

MARIN COUNTY PLANNING COMMISSION HEARING MINUTES
February 28, 2005
Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Steve C. Thompson, Chairman
Jo Julin, Vice Chair
Allan Berland
Hank Barner
Don Dickenson
Randy Greenberg
Wade Holland

Commissioners Absent: None

Staff Present: Alex Hinds, Director, Community Development Agency
Brian Crawford, Deputy Director of Planning Services
Johanna Patri, Senior Planner
David Zaltsman, Deputy County Counsel
Ron Miska, Assistant General Manager, Marin County Open Space District
Nelson Gremmels, Principal Appraiser
Jessica Woods, Recording Secretary

Minutes Approved on: **March 14, 2005**

Convened at 1:02 p.m.
Adjourned at 6:21 p.m.

ROUTINE TRANSACTIONS

- a. Incorporate Staff Reports into Minutes

M/s, Holland/Julin, and passed unanimously to incorporate the staff reports into the Minutes. Motion passed 7/0.

- b. Continuances – None

- c. Approval of Minutes – January 24, 2005

M/s, Holland/Julin, and passed unanimously to approve the Minutes of January 24, 2005 as amended. Motion passed 7/0.

2. COMMUNICATIONS

The Commission acknowledged several pieces of correