the use of lighting especially from the Pt. Reyes National Seashore. (*Refer to Attachment 19.*)

In denying the 2002 proposal, the Planning Commission found that the component of the proposed project to convert the “as-built” residence to agricultural worker housing could not be approved without an approved primary single-family residence on the subject property. While the existing 1,500 square foot residence could ultimately be approved as agricultural worker housing, the agricultural worker housing site was recommended by staff as a potential site for the development of the owners’ new primary residence.

The Planning Commission further found that submittal of an alternative project could be reconsidered for approval that would site new development more clustered with the existing residential and agricultural development on the subject site, reduce construction of new roadways and infrastructure, reduce the size of new construction - given the already existing development on the project site, and result in a primary residence that would be secondary and incidental to the property's agricultural use.

The applicant re-established the May 17, 2000, appeal of the Planning Commission’s actions to the Board of Supervisors. The appeal was subsequently withdrawn and on February 10, 2004, the applicant submitted new Coastal Permit, Use Permit and Design Review applications for the current project.

The previous and proposed new development is summarized in Table One below.

**TABLE ONE  
COMPARISON OF PROPOSALS**

<b>2000 PROPOSAL</b>	
NEW RESIDENTIAL DEVELOPMENT	7,049 SQ. FT.
NEW AGRICULTURE DEVELOPMENT	1,184 SQ. FT.
NEW DRIVEWAY	2,700 FEET
<b>2001 PROPOSAL</b>	
NEW RESIDENTIAL DEVELOPMENT	4,039 SQ. FT.
NEW DRIVEWAY	2,100 FEET
<b>2002 PROPOSAL</b>	
NEW RESIDENTIAL DEVELOPMENT	4,515 SQ. FT.
NEW DRIVEWAY	2,220 FEET
<b>2004 PROPOSAL</b>	
NEW RESIDENTIAL DEVELOPMENT	5,205 SQ. FT.
NEW DRIVEWAY	660 FEET

**CONSISTENCY WITH RELEVANT COUNTY PLAN POLICIES AND GOVERNING ZONING REGULATIONS**

The Countywide Plan (CWP) refers to the Local Coastal Program, Unit I (LCP) to provide policies within the coastal zone for: (a) permanently preserving productive agricultural lands; (b) assuring that non-agricultural uses do not conflict with agricultural uses and are compatible with the rural, coastal character; and (c) focusing development in suitable locations so as to not impact natural resources. In order to implement these policies, the LCP established the C-APZ zoning district, which governs the subject property as discussed in the C-APZ Zoning section below.

### **Countywide Plan Policies**

The project, as recommended for conditional approval, is consistent with the 1994 Countywide Plan's (CWP) Agricultural (AG-1, one unit per 31 to 60 acres) land use designation for the property (Policy CD-8.8) because it would result in a conforming residential density of one principal dwelling unit per 60 acres. (The additional dwelling unit for agricultural worker housing is allowed subject to a Use Permit approval per Marin County Code Section 22.57.033 (1)). The proposed development would not be located within the 100-foot wide Streamside Conservation Area setback requirement (Policies EQ-2.3 and EQ-2.4), would minimally disturb natural vegetation, would not result in water pollution or create flood hazards from runoff (Policy EQ-3.21), would not require substantial amounts of excavation, grading, and filling on the property (Policy EQ-3.16), and would preserve the oak woodlands and existing mature trees with the exception of the removal of three Coast oaks (Policy EQ-3.14). While the property has limited agricultural value, the proposed continuation of the livestock grazing operation (maximum 25-head), and conveyance of an Agricultural Conservation and Production Easement to the County would further policies contained in the 1994 CWP Agriculture Element by: (a) promoting the preservation of agricultural lands for long-term agricultural use and productivity (Policy A-1.4); (b) maintaining the agricultural zoned parcel in a size large enough to sustain some agricultural production and discourage the conversion of agricultural land to non-agricultural uses (Policy A-1.1); and (c) continuing the landowners' participation in the County's Williamson Act (Land Conservation Contract) program (Policy A-1.3). Additionally, the location and scale of the proposed residential development would not conflict with the character of the Bolinas community (Policies EQ-3.8 and EQ-3.25).

While the proposed new residential development is not tightly clustered with the historic development, the project site is loosely clustered with the total resultant development covering less than 5% of the total acreage (Policy A-1.4), and the project balances the preservation of visual resources by siting the new development within the oak woodlands above the existing development as required by the LCP policies. The project maintains agricultural production as the principal use and limits residential development to that which is reasonable in size.

### **Local Coastal Program, Unit I Policies**

The proposed project, as recommended for conditional approval, is consistent with the relevant policies of the Local Coastal Program, Unit I (LCP) because the project will result in permanently preserving the productive agricultural lands and oak woodlands on the property with the conveyance of an Agricultural Conservation and Production Easement to the County. The non-agricultural residential uses would not conflict with potential agricultural lands or the rural character of the coastal zone. The siting of the proposed residence will not result in visual impacts to the natural and built environments as viewed off-site from Horseshoe Hill Road or Federal parklands because the new development would be screened by the oak woodlands and the heights of the new residence and detached garage are below the oak tree canopies. Furthermore, the project is consistent with the development standards of the governing C-APZ zoning, which was established to implement the relevant LCP policies as discussed below and all mandatory findings to approve the Coastal Permit pursuant to Marin County Code Section 22.56.130 can be made. (*Refer to Finding VIII of the recommended Resolution.*)

### **Bolinas Community Plan**

The Bolinas Community Plan (Plan) recognizes a reasonable mix of agricultural and residential uses as the "highest and best" use of the land in the planning area. A major goal of the plan is to encourage agriculture and

increase agricultural viability as a source of food, income, and way of life. To that end, the objectives and policies of the Plan support the agricultural preservation zoning and the eligibility of these lands for Land Conservation Contracts (Williamson Act Contracts). The Plan recognizes the area of the property to be part of Bolinas' main agricultural lands. The Plan recognizes that the property is part of the Pine Gulch Creek Delta and the three valleys of the Pine Gulch Creek, which has the richest agricultural lands on the peninsula and the warmest, sunniest climate, and a fairly abundant water supply. Those properties bounding the creek have irrigation rights to the Pine Gulch Creek water. The Plan concludes that these properties have the potential of becoming the Bolinas "breadbasket", and the Plan recommends that they all be held open for agriculture. The proposed project provides for the long-term preservation of the lands potentially suitable for agriculture use. Furthermore, the proposed new 2,996 square foot single-family residence as the primary residence is a reasonable residential development for the property governed by the Williamson Act Contract (Land Conservation Contract No. 15313) and would not compromise the use of the land for agricultural purposes in exchange for taxation of the land based on its agricultural use.

### **C-APZ Zoning District**

Marin County Code (MCC) Sections 22.57.031 (Purpose) and 22.57.032 (Principal Permitted Uses) County Code emphasize that the purpose of the C-APZ zoning district governing the subject property is to preserve agricultural lands by designating agricultural use as the principally permitted land use. Development within this zone, including accessory structures, must be accessory, incidental, or in support of agricultural land uses. The proposed new residential development, consisting of a 2,996 square foot single-family residence (which would become the primary residence) and a 979 square foot detached garage and storage structure, conversion of an existing residence to a guest house appurtenant to the primary residence, and legalization of an existing residence for agricultural worker housing, is a reasonable-sized development on the 84.33-acre property and would not be detrimental to the agricultural use of the property.

Furthermore, the proposed new development, including construction of the new driveway, while located upslope from the existing development compound, together with the existing development to remain would be sited on approximately 3% (approximately 2.5 acres) of the 84.33 gross acreage of the subject property. This area is less than the 5% of the gross acreage allowed by Section 22.57.035 (1) of the MCC, thereby retaining the maximum amount of land in agricultural production or available for agricultural use. Per MMC Section 22.57.036 (1), the proposed development will not conflict with the continued or future agricultural use of the property or disturb the prime agricultural lands, while allowing for the development of a reasonable-sized residence. While the proposed development is not tightly clustered with the existing development, per MCC Section 22.57.024 (a) (Design Guidelines), it has been sited upslope from the existing development utilizing existing woodlands to screen the development from any off-site views and avoiding any visual impacts to surrounding Federal parklands, while minimizing driveway construction, infrastructure extension, grading, and tree removal and maximizing the amount of undivided agricultural land per MCC Section 22.57.024 (d) (Design Guidelines).

### **MASTER PLAN WAIVER**

Pursuant to Marin County Code Sections 22.56.026 and 22.45.040, proposed development within the governing C-APZ zoning district requires submittal of a Master Plan. Pursuant to Marin County Code Section 22.47.010(2), the Master Plan requirement may be waived if it is determined that all requirements of the Master Plan application can be achieved through the review process for the Coastal Permit, Design Review and Use Permit applications.

The applicant has requested waiver of the requirement for Master Plan for the C-APZ zoning district. Staff has reviewed this request and recommends waiver of the Master Plan submittal requirement, subject to recommended conditions of approval because: (1) the proposed project would result in an appropriate-sized primary single-family residential development, a principally permitted use in the governing C-APZ zoning district pursuant to MCC Section 22.57.032(2) and an agricultural worker housing unit supportive of the agricultural use of the property, a conditionally permitted use, subject to the approval of a Use Permit pursuant to MCC Section 22.57.033 (1); (2) the project, as recommended by conditions of approval, will implement the goals and policies



of the Marin Countywide Plan, the Local Coastal Program, Unit II, and the Bolinas Community Plan with respect to site design, preservation of natural resources, agricultural lands, and visual resources; (3) the proposed project and submittal materials allow for the review and action of the full development potential of the subject property as the 84.22-acre parcel, zoned C-APZ-60, does not allow for any further subdivision; (4) the property, small in size with steep oak woodland slopes, has limited agricultural production value and potential; (5) all requirements of the Master Plan application for the proposed residential development and agricultural worker housing unit, including, but not limited to, siting, design, preliminary grading, drainage, infrastructure, and access and parking, as well as the agricultural use of the land and consistency with the C-APZ development standards have been reviewed by the County through the Coastal Permit, Design Review, and Use Permit applications for consistency with MCC Chapters 22.57 (Coastal District Regulations), 22.82 (Design Review), and 22.88 (Use Permits); (6) the Master Plan requirement applies only to the subject parcel as no other contiguous parcel is under the same ownership; (7) the project's Agricultural Management Plan for a limited livestock grazing operation and proposed development have been reviewed by the Marin County Agricultural Advisory Committee, which acknowledges the limited agricultural production value of the subject property and finds the proposed and existing development reasonable as long as the property is limited to two residences; (8) the project is consistent with the LCP, Unit II Agricultural Resources Policies in that all residential development is loosely clustered and would be sited on less than 5% (approximately 3%) of the gross acreage to retain the maximum amount of land for agricultural production and/or natural open space; (9) the project is sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations; (10) the residential development is sited in close proximity of the existing driveway road and Horseshoe Hill Road; (11) the project is limited to one primary residence (MCC Section 22.57.030); (12) the project does not result in a loss of potential agriculture and provides for permanent protection, stewardship, and preservation of agricultural lands and the long-term potential agricultural use of said lands; (13) conditions of approval require the protection of Pine Gulch Creek and a minimum 100-foot wide Stream Conservation Area on lands owned by the Bolinas Community Public Utility District with grazing rights granted to the Vierra Ranch; and (14) the project includes the conveyance to the County of an Agricultural Conservation and Production Easement which will: (a) provide permanent preservation of potential agricultural lands and the oak woodlands, thus promoting the long-term preservation of agricultural, open space, and natural habitat lands; and (b) restrict and maintain the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by Marin County agricultural workers who are actively engaged in the production of agriculture.

## **LAND CONSERVATION CONTRACT (WILLIAMSON ACT)**

### **Background**

The California Legislature passed the Williamson Act in 1965. In 1970, the Act was amended to require local governments to establish agricultural preserve boundaries into which the County may enter into Williamson Act Contracts. California Government Code Sections 51200 – 51286 and 66474 provide the authority to Marin County to enter into Williamson Act Contracts with agricultural landowners. Sections 51200 - 51286 outline the provisions for assessing agricultural land, creating agricultural preserves, renewal of contracts, removal of land under contract, compatible uses, and administering and enforcement of contracts. A contract may be non-renewed by the landowner as provided in the provisions. The County may bring any action in court necessary to enforce any contract, if the County determines that the owner is not in compliance with the terms of the contract. Section 66474.4 outlines the provisions relative to land divisions and lot sizes for parcels under a Williamson Act Contract. The Countywide Plan (CWP) policies encourage the County and agricultural landowners to enter into Williamson Act Contracts on a voluntary basis. These policies specify which uses are compatible with the terms of the contracts and provide guidance for considering residential development and subdivision of land encumbered by the contracts.

### **Marin County Board of Supervisors Resolution No. 71-38**

In February 1971, the Board of Supervisors passed Resolution No. 71-38, which established the policies and rules governing the administration of Williamson Act Contracts, referred to as Land Conservation Contracts or Land

Conservation Agreements. Resolution No. 71-38 provides that the land subject to the agreement cannot be used for any purpose other than the production of agricultural commodities and that all structures must be directly related to, and compatible with, the allowed uses. Resolution No. 71-38 allows only one principal residence per contract, but additional dwellings may be permitted for family members or agricultural workers, in compliance with the governing zoning and the provisions of Marin County Code, Title 22. (*Refer to Attachment 16 a.*)

### **1990 Williamson Act Contract Properties, Administrative Policy Document**

In 1990, the Community Development Agency - Planning Division issued a document describing the Williamson Act Contract policies and Board of Supervisors Resolution 71-38. This document states that the overriding principle of development on parcels subject to a contract is such that development shall be the minimum necessary to support agricultural use of the land and in general, only one principal single-family residence is permitted on lands subject to a Williamson Act Contract. (*Refer to Attachment 16 b.*)

### **Land Conservation Contract No. 15313 - Assessor's Parcel 188-090-11**

The property is situated within an agricultural preserve area as noted on Figure A-5 of the 1994 CWP Agriculture Element. (*Refer to Attachment 16c.*) In May 1971, the previous owners (Vierras) entered into Land Conservation Contract (LCC) No. 15313 with the County. (*Refer to Attachment 16.*) The purpose of the Contract is to limit land use to agricultural purposes. Section 2 of the Contract states that "no structures shall be erected upon said land except such structures as may be directly related to, and compatible with, allowed uses hereunder". Planning staff finds that the proposed project complies with the governing LCC because the project will result in one primary single-family residence, which (a) will not conflict with the agricultural use of the property; and (b) is reasonable in size.

## **ANALYSIS OF THE CURRENT (2004) PROJECT**

### **Proposed and Existing Development**

The current (2004) proposal is in response to the Planning Commission's denial of the 2002 project relating to the intent of the C-APZ zoning, which is to maintain agricultural production as the primary use of the property and to subordinate development to the agricultural use. To that end, the applicant has limited the size of the proposed new residential development to a reasonable size (2,996 square feet), resited the residential development to remove potential visual impacts as seen from State Highway One and other off-site views, particularly Federal park lands, and minimized the length of new driveway (680 feet) and infrastructure construction. While Planning Staff does not view the proposed site as being clustered with existing development, the project balances competing forces by siting the new development in a location that will be screened from views and preserving the potentially viable agricultural lands to the greatest extent. The project includes residential development that supports current and future agricultural use of the property by proposing to legalize and maintain the existing 1,500 square foot residence located at the southern edge of the historic farm site for agricultural worker housing in perpetuity.

Story poles were constructed on site to demonstrate the siting, height, and massing of the proposed residential development. Based on on-site observations, Staff determined that the project could not be seen from off-site views. The architectural design of the new residence features shed roof lines, compatible with the underlying topography, and exterior finishes, consisting of wood siding stained soft, neutral greens, ochres, and amber colors, and an oxidized copper metal roof, that will blend with the natural environment.

The ultimate total development area on the subject property is shown in Table Two below.

### **TABLE TWO FLOOR AREA OF DEVELOPMENT**

<b>NEW RESIDENTIAL DEVELOPMENT</b>	
RESIDENCE (ENCLOSED SPACE)	2,996 SQ. FT.
RESIDENCE (PORCH AREA)	1,230 SQ. FT.
DETACHED GARAGE	979 SQ. FT.
<b>SUB-TOTAL NEW FLOOR AREA</b>	<b>5,205 SQ. FT.</b>
<b>EXISTING DEVELOPMENT TO REMAIN</b>	
<b>RESIDENTIAL</b>	
GUEST HOUSE (ENCLOSED SPACE)	1,350 SQ. FT.
GUEST HOUSE (PORCH AREA)	60 SQ. FT.
CARPORT (NEAR GUEST HOUSE)	975 SQ. FT.
<b>SUB-TOTAL RESIDENTIAL FLOOR AREA</b>	<b>2,385 SQ. FT.</b>
<b>TOTAL RESIDENTIAL FLOOR AREA</b>	<b>7,590 SQ. FT.</b>
<b>AGRICULTURE</b>	
BARN	3,970 SQ. FT.
AGRICULTURE WORKER RESIDENCE (ENCLOSED SPACE)	1,510 SQ. FT.
AGRICULTURE WORKER RESIDENCE (PORCH AREA)	70 SQ. FT.
CHICKEN COOP	150 SQ. FT.
MILK HOUSE	200 SQ. FT.
CARPORT (NEAR BARN)	1,250 SQ. FT.
<b>TOTAL AGRICULTURE FLOOR AREA</b>	<b>7,150 SQ. FT.</b>
<b>EXISTING DEVELOPMENT TO BE REMOVED</b>	
COTTAGE (NEAR AGRICULTURE WORKER RESIDENCE)	400 SQ. FT.
COTTAGE (NEAR GUEST HOUSE)	420 SQ. FT.
<b>TOTAL FLOOR AREA TO BE REMOVED</b>	<b>820 SQ. FT.</b>

### **Proposed Agricultural Use and Production**

#### *Cattle Grazing Operation*

The proposal includes an Agricultural Management Plan (Plan). The Plan, prepared in conjunction with Dr. Jeffrey A. Creque of Golden Bear Land & Water, includes an assessment of range conditions and agricultural potential and sets out the operational, management, and economic goals for the on-going livestock operation on the subject property. It also provides an over-view of the forage available for the livestock operation. The Plan includes provisions for fencing off certain sensitive areas including a meadow area at the eastern edge of the property during the wet weather season and perimeter fencing. (*Refer to Attachment 7n, Appendix E and the discussion under Development Issues below.*)

The Plan includes conveying to the County an Agricultural Conservation and Production Easement and Declaration of Restrictions whereby agricultural activities will occur primarily within a designated "Agriculture Production Zone". This proposed agricultural zone includes lands identified as having agricultural value for grazing, the oak woodlands, and excludes the two development areas (existing and proposed). (*Refer to Attachment 7n, Appendix F.*) The Plan focuses on the continuation of the current livestock grazing operation, consisting of a 20- to 25- head of polled Herefords for breeding purposes owned by the current ranch manager. A portion of the open grassland area in the future might be used for growing oat hay.

The terms of the Easement: (1) establish enumerated permitted and prohibited uses and practices to which the property owner will be bound to adhere to; (2) protect agricultural lands for agricultural production; and (3) restrict use of the second residential unit on the subject property for affordable agricultural worker housing in perpetuity. If the agricultural worker housing is not used as housing for the agricultural operator of the subject property, it must be made available as housing for any agricultural worker within the County.

A temporary cattle grazing easement benefiting the Vierra Ranch exists over an adjacent parcel (*Assessor's Parcel 188-090-13, identified as Parcels "A" and "B" in Appendix E, Attachment 7n*), which is currently owned by the Bolinas Community Public Utility District (BCPUD). According to the owners' legal counsel, this easement was retained when the Vierra family transferred ownership of this parcel to the BCPUD in 1979 and remains in effect only for so long as that property remains in BCPUD ownership.

A permanent water rights easement, appurtenant to the ranch, for the removal of water from a spring located on the BCPUD parcel also exists to supply water to the Vierra Ranch. This water source will provide water for the cattle grazing operation. This easement does not pertain to any riparian rights enjoyed by the current owner (BCPUD) by virtue of the abutting Pine Gulch Creek, but refers only to rights to the springs. A portion of the Vierra Ranch property does abut Pine Gulch Creek (*see arrow on Attachment A of Appendix E, Attachment 7n*), but that portion of the property is extremely steep, with the creek (at the bottom of the slope) creating a ravine, which constitutes the property boundary lines. As a result, use of the ranch property adjacent to Pine Gulch Creek is not practical. Therefore, the owners have agreed not to exercise any riparian rights that might exist with respect to water usage from Pine Gulch Creek except for emergency purposes.

The project's agricultural production consisting of a small-scale livestock grazing operation has been reviewed by the Marin County Agricultural Advisory Committee (MCAAC) for consistency with the need for an agricultural worker housing unit in support of the agricultural use of the property, and while the MCAAC acknowledges the limited agricultural value of the Vierra Ranch property, the MCAAC recognizes the need for additional agricultural worker housing stock in Marin County which the Moritz proposal will provide. The MCAAC concluded that the proposed residential development will not diminish current or future agricultural use of the property and does not result in a property primarily residential in nature. Because of the limited agricultural viability, the property will unlikely produce a viable income from agricultural activities, and the small-scale cattle grazing operation will result in minimal impact on the land.

### *Soils*

The U. S. Department of Agriculture, Soil Conservation Service, Soil Survey of Marin County, Bolinas Quad maps the soils on the property as consisting primarily of the Cronkhite-Barnabe complex and the Palomarin-Wittenburg complex, each with a capability classification of IVe. These soils generally are suitable for recreation and livestock grazing with a moderately to poor agricultural potential suitable for extensive crops or orchards farming. There also exists a small inclusion of Blucher-Cole complex, not mapped in the County soil survey, underlying the seasonal wet meadow and adjacent areas. These soils are deep and drain poorly and have a capability classification of IIIw-3, which limits use to the drier seasons. These soils generally are suited to seasonal livestock grazing and hay production. Overall, the soils found on the site are well suited to forage production and properly conducted livestock grazing, but are not highly desirable for the production of other crops. Proposed development is not located on soils classified by the Soil Conservation Service as prime farmland or farmland of statewide importance.

### **Development Issues**

Planning staff has identified the following development issues related to the current proposal and relevant County policies and governing zoning regulations as discussed below.

#### ***Protection of Pine Gulch Creek and Stream Conservation Area***

The Vierra Ranch property is sited immediately adjacent to and southeast of lands owned by the Bolinas Community Public Utility District (Assessor's Parcel 188-090-13). (Refer to Appendix E, Attachment 7n.) The Vierra Ranch owners retain grazing rights over this parcel for so long as it remains in BCPUD ownership. Pine Gulch Creek runs through the BCPUD parcel. Pine Gulch Creek, a perennial stream mapped as a blue line creek on the USGS Bolinas Quad map, is identified by the County as supporting anadromous fish. The proposed Agricultural Management Plan excludes stewardship provisions addressing how Pine Gulch Creek, habitat to special status species of coho salmon and steelhead trout, will be protected from cattle grazing. (Refer to Appendix E, Attachment 7n.)

Planning and DPW staff have concerns regarding the protection of water quality of Pine Gulch Creek from cattle grazing including gullying, pathogens and nutrients from animal waste impacting the water quality and resulting in degradation of riparian habitat along the creek banks. In order to remove the potential impacts to the creek and riparian corridor, conditions of project approval as recommended by the Department of Public Works, Creek Naturalists, require the applicant/owners to work with the Bolinas Community Public Utility District to allow the owners to fence a minimum 100-foot wide Stream Conservation Area along Pine Gulch Creek. In the alternative, if fencing cannot be installed on the BCPUD lands, then the owners must fence the Moritz property lines to preclude cattle grazing within the SCA. Fencing at the property line would remove the ability of the owners from cattle grazing on the BCPUD lands.

Because access to the stream and habitat area are critical for wildlife, fencing is required with a minimum setback of 100 feet from the creek and running parallel to the creek. "Wildlife friendly", graduated field fencing to allow harm-free passage of wildlife using simple wire strands on wood posts to contain livestock, but allow wildlife passage either over, under through the wires is required. Conditions of approval require the applicant/owners, in consultation with a biologist approved by the Marin County Environmental Coordinator to provide a detailed plan showing the location of Pine Gulch Creek including the creek bed and the riparian corridor(s) and a designated Stream Conservation Area (SCA) located a minimum of 100-feet from the top of the creek bed or from the edge of the riparian vegetation, whichever is more restrictive. The plan must include the recommended design for fencing. The owner(s) will be required to construct open wire (smooth bottom wire, a minimum of 10 inches from grade, to be kept tight) and post field fencing at the edge of the SCA to prohibit livestock from entering the SCA. (Refer to Special Condition 24.)

### ***Protection and Stewardship of Agricultural Lands and Oak Woodlands***

The current (2004) proposal proposes to convey to the County an Agricultural Conservation and Production Easement and Declaration of Restrictions over an area identified as an "Agriculture Production Zone". (Refer to Attachment 7n, Appendix F.) This proposal would allow all areas (with the exception of the development areas) to be actively used for agricultural purposes. (Refer to Attachment 7n, Appendix F, Exhibit B.)

The 2002 proposal included a Land Use, Agricultural and Environmental Assessment (Assessment), which described the baseline conditions, (including, but not limited to, soil and vegetation types, topography, geotechnical, and weather) historical documentation regarding and existing physical and environmental constraints and opportunities of the subject property. It also established three distinct land use zones (refer to Attachment 21) as follows:

- Zone One: The designated Residential Zone with a delineated building envelope for proposed new primary residential development site.
- Zone Two: The designated Agricultural Production Zone that provides for and restricts certain portions of the subject property to be permanently dedicated for agricultural production and uses based on the characteristics of the property. Zone Two includes the site of the historic development as generally supporting the agricultural use of the property, including the agricultural worker housing and barn located within the lower portion of the property.

Zone Three: The designated Preservation Zone that restricts certain portions of the property to be maintained in its natural state for conservation and wildlife habitat purposes. This zone generally includes the woodlands and steeply sloped areas of the property

Through conditions of project approval, Planning staff recommends modifying the proposed easement and identify a Preservation Zone over the oak woodlands and steeply sloped areas of the property, which would exclude agricultural and grazing activities, in order to protect these areas in their natural state for conservation and wildlife habitat purposes. The final map to accompany the easement for approval by the Community Development Agency staff would require three zones: a Residential Zone, an Agricultural Production Zone, and a Preservation Zone. (*Refer to Special Condition 22b.*)

## **CONCLUSION**

In response to the issues raised in the Planning Commission's previous decisions, the applicant has made a number of improvements to the revised project, including: (a) the reduction in the size of the new development; and (b) relocation of the new development to eliminate any potential significant visual impacts. In addition, the owners have proposed the mechanism to preserve in perpetuity the potential limited agricultural use and production of the property and to provide for an affordable agricultural worker housing in perpetuity by the conveyance to the County of a Conservation and Production Easement and Declaration of Restrictions (Easement). Recommended conditions of project approval require protection of the oak woodlands within said Easement. The revisions to the project implement the intent of the C-APZ zoning by protecting and preserving the agricultural lands for agricultural production in perpetuity, provides for agricultural worker housing, and results in a reasonable-sized primary single-family residence.

Staff recommends conditional approval of the Use Permit to legalize and convert the existing "as-built", 1,500 square foot single-family residence to agricultural worker housing subject to the conveyance of the easement to the County maintaining said residence as agricultural worker housing in perpetuity. Conditional approval requires the applicant to within 30 days of the date of approval: (1) enter into and convey subject easement to the County; and (2) submit an application for a building permit for the "as-built" 1,500 square foot residence and meet all of Building Inspection and Environmental Health Services requirements within 150 days of the issuance of the building permit, including final inspections. Failure to comply will result in zoning enforcement requiring the applicant to submit by January 31, 2005, an application for a demolition permit for the 1,500 square foot residence and within 30 days of the issuance of said demolition permit, complete the demolition of the structure and obtain an inspection from the County. (*Refer to Special Conditions 22 – 24.*)

Subject to recommended conditions of approval, the project will maintain agricultural production as the principal use and limit residential development to that which is reasonably related to agriculture and will not result in conversion of potential agricultural lands to non-agricultural uses. Non-agricultural development is limited in size and will be clustered on less than 3% of the gross acreage.

The conveyance of the Conservation and Production Easement and Declaration of Restrictions to the County as modified by conditions of approval will assure that the viable rangelands and the limited agricultural land base, as well as the oak woodlands, will be preserved in perpetuity to the greatest extent possible. Proposed development is not located on soils classified by the Natural Resources Conservation Service as prime farmland or farmland of statewide importance.

## **RECOMMENDATION**

Staff recommends that the Marin County Planning Commission review the administrative record, conduct a public hearing, and adopt the attached Resolution conditionally approving the Moritz Coastal Permit, Design Review and Use Permit applications.

## **ATTACHMENTS**

PC Staff Report  
**August 23, 2004**  
Item No. 7., Page #14

i:\cur\jp\pc\Moritz Staff Report August 23, 2004

1. Proposed Resolution recommending conditional approval of the Moritz Master Plan Waiver, Coastal Permit, Design Review and Use Permit applications
2. CEQA Notice of Exemption
3. Location Map
4. Assessor's Parcel Map
5. USGS Bolinas Quad Map
6. Site Photos
7. 2004 Proposed Project Submittal Materials and Plans
  - a. Site Plan with Topography
  - b. Constraints Analysis as prepared by Fernau & Hartman, Architect
  - c. Site Plan of Existing Development, Development to be Removed and Proposed New Residential Site
  - d. New Residential Site and Roof Plan
  - e. Floor Plans of Proposed Residence
  - f. Elevations of Proposed Residence
  - g. Energy Systems Analysis
  - h. Garage Plans and Elevations
  - i. Agricultural Worker Housing Plans
  - j. "Life Time Estate" Residence to be Converted to a Guest House
  - k. Topography Plan
  - l. Driveway/Grading and Erosion Control/Utility Plans
  - m. Detail Plans
  - n. Agricultural Management Plan, April 20, 2004 and Revised May 14, 2004 prepared by Douglas P. Ferguson and Golden Bear Land & Water, including proposed Agriculture Conservation and Production Easement and Declaration of Restrictions
  - o. SalemHowesAssociates Inc. January 21, 2004 Geotechnical Evaluation and April 7, 2004
  - p. Douglas P. Ferguson, Attorney, letter May 3, 2004
  - q. Michael Moritz and Harriet Heyman letters June 2, 2004 and June 15, 2004
  - r. Photos
8. Department of Public Works, Land Use and Water Resources Division memorandum, June 2, 2004
9. Marin County Environmental Health Services memorandums, June 3, 2004 and June 22, 2004
10. Bolinas Fire Protection District letters, March 9, 2004 and June 4, 2004
11. Bolinas Community Public Utility District letters October 14, 2002 and May 8, 2002, parcel map (from previous applications)
12. California Coastal Commission letter, March 10, 2004
13. Environmental Action Committee of West Marin letters, May 24, 2004, March 5, 2004, and July 29, 2004
14. Cela O'Connor letters, March 9, 2004 and June 1, 2004
15. Ross Herbertson memorandum, June 4, 2004
16. Land Conservation Contract No. 15313, Assessor's Parcel 188-090-11 (Moritz Property)
  - a. Marin County Board of Supervisors Resolution No. 71-38
  - b. 1990 Williamson Act Contract Properties, Administrative Policy Document
  - c. CWP Figure A-5, Agricultural Preserve Zone
17. Title Report
18. Grant Deed
19. December 16, 2002, Planning Commission Minutes and Planning Commission Resolution PC02-038
20. Florence Vierra Miller, letter July 13, 2004
21. Map of Subject Property Showing Three Zones
22. Burr Heneman letter, August 3, 2004
23. Dolores Richards letter, August 3, 2004





MARIN COUNTY PLANNING COMMISSION

RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING WITH CONDITIONS  
THE MORITZ MASTER PLAN WAIVER,  
COASTAL PERMIT, DESIGN REVIEW, AND USE PERMIT APPLICATIONS  
5675 HORSESHOE HILL ROAD, BOLINAS  
ASSESSOR'S PARCEL 188-090-13

\* \* \* \* \*

**SECTION I: FINDINGS**

I. WHEREAS, the applicant, Fernau and Hartman, Architects, on behalf of the property owners, Michael Moritz and Harriet Heyman, is proposing to construct a new 2,996 square foot single-family residence with approximately 1,230 square feet of porch area and a 979 square foot detached garage and storage structure on a oak woodland knoll upslope and south of the existing development on the 84.33-acre subject property. A new approximately 660-foot long driveway off the existing driveway will provide access to the proposed building site, located approximately 800 feet west of the front (eastern) property line and the existing entrance off Horseshoe Hill Road. The project includes construction of improvements to the existing driveway such as turnouts for emergency vehicles.

The proposed residence, sited approximately 300 feet from the existing historic residence, would have a maximum height of 25 feet above natural grade. The proposed garage, sited 50 feet east of the proposed residence, would have a maximum height of 22.16 feet above natural grade through section and 25 feet at the downslope elevation. Exterior finishes consist of wood cedar siding stained soft, neutral greens, ochres, and amber colors, and an oxidized copper metal roof, that will blend with the natural environment.

The applicant also is proposing to legalize and convert to agricultural worker housing an existing "as-built" 1,500 square foot single-family residence located off the existing driveway east of the historic development on the subject property. In addition, the applicant is proposing to convert the existing, 1,200 square foot primary single-family residence to a guest house by removing the kitchen. The applicant is proposing to demolish two existing guest houses: (a) a 400 square foot structure southwest of the agricultural worker housing unit; and (b) a 420 square foot structure east of the proposed guest house.

The proposed new residence will be served by construction of an on-site mound sewage disposal system located down slope and east of the proposed residential site and two 10,500-gallon water storage tanks north of the new residential site. The existing development will be served by construction of a new on-site sewage disposal system located at the lower portion of the property. The project includes improvements such as emergency vehicle turnouts to the existing driveway. All development and some of the agricultural use will be served by an existing on-site well. The remainder agricultural use will be served by an off-site spring on lands owned by the Bolinas Community Public Utility District with use granted by an *easement* serving the subject property. The proposal does not include the withdrawal or use of water from Pine Gulch Creek.

The property owners propose to continue the existing cattle grazing operation, owned and managed by the current ranch manager who also occupies the agricultural worker residence. The owners propose to convey to the County an Agricultural Conservation and Production Easement and Declaration of Restrictions over an identified "Agriculture Production Zone" to: (a) provide permanent preservation of potential agricultural lands; and (b) restrict and maintain the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by farm workers in Marin County who are actively engaged in the production of agriculture.

The property is currently subject to the provisions of Land Conservation Contract No. 15313 (Williamson Act) entered into with the County on May 14, 1971.

The subject property, zoned C-APZ-60 (Coastal, Agricultural Production Zone, Planned District, one primary dwelling unit per 60 acres maximum density), is located at **5675 Horseshoe Hill Road, Bolinas**, and is further identified as **Assessor's Parcel 188-090-13**.

- II. WHEREAS, the Marin County Planning Commission finds that the conditionally approved project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 (a) of the CEQA Guidelines because the project entails: (a) construction of a new single-family residence; (b) the legalization of an existing "as-built" single-family residence to be used as agricultural worker housing; and (c) conveyance to the County of an Agricultural Conservation and Production Easement, which provides permanent preservation of potential agricultural lands within the coastal agricultural production zone such that the project will not result in any potentially significant impacts on the environment.

All development and agricultural use of the property would be located outside of the County required 100-foot wide Stream Conservation Area along Pine Gulch Creek. The project requires minimal tree removal (one 18" bay laurel, three Coast live oaks), grading (780 cubic yards of cut and 630 cubic yards of fill), and site disturbance (1.25 acres).

The Preliminary Geotechnical Evaluation, prepared by SalemHowes Associates that logged 15 test borings to the depth of the siltstone bedrock, ranging between 3 and 4 feet below the topsoil layer, and reviewed by the DPW staff, concludes that construction of the proposed residential development and new driveway is feasible from a geotechnical standpoint. The project is exempt from the provisions of the Alquist-Priolo Earthquake Fault Zoning Act per Section 2621.6 (2) (a and b) because the proposal consists of the construction and legalization of two single-family, wood-frame residences, not exceeding two stories in height, and before issuance of a building permit requires submittal of a final soils stability report to be reviewed by the Marin County Department of Public Works (DPW) staff. Standard Marin County Community Development Agency - Building Inspection regulations require that the structures be designed to withstand moderate to strong ground shaking associated with a moderate to intense earthquake in accordance with seismic safety regulations of the County adopted building codes.

During the building permit process, building permit plans will be reviewed by DPW staff to verify that design elements conforming to the Bay Area Stormwater Management Agencies Association, "Start at the Source Design Guidance Manual for Stormwater Quality Protection" have been incorporated into the project. In addition, County DPW standards will require that final drainage and grading plans be designed in accordance with the recommendations contained in the final soils stability report and the provisions of Marin County Code, Title 24.

Marin County Environmental Health Services (EHS) staff preliminary has approved the location and design for construction of an on-site sewage disposal system to serve the new residence and one to serve the existing development. DPW and the Bolinas Fire Protection District (BFPD) staffs have approved the new driveway design and improvements to the existing driveway. The Marin County Agricultural Advisory Committee, which acknowledges the limited agricultural value of the property, has reviewed the owners' Agricultural Management Plan, which limits the livestock operation to 25 head of cattle. The resultant total development is: (a) sited on less than 5% of the 84.33 gross acreage (approximately 2.75 acres or 3%, including driveways); (b) does not impact coastal visual resources or natural resources; and (c) preserves the most viable agricultural lands for current and future agricultural use.

- III. WHEREAS, the Marin County Planning Commission finds pursuant to Marin County Code Section 22.47.010(2), that a waiver from the Master Plan requirement may be granted based on the conditional

approval because: (1) the proposed project would result in an appropriate-sized primary single-family residential development, a principally permitted use in the governing C-APZ zoning district pursuant to MCC Section 22.57.032(2) and an agricultural worker housing unit supportive of the agricultural use of the property, a conditionally permitted use, subject to the approval of a Use Permit pursuant to MCC Section 22.57.033 (1); (2) the project, as recommended by conditions of approval, will implement the goals and policies of the Marin Countywide Plan, the Local Coastal Program, Unit II, and the Bolinas Community Plan with respect to site design, preservation of natural resources, agricultural lands, and visual resources; (3) the proposed project and submittal materials allow for the review and action of the full development potential of the subject property as the 84.22-acre parcel, zoned C-APZ-60, does not allow for any further subdivision; (4) the subject property, small in size with steep oak woodland slopes, has limited agricultural production value and potential; (5) all requirements of the Master Plan application for the proposed residential development and agricultural worker housing unit, including, but not limited to, siting, design, preliminary grading, drainage, infrastructure, and access and parking, as well as the agricultural use of the land and consistency with the C-APZ development standards have been reviewed by the County through the Coastal Permit, Design Review, and Use Permit applications for consistency with MCC Chapters 22.57 (Coastal District Regulations), 22.82 (Design Review), and 22.88 (Use Permits); (6) the Master Plan requirement applies only to the subject parcel as no other contiguous parcel is under the same ownership; (7) the project's Agricultural Management Plan for a limited livestock grazing operation and proposed development have been reviewed by the Marin County Agricultural Advisory Committee, which acknowledges the limited agricultural production value of the subject property and finds the proposed and existing development reasonable as long as the property is limited to two residences; (8) the project is consistent with the LCP, Unit II Agricultural Resources Policies in that all residential development is loosely clustered and would be sited on less than 5% (approximately 3%) of the gross acreage to retain the maximum amount of land for agricultural production and/or natural open space; (9) the project is sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations; (10) the residential development is sited in close proximity of the existing driveway road and Horseshoe Hill Road; (11) the project is limited to one primary residence (MCC Section 22.57.030); (12) the project does not result in a loss of potential agriculture and provides for permanent protection, stewardship, and preservation of agricultural lands and the long-term potential agricultural use of said lands; (13) conditions of approval require the protection of Pine Gulch Creek and a minimum 100-foot wide Stream Conservation Area on lands owned by the Bolinas Community Public Utility District with grazing rights granted to the Vierra Ranch; and (14) the project includes the conveyance to the County of an Agricultural Conservation and Production Easement which will: (a) provide permanent preservation of potential agricultural lands and the oak woodlands, thus promoting the long-term preservation of agricultural, open space, and natural habitat lands; and (b) restrict and maintain the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by Marin County agricultural workers who are actively engaged in the production of agriculture.

- IV. WHEREAS, the Marin County Planning Commission finds that the approved project, including the conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restriction, and subject to the conditions of approval, is consistent with the relevant Marin Countywide Plan policies. The project is consistent with the Countywide Plan's Agricultural (AG-1, one unit per 31 to 60 acres) land use designation for the property (Policy CD-8.8) because it would result in a conforming residential density of one unit per 60 acres. (An additional dwelling unit for agricultural worker housing is allowed within the C-APZ zoning district as a conditional use subject to a County granted Use Permit.) The proposed development would conform to the 100-foot Streamside Conservation Area setback (Policies EQ-2.3 and EQ-2.4), would retain natural vegetation, prevent water pollution, and minimize flood hazards from runoff (Policy EQ-3.21), would not result in substantial amounts of excavation, grading, and filling on the property (Policy EQ-3.16), and would preserve existing mature trees (Policy EQ-3.14). The continuation of the livestock grazing operation and conveyance of an Agricultural Conservation and Production Easement to the County would further CWP policies in the Agriculture Element by: (a) promoting the preservation of agricultural lands for long-term agricultural use and productivity (Policy A-1.4); (b) maintaining the agricultural zoned parcel in a size large enough to sustain agricultural production and discourage the

conversion of agricultural land to non-agricultural uses (Policy A-1.1); and (c) continuing the landowners' participation in the County's Williamson Act (Land Conservation Contract) program (Policy A-1.3). Additionally, the location and scale of the proposed residential development would not conflict with the character of the Bolinas community (Policies EQ-3.8 and EQ-3.25). While the proposed new residential development is not tightly clustered with the historic development, the project site is loosely clustered with the total resultant development covering less than 5% of the total acreage (Policy A-1.4), and the project balances the preservation of visual resources by siting the new development within the oak woodlands above the existing development as required by the LCP policies

- V. WHEREAS, the Marin County Planning Commission finds that the approved project, including the conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restriction, and subject to the conditions of approval, is consistent with the relevant policies of the Local Coastal Program, Unit I (LCP) because the project will result in permanently preserving the productive agricultural lands and oak woodlands on the property with the conveyance of an Agricultural Conservation and Production Easement to the County. The non-agricultural residential uses would not conflict with potential agricultural lands or the rural character of the coastal zone. The siting of the proposed residence will not result in visual impacts to the natural and built environments as viewed off-site from Horseshoe Hill Road or Federal parklands because the new development would be screened by the oak woodlands and the heights of the new residence and detached garage are below the oak tree canopies. Furthermore, the project is consistent with the development standards of the governing C-APZ zoning, which was established to implement the relevant LCP policies as discussed below and all mandatory findings to approve the Coastal Permit pursuant to Marin County Code Section 22.56.130 can be made
- VI. WHEREAS, the Marin County Planning Commission finds that the approved project, including the conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restriction, and subject to the conditions of approval, is consistent with the relevant policies of the Bolinas Community Plan because it would preserve the rural setting of the prevailing agricultural lands and open space, preserve and enhance agricultural land uses, provide for agricultural production of the property, result in residential development that would not conflict with the scale, design, materials, and texture of other residential development within the Bolinas community, provide protection for Pine Gulch Creek, and provide an additional agricultural worker housing unit to the housing stock of the Bolinas community. The new residence has been sited so that it would not result in significant visual impacts as seen from State Highway One, Stinson Beach, or other off-site views due to its proximity to the oak woodlands and use of existing scattered oak trees as screening, as well as the use of natural exterior building materials and colors that would blend with the natural environment. The design of the structure utilizes a low-profile rural architectural vernacular that is compatible and gentle on the landscape.
- VII. WHEREAS, the Marin County Planning Commission finds that the approved project, including the conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restriction, and subject to the conditions of approval, complies with the C-APZ zoning because it would preserve agricultural lands by designating agricultural use as the principally permit land use (Marin County Code (MCC) Sections 22.57.031 (Purpose) and 22.57.032 (Principal Permitted Uses)). The approved residential development would constitute the principally permitted residence and the second dwelling unit would be permitted only for the use as agricultural worker housing in support of agricultural production. Approved development would be accessory, incidental, or in support of the agricultural land uses. The proposed new residential development, consisting of a 2,996 square foot single-family residence (which would become the primary residence) and a 979 square foot detached garage and storage structure, conversion of an existing residence to a guest house appurtenant to the primary residence, and legalization of an existing residence for agricultural worker housing, is a reasonable-sized development on the subject 84.33-acre property and would be incidental, and not detrimental, to the agricultural use of the property.

Furthermore, the proposed new development, including construction of the new driveway, while located upslope from the existing development compound, together with the existing development to remain would

be sited on approximately 3% (approximately 2.5 acres) of the 84.33 gross acreage of the subject property. This area is less than the 5% of the gross acreage allowed by Section 22.57.035 (1) of the MCC, thereby retaining the maximum amount of land in agricultural production or available for agricultural use. Per MMC Section 22.57.036 (1), the proposed development will not conflict with the continued or future agricultural use of the property or disturb the prime agricultural lands, while allowing for the development of a reasonable-sized residence. While the proposed development is not tightly clustered with the existing development, per MCC Section 22.57.024 (a) (Design Guidelines), it has been sited upslope from the existing development utilizing existing woodlands to screen the development from any off-site views and avoiding any visual impacts to surrounding Federal parklands, while minimizing driveway construction, infrastructure extension, grading, and tree removal and maximizing the amount of undivided agricultural land per MCC Section 22.57.024 (d) (Design Guidelines).

VIII. WHEREAS, the Marin County Planning Commission finds that the approved project, subject to conditions of approval, is consistent with the mandatory findings to approve a Coastal Permit (Section 22.56.130 of the Marin County Code) for the reasons specified below.

- A. The residential development would be served by a permitted on-site well in compliance with the regulations of the Marin County Environmental Health Services.
- B. The new residential development would be served by the construction of a permitted on-site mound sewage disposal system and the existing and modified residential development would be served by construction of a permitted on-site sewage disposal system in compliance with the regulations of the Marin County Environmental Health Services.
- C. Construction of the on-grade driveway, parking area and new structures would require minimal excavation with excavation and fill to be balanced on site and there will be no off-haul.
- D. Review of the Marin County Archaeological Sites Inventory indicates that the subject property is located in an area of high archaeological sensitivity. Conditions of project approval would require that in the event that cultural resources are discovered during site preparation or construction of this project, all work shall immediately be 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 to meet Local Coastal Program requirements.
- E. The site is not located on a coastal area identified by the Local Coastal Program Unit I, where public access is desirable or feasible. The site is not located on any tidelands or submerged lands subject to the public trust doctrine.
- F. The proposed project would not result in any net loss of housing stock within the community of Bolinas and would provide an agricultural worker dwelling unit in perpetuity with the construction of one principal residence.
- G. Located along the southwestern boundary of the property is Pine Gulch Creek, a perennial stream mapped as a blue line creek on the USGS Bolinas Quad map. Conditions of approval require the applicant to provide a detailed map showing the location of Pine Gulch Creek including the creek bed and the riparian corridor(s) and a designated 100-foot wide Stream Conservation Area (SCA) located a minimum of 100-feet from the top of the creek bed or from the edge of the riparian vegetation, whichever is more restrictive. The owner(s) will be required to construct open wire and post field fencing at the edge of the SCA to prohibit livestock from entering the SCA. The applicant is not proposing to withdraw or use any water from Pine Gulch Creek.
- H. 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. The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area of sensitive wildlife resources. A review of the California Natural Diversity Data Base, prepared by the State Department of Fish and Game, indicates that no threatened, rare, or endangered animal species potentially exist within the vicinity of the subject property. The 2002 Environmental Assessment, prepared by Dr. Jeffrey A. Creque and referenced as part of the application, did not identify any threatened, rare, or endangered animal species on the subject property.
  - J. 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. The 2002 Environmental Assessment, prepared by Dr. Jeffrey A. Creque, and referenced as part of the application, did not identify any threatened, rare, or endangered animal species on the subject property.
  - K. The project site is not located adjacent to the shoreline or within a bluff erosion zone.
  - L. The project site is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit I of the Local Coastal Program and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Alquist-Priolo Special Studies Zone Map. The applicant has submitted a Geotechnical Engineering Review, prepared by Miller Pacific Engineering Group that concludes that the subject site is suitable for the proposed development.
  - M. The approved project will not entail or affect any public works projects.
  - N. No land division or property line adjustment is proposed as part of this project.
  - O. The height, scale and design of the proposed development would not conflict with the established character of the surrounding community. The new residential development, with a maximum height of 25 feet, is sited within the oak woodlands and below the tree canopy in order to minimize any potential visual impacts as seen from State Highway One and off-site views, particularly Federal parklands by utilizing existing mature Coast live oak trees for screening of the development. The structures utilize shed roofs and exterior finishes consisting of subdued colors to blend with the natural environment.
  - P. The approved project would result in no significant effects to recreation, commercial, and visitor facilities within the Coastal Zone.
  - Q. The approved project will not affect any historically significant buildings.
- IX. WHEREAS, the Marin County finds that the proposed revised project, subject to conditions of approval, is consistent with the mandatory findings for approval of a Design Review pursuant to Marin County Code Section 22.82.040, as follows.
- A. The approved new residential development will properly and adequately perform and satisfy its functional requirements without being unsightly or create a substantial disharmony with its locale and surroundings. The proposed improvements would not be unsightly or conflict with the character of the surrounding Bolinas community and agricultural properties because the project would: (1) conform with all property development standards applicable to the C-APZ-60 zoning district including principally-permitted structures and uses and maximum building heights; (2) function and harmonize with the site and other properties in the vicinity with respect to siting of the structures; (3) incorporate characteristics of scale, architectural design, and exterior color and building materials that are

compatible with the surrounding rural character; and (4) minimize the extent of grading by siting the alignment of the driveway along the site's topography.

The agricultural worker housing structure results in a structure of a height, mass and bulk proportionately appropriate to the site and provides adequate setbacks from property lines and other buildings on the subject property and surrounding properties. The farm worker residence has been located appropriately on one of the most accessible portions of the property and does not result in visual or privacy impacts to adjacent properties. Construction of the residence required minimal grading for construction of the foundation. The residence is well screened from off-site locations by the existing woodlands on the subject property and would not be visible from any public lands. The design of the residence is compatible with those of other similar buildings in the vicinity, respects the surrounding natural environment, and does not adversely affect the views, light or privacy of adjoining properties.

- B. The project will not impair, or interfere with, the development, use, or enjoyment of other property in the vicinity, or the orderly and pleasing development of the neighborhood as a whole, including public lands and rights-of-way. The proposal utilizes an architectural vernacular with building forms and materials that are complementary to the rural character of the Bolinas community and surrounding agricultural properties. The project would not result in view, light, air, and privacy impacts to surrounding residences or public areas because: (1) the proposed structures maintain adequate setbacks to all property lines and maximize screening provided by mature on-site landscaping; and (2) the height, bulk, and mass of the improvements have been designed to preserve the use and enjoyment of surrounding properties and are reasonable and appropriate given the size of the property.
- C. The approved project will not indirectly, or in a cumulative fashion, impair, inhibit, or limit further investment or improvements in the vicinity, on the same or other properties, including public lands and rights-of-way. The discussion contained in Findings IX A and IX B are supportive of this finding.
- D. The approved project will be properly and adequately landscaped with maximum retention of trees and other natural material. All major vegetation and trees will be preserved to screen the existing development as viewed off-site.
- E. The approved project will minimize or eliminate adverse physical or visual effects, which might otherwise result from unplanned or inappropriate development, design, or juxtaposition of buildings. The proposed improvements have been thoughtfully designed to function and harmonize with the site and other properties within the vicinity in regards to scale, height, setbacks, architectural design, exterior color, and building materials. The structures have been sited to minimize visual, air, light, and privacy impacts to surrounding properties and rights-of-way and would maintain adequate setbacks to property lines. Conditions of approval stipulate that fencing shall be limited to a post and wire mesh design. As part of the Building Permit review, the Department of Public Works will review the grading and drainage plans to ensure that the project incorporates suitable drainage systems that would adequately collect, convey, and distribute surface run-off into appropriate drainage systems. Grading would be limited to excavation for construction of the driveway, the buildings' foundations and related site grading. The project would not encroach onto adjoining private properties, public lands, or private and public easements, and rights-of-way, and ample off-street parking would be provided for occupants and guests. The approved project would not prevent the development, use, or enjoyment of other properties in the vicinity because no detriment with respect to light, air, privacy, height, bulk, mass, and land use would result.
- F. The buildings have been designed to incorporate roof overhang, roofing material, and siding materials that are compatible with the prevailing rural residential architectural styles in the Bolinas community. Energy and resource saving systems and designs have been incorporated into the design of the residence. Conditions of project approval require the applicant to implement the County's

recommended Building Energy Efficient Structures Today (Best) Practices in preparing construction drawings to be reviewed and approved by Planning Division staff.

- X. WHEREAS, the Marin County Planning Commission finds that the conditionally approved project will result in an agricultural use, consisting of the livestock operation, consistent with the principally permitted agricultural uses of the property under the governing C-APZ-60 zoning district. The Agricultural Management Plan contemplates the continued lease of the land for livestock grazing activities. In addition, the conveyance by the owners to the County of the Agricultural Conservation and Production Easement and Declaration of Restrictions over the subject property will: (a) protect the agricultural value of the property; (b) protect and natural resources of the oak woodlands; and (c) maintain one housing unit on the property as agricultural worker housing in perpetuity. A condition of approval requires the applicant to submit a manure and grazing management plan for review and approval by the County to ensure protection of water quality, to minimize soil erosion, and to provide for the maintenance of the natural foraging areas on the property for sustainable grazing use by rotating grazing to allow for natural reseeding and recovery of grazed areas. The intent of this requirement is to ensure that the proposed agricultural use adheres to best management practices in the agricultural industry for control of polluted run-off, manure management, and overall maintenance of sustainable grazing practices. A condition of approval also requires the property owner to practice good stewardship of the land in establishing the agricultural uses in order to maintain and sustain the potential agricultural and environmental qualities of the subject property including, but not limited to, grazing and foraging uses.
- XI. WHEREAS, the Marin County Planning Commission finds that the mandatory findings per Chapter 22.88 and Section 22.57.033 (1) of the Marin County Code can be made to grant a Use Permit for the agricultural worker housing unit on the subject property for the reasons cited below.
- A. The establishment, maintenance or conducting of the use for which a Use Permit is sought will not, in this case, be detrimental to the health, safety, morals, comfort, convenience, or welfare of persons residing or working in the neighborhood of this use and will not, under the circumstances of this case, be detrimental to the public welfare or injurious to property or improvements in said neighborhood.
  - B. The agricultural worker housing unit will be used exclusively in perpetuity for an agricultural worker engaged in agricultural production on the subject property or within the County of Marin as reviewed by the Marin County Agricultural Advisory Committee which supports agricultural worker housing in Marin County.
  - C. The agricultural worker housing unit is in support of the current agricultural production on the subject property consisting of the continuation of a cattle grazing operation.
  - D. The agricultural worker housing does not adversely impact the environment and will not create a safety hazard to the subject or neighboring properties.
  - E. The design of the residence is compatible with the existing residential development of the site and the surrounding neighborhood.
  - F. The existing residence does not inhibit investment or improvements on neighboring parcels nor future development of the neighborhood as a whole.
  - G. The use of the residence as agricultural worker housing is not expected to generate noise levels any different than other residences in the neighborhood.
  - H. Conditions of approval require that in order to vest the Moritz Use Permit the owner must: (1) obtain building permits and final inspections from the Building and Safety Division and comply with all



Environmental Health Services regulations to assure compliance with all County codes; and (2) implement the agricultural uses of the property in compliance with the conditions of approval.

- I. Conditions of approval require the conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restrictions restricting and maintaining in perpetuity the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by farm workers engaged in agricultural production on the subject property or farm workers in Marin County who are actively engaged in the production of agriculture.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Marin County Planning Commission hereby approves the Moritz Coastal Permit (04-26), Design Review (04-56), and Use Permit (04-26) applications subject to the conditions as specified below.

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

### Marin County Community Development Agency - Planning Division

1. Pursuant to Marin County Code Chapters 22.56, 22.57, 22.82, and 22.88 and Section 22.57.033 (1), the Moritz Coastal Permit (CP 04-26), Design Review (04-56), and Use Permit (04-26) applications are hereby approved for the following development and agricultural land use components.

- a. *New Residential Development*

This approval authorizes construction of a new 2,996 square foot single-family residence with approximately 1,230 square feet of porch area and a 979 square foot detached garage and storage structure sited on an oak woodland knoll upslope and south of the existing development located approximately 800 feet west of the front (eastern) property line and the existing entrance off Horseshoe Hill Road. The approved residence shall have a maximum height of 25 feet above natural grade. The approved garage, sited 50 feet east of the approved residence, shall have a maximum height of 22.16 feet above natural grade through section and 25 feet at the downslope elevation. Approved exterior finishes shall consist of wood cedar siding stained soft, neutral greens, ochres, and amber colors, and an oxidized copper metal roof, that will blend with the natural environment. All flashing, metal work and trim shall be appropriately subdued and non-reflective colors.

- b. *New Driveway and Improvements to Existing Driveway*

This approval authorizes construction of a new approximately 660-foot long driveway off the existing driveway to provide access to the approved new building site and improvements to the existing driveway.

- c. *Agricultural Worker Housing*

This approval authorizes legalization and conversion to agricultural worker housing of an existing "as-built" 1,500 square foot single-family residence located off the existing driveway east of the historic development on the subject property.

- d. *Guest House*

This approval authorizes conversion and remodeling of the existing 1,200 square foot primary single-family residence to a guest house by removing all kitchen counters and equipment.

- e. *Demolition of Existing Structures*

This approval authorizes demolition of two existing guest houses: (a) a 400 square foot structure southwest of the agricultural worker housing unit; and (b) a 420 square foot structure east of the proposed guest house.

f. *Infrastructure*

This approval authorizes construction of an on-site mound sewage disposal system located down slope and east of the proposed residential site to serve the new residence and construction of a new on-site sewage disposal system located at the lower portion of the property to serve the agricultural worker housing and guest house.

This approval authorizes construction of a minimum of 12,000 gallons of water storage exclusively for fire suppression for the new residence at the upslope site and 3,000 gallons of water storage exclusively for fire suppression of existing development at the lower level of the property.

g. *Agricultural Land Use and Preservation and Stewardship*

This approval allows the continuation of the existing cattle grazing operation consisting of a maximum 25-head of cattle.

This approval requires conveyance to the County of an Agricultural Conservation and Production Easement and Declaration of Restrictions: (1) for protection over two land use zones identified as: (a) "Agriculture Production Zone"; and (b) "Preservation Zone" to provide permanent preservation of potential agricultural lands and preservation of the oak woodlands respectively; and (2) to restrict and maintain in perpetuity the agricultural worker housing unit at a below market rental rate as determined by the County in consultation with the Marin Housing Authority for use by Marin County farm workers who are actively engaged in the production of agriculture.

h. *Approved Site Disturbance*

This approval permits: (a) a maximum removal of three trees (one California bay laurel, three Coast live oaks) unless modifications are permitted through the Tree Removal Plan (Condition 7); and (b) a maximum site disturbance of 1.25 acres.

The subject property is located at **5675 Horseshoe Hill Road, Bolinas**, and is further identified as **Assessor's Parcel 188-090-13**.

2. Except as modified herein, plans submitted for a Building Permit shall conform to: (a) plans received in the Community Development Agency July 1, 2004 and collectively identified as "Exhibit A" on file in the Community Development Agency, consisting of the following: (1) 13 sheets, entitled "Vierra Ranch", prepared by Fernau & Hartman, Architects; and (2) seven sheets entitled "Vierra Ranch," prepared by Riechers Spence & Associates, Consulting Civil Engineers; and (b) all conditions contained herein.
3. Except as modified herein by Conditions of Approval, use and operation of the subject property shall be in substantial conformance with the documentation and provisions contained in the Agricultural Management Plan, on file in the Marin County Community Development Agency office and referred to as "Exhibit B". Modifications required by these conditions of approval to be incorporated into the Agricultural Management Plan consist of modifications to the required easement and the designation of two protection zones identified as the: (a) "Agriculture Production Zone; and (b) "Preservation Zone".
4. IT SHALL BE THE RESPONSIBILITY OF THE APPLICANT TO PROVIDE THE FOLLOWING on the Building Permit Plans submitted with the Building Permit Application(s) PRIOR TO THE ISSUANCE OF ANY BUILDING PERMIT.

- a. The Building Permit Plans shall list these Coastal Permit, Design Review, and Use Permit Conditions of Approval as notes on the first sheet;
  - b. The Building Permit Plans shall depict the location and type of exterior lighting for review and approval by the Community Development Agency. Exterior lighting shall be permitted for safety purposes only, must consist of low wattage fixtures, and must be directed downward and hooded. The applicant must submit a cut sheet with specifications of the exterior lighting fixture(s);
  - c. The Building Permit Plans shall show low-flow water serving fixtures; and
  - d. The Building Permit Plans shall implement the Building Energy Efficient Structures Today (Best Practices in preparing construction drawings to be reviewed and approved by Planning Division staff, such as installation of attic ventilation systems, use of engineered lumber sheathing to reduce the need for large diameter old-growth trees, and use of finishes utilizing low-volatile, organic compounds to minimize the toxicity of indoor air quality.
5. Exterior building colors and materials for the new residential development shall be in substantial conformance with the color and material board identified as “Exhibit C” on file in the Community Development Agency and consisting of wood siding stained muted neutral greens, ochres, and amber colors, and an oxidized copper metal roof. All flashing, metal work, and trim shall be appropriately subdued and non-reflective. Substantial deviations from the approved exterior materials and colors shall be submitted for review and approval by the Community Development Director.
  6. BEFORE THE ISSUANCE OF ANY DEMOLITION PERMIT FOR THE TWO ACCESSORY STRUCTURES AND/OR BUILDING/CONSTRUCTION PERMITS, the project sponsor shall submit a recycling/reuse plan prepared by a salvage contractor, architect and/or qualified consultant, which assesses the building materials of the existing structures for their structural value and integrity and architectural elements and features to determine the feasibility of reusing any of the materials or elements contained in the existing structures as construction materials. The report shall identify appropriate criteria to protect and/or reuse the resources on site, if feasible. Any structures or materials not reused on site shall be transported to a recycling center or a resale facility for reuse as outlined in the report. The project may have to be revised accordingly and submitted to the CDA – Planning Division for review should existing materials on site be deemed feasible for reuse in the subject project.
  7. BEFORE THE ISSUANCE OF ANY BUILDING PERMIT FOR THE NEW RESIDENCE OR DRIVEWAY, the applicant shall comply with the following requirements.
    - a. The applicant shall submit a tree removal, replacement plan, and management plan prepared by a certified arborist for review and approval by the Marin County Community Development Agency - Planning Division, which specifically shows all trees to be removed. The Plan shall show that all oak trees proposed for removal due to development activities shall be replaced at a ratio of 2:1 with a minimum size of 15-gallon trees. Said replacement trees shall be located on the plan.
    - b. The applicant shall install staked barrier fencing around the canopies of the trees to be preserved at and near the construction site and submit photos to the Planning Division verifying the installed barriers which are to remain in place during the duration of the construction. The barrier fencing shall be a minimum of four feet in height and clearly marked to prevent inadvertent encroachment by heavy machinery. All fencing should be in place prior to any site grading, or construction.
  8. BEFORE THE ISSUANCE OF A BUILDING PERMIT FOR THE AGRICULTURAL WORKER HOUSING OR FIRST STRUCTURE, the applicant shall submit a specific manure and grazing management plan for review and approval by the Community Development Director, in consultation with the University of California, Agriculture and Natural Resources Service. The plan shall incorporate the following components: (1) the location(s) for manure storage and composting, which shall be located away

from surface drainage ways; (2) measures proposed to prevent contamination of surface water run-off; (3) the location(s) for storage of fertilizers; (4) measures taken to prevent the importation of noxious weed seeds as part of any imported feed; and (5) an agricultural runoff plan which identifies the areas where run-off would be directed and measures to prevent contamination of surface water. A certified rangeland manager shall prepare the grazing plan. The overall goal of the manure and grazing management plan is to ensure the protection of water quality, the minimization of soil erosion, and the maintenance of the natural foraging areas on the property for sustainable grazing use by rotating grazing to allow for natural reseeding and recovery of grazed areas. The intent of this requirement is to ensure that the proposed agricultural use and the property owner adheres to best management practices in the agricultural industry for control of polluted run-off, manure management, and overall maintenance of sustainable grazing practices.

9. Fencing outside of the building complexes shall be limited to an open mesh wire and metal or wood post field fence design. Any gates at the entrance of the subject property shall be of a simple, agricultural style. A design of any fencing and gates shall be submitted to the Community Development Agency for review and approval prior to installation.
10. PRIOR TO FINAL INSPECTION AND OCCUPANCY OF THE NEW RESIDENCE, the applicant shall submit building permit plans and convert the 1,200 square foot existing residence to a guesthouse by removing the kitchen. The applicant shall call for a Community Development Agency staff for inspection of the guest house at least five working days before the anticipated final inspection of the new residence. Failure to pass inspection will result in withholding of the occupancy and imposition of hourly fees for subsequent reinspections.
11. During construction activities and until final inspection, the following provisions shall be met by the developer:
  - a. All construction/demolition activity (grading, paving, landscaping) shall maintain a Tree Protection Zone (TPZ) around trees to be protected. The TPZ shall be a distance of one-foot radial distance from the trunk for each one-inch of trunk diameter. Exceptions to this standard may occur depending upon the age and condition of individual trees.
  - b. All arboricultural and related work shall be performed under the supervision of an Certified Arborist, qualified landscape architect or biologist.
  - c. The Contractor shall maintain the protection fencing and prohibit all access to fenced areas by construction personnel or equipment until all construction work is completed.
  - d. All structures including construction trailers, equipment storage areas and any other construction traffic are prohibited within fenced areas.
  - e. Grading cuts or trenching within the TPZ of a retained tree trunk may require special trenching procedures. Trenches shall be dug manually or with the use of a root cutting machine, rock cutter, or other approved root-pruning equipment.
  - f. Foundation construction within the TPZ of retained trees is recommended to be either a pier and grade beam construction which bridges root areas, cantilevered structures, or raised foundations using pier footings.
  - g. All grading shall be designed to provide positive drainage away from the base of the tree trunk, and not create ponding within the TPZ.
  - h. Drainage features such as v-ditches and French drains shall be utilized upslope from existing trees to divert runoff away from roots and the TPZ.

- i. Trees identified by the supervising arborist to be affected by sudden oak death shall be removed from the site to an appropriate landfill and shall not be used for chipping, soil amendment, or firewood. Brush and wood chips generated from tree and brush removal from trees not affected by sudden oak death as identified by the supervising arborist may be used on site.
12. All new utility lines serving the subject property and proposal shall be installed underground.
13. Construction activity is permitted only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, 9:00 a.m. and 4:00 p.m. on Saturday. No construction activity shall be permitted on Sundays or Holidays. The Community Development Director at the written request of the applicant may consider modifications to this condition.
14. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
15. All soils disturbed by development of the project shall be reseeded with native grasses or wildflowers to control erosion.
16. The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on site and off the street so that pedestrian and vehicles can pass safely at all times. The number of construction vehicles shall be limited to the minimum number necessary to complete the project.
17. If any archaeological resources are discovered during construction activities, all work at the site shall stop and the property owner or applicant shall contact the Marin County Environmental Coordinator. A registered archaeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Director advancing appropriate measures to protect the resources discovered. No work at the site may recommence without the approval of the Director. All future development of the site must be consistent with the findings and recommendations of the archaeological report as approved by the Director.
18. Provisions for domestic water use shall be provided by an on-site well. Provisions for water for the livestock operation may be provided from an off-site spring on Assessor's Parcel 188-090-13. This approval does not allow the withdrawal or use of water from Pine Gulch Creek.
19. PRIOR TO FINAL INSPECTION AND OCCUPANCY OF THE NEW RESIDENCE, a copy of the Notice of Decision for the Moritz Coastal Permit (04-26), Design Review (04-56) and Use Permit (04-26) approvals shall be recorded against the title to the subject property.
20. To correct the address numbering along Horseshoe Hill Road, the future address of the subject property, in accordance with approval of the Bolinas Fire Protection District, the Marin County Sheriff Department, and the Bolinas Postmaster shall be 875 Horseshoe Hill Road, and this address shall be posted and situated so as to be plainly visible and legible from Horseshoe Hill Road.
21. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval or to determine if an amended application is required before the contemplated modifications may be initiated.

## **SPECIAL CONDITIONS**

22. WITHIN 30 DAYS OF THE DATE OF PROJECT APPROVAL AND BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE AGRICULTURAL WORKER HOUSING OR FIRST STRUCTURE, the

applicant shall enter into, convey, and record an Agricultural Conservation and Production Easement and Declaration of Restrictions (Easement) to the County. Prior to recordation of the Easement, the Community Development Agency staff shall revise the terms of the easement to comply with all conditions of approval and the following provisions:

- a. The applicant shall work with the Marin County Affordable Housing Strategist to determine how the rental of the unit can be structured at a below market rental rate in consultation with the Marin Housing Authority for use by farm workers in Marin County who are actively engaged in the production of agriculture. The Easement shall include the following terms:
  - (1) The residence shall be used exclusively and in perpetuity as housing for agricultural workers who are actively engaged in agricultural production either on the subject property or within the County of Marin.
  - (2) Agricultural production shall be maintained as the primary use of the property.
  - (3) Only one additional dwelling unit to the primary residence shall be available on the subject property. This additional dwelling unit shall be the agricultural worker housing.
- b. The Easement shall designate two protection zones as shown on an attached exhibit identified as the (1) "Agriculture Production Zone; and (2) "Preservation Zone".

23. VESTING AND MAINTENANCE OF THE 1,500 SQUARE FOOT RESIDENCE on the property as agricultural worker housing is subject to the requirements listed below.
  - a. WITHIN 30 DAYS OF THE DATE OF APPROVAL, the applicant/owner shall submit plans and apply for a Building Permit for the construction of the existing 1,500 square foot residence.
  - b. WITHIN 150 DAYS OF RECEIPT OF A BUILDING PERMIT, the applicant/owner shall complete all deficiencies and work required by the building permit, comply with all requirements of Building Inspection and Environmental Health Services and call for a final inspection from the Marin County Community Development Agency - Building Inspection Division. The Community Development Agency Director as his sole discretion, may grant a time extension for cause.
24. In order to remove the potential impacts to the creek and riparian corridor, the applicant/owners are required to work with the Bolinas Community Public Utility District to allow the applicant to fence a minimum 100-foot wide Stream Conservation Area along Pine Gulch Creek. In consultation with a biologist approved by the Marin County Environmental Coordinator the applicant must provide a detailed plan showing the location of Pine Gulch Creek including the creek bed and the riparian corridor(s) and a designated Stream Conservation Area (SCA) located a minimum of 100-feet from the top of the creek bed or from the edge of the riparian vegetation, whichever is more restrictive. The plan must include the recommended design for fencing. Because access to the stream and habitat area are critical for wildlife, fencing is required with a minimum setback of 100 feet from the creek and running parallel to the creek. "Wildlife friendly", graduated field fencing to allow harm-free passage of wildlife using simple wire strands on wood posts to contain livestock, but allow wildlife passage either over, under through the wires is required. The owner(s) are required to construct open wire (smooth bottom wire, a minimum of 10 inches from grade, to be kept tight) and post field fencing at the edge of the SCA to prohibit livestock from entering the SCA. In the alternative, if fencing cannot be installed on the BCPUD lands, then the owners must fence the Moritz property lines to preclude cattle grazing within the SCA. Fencing at the property line would remove the ability of the owners from cattle grazing on the BCPUD lands.
25. BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE NEW RESIDENCE, the applicant shall comply with Conditions 22 – 24 above.

## Department of Public Works - Land Use and Water Resources

26. BEFORE ISSUANCE OF A BUILDING PERMIT BEFORE EITHER THE NEW RESIDENCE OR THE AGRICULTURAL WORKER HOUSING, the applicant shall submit a final soils stability report for the approved project. Building Permit plans shall conform to all recommendations contained in said soils stability report.
27. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall submit the following information as part of the Building Permit plans:
  - a. As required by Marin County Code, Section 24.04.285, the driveway vertical transition shall start at least four feet back from the edge of the adjoining road. Show profile to centerline of street.
  - b. Show on plans that the driveway approach shall be paved to the property line or the first 30 feet, whichever is greater.
  - c. An encroachment permit shall be required for work within the right of way and subject to Road Commissioner's approval.
  - d. A separate Building Permit is required for site/driveway retaining walls with height more than 4' (or 3' when backfill area is sloped).
  - e. The plans shall be reviewed and approved by a Registered Soils Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
  - f. Submit engineer's calculations for site/driveway retaining walls, signed and stamped by the engineer.
  - g. A registered Civil Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
  - h. Submit Erosion and Siltation Control plans. Plans shall indicate total acreage of site disturbance.
  - i. Note on the plans that the Design Engineer/Architect shall certify to the County in writing that all grading, drainage, and retaining wall construction was done in accordance with plans and field directions. Describe all field changes. Also note that driveway, parking, and other site improvements shall be inspected by a Department of Public Works engineer.
  - j. Applicant shall obtain all necessary permits from other agencies.
  - k. Prior to issuance of a building permit or grading permit, provide earthwork calculations and detailed site plan design of "spoils disposal sites" for review and approval by DPW.

## Environmental Health Services

28. Water: BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST STRUCTURE, the applicant shall complete a water yield test for the approved two residences and guest house and submit an application to operate an individual water system for the three structures. An operating permit is required prior to any building permit approvals.
29. Sewage: BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST STRUCTURE, permitted sewage disposal system(s) are needed for the primary residence, the agricultural worker housing, and the guesthouse prior to the issuance of any building permit approvals. Please note that the farm worker house is limited to two bedrooms and the guest house is limited to two bedrooms. The primary residence is limited to four bedrooms. The setback of the septic tank to the cut(s) for the driveway and turnaround area(s) must comply with Environmental Health Services Standards. BEFORE FINAL INSPECTION OF THE AGRICULTURAL WORKER HOUSING, THE GUEST HOUSE AND THE NEW RESIDENCE, the applicant shall comply with all requirements.

## Bolinas Fire Protection District

30. BEFORE INSURANCE OF ANY BUILDING PERMIT, the applicant shall include all District requirements on the building permit plans. BEFORE FOUNDATION INSPECTION, the applicant shall

comply with fuel modification plan and fuel management plan requirements. BEFORE FINAL INSPECTION, the applicant shall submit to the Community Development Agency written verification that all of the District's requirements have been completed including: (a) signage for the new address; (b) driveway improvements, including construction of turnouts on the existing driveway; (c) installation of fire sprinklers; (d) installation of fire hydrants; (e) fuel modification plan and fuel management plan; (f) provision for 12,000 gallons of water storage for fire suppression at the upper building site and 3,000 gallons at the lower building site; (g) installation of propane gas tank; (h) fuel modification plan and fuel management plan.

#### Bolinas Community Public Utility District

31. BEFORE ISSUANCE OF ANY BUILDING PERMITS, the applicant shall submit written confirmation from the District that all requirements have been met including the mapping on the site plan of any building permit application identifying the 10-foot wide floating recorded access easement (Book 3668 OR Page 317), accepted by the District Board (Book 3668 OR Page 330), over the subject property benefiting Assessor's Parcel 188-090-14, owned by the District.

### **SECTION III: VESTING AND PERMIT DURATION**

NOW, THEREFORE BE IT FURTHER RESOLVED that the Moritz Coastal Permit (04-26), Design Review (04-56) and Use Permit (04-26) approvals must be vested by compiling with the conditions of approval. The applicant must vest the Moritz Coastal Permit (04-26) and Design Review (04-56) approvals for the construction of the approved single-family residence, detached garage, and site improvements by securing a building permit and other permits for all of the approved work and by substantially completing the improvements in accordance with the secured permits by August 23, 2006, or all rights granted in this approval shall lapse unless the applicant applies for an extension and pays fees at least 30 days before the expiration date above and the Agency Director approves it. An extension of up to four years may be granted for cause pursuant to Sections 22.56.120 and 22.82.130 of the Marin County Code.

The applicant must vest the Moritz Coastal Permit (04-26), Design Review (04-56) and Use Permit (04-26) approvals for the agricultural worker housing unit by securing a Building Permit for all of the approved work, receiving a final inspection from Building Inspection, and meeting all conditions of approval within the time frames specified in the above Condition of Approval, or all rights granted in this approval shall lapse unless the applicant/owner applies for an extension at least 30 days before the expiration date and the Community Development Agency Director approves it. The Agency Director may grant one extension of up to 30 days for cause.

The Moritz Use Permit shall be valid for the remaining life of the agricultural worker unit so long as the current owner or subsequent owners of the subject property comply with the conditions of project approval. In the event that the terms of the Moritz Use Permit are violated or that the approved uses are carried on in such a manner as to adversely affect the health, welfare, or safety of persons residing in the neighborhood, the Moritz Use Permit could be revoked or suspended in accordance with the terms and provisions of Chapter 22.88 of the Marin County Code.

### **SECTION IV: APPEAL RIGHTS**

NOW, THEREFORE BE IT FURTHER RESOLVED that these decisions are final unless appealed to the Marin County. A petition for Appeal and a \$700.00 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 August 30, 2004.

### **SECTION V: VOTE**



PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 23rd day of August 2004.

AYES:

NOES:

ABSTAIN:

ABSENT:

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ALLAN BERLAND CHAIRMAN  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Alexandra Morales  
Planning Commission Recording Secretary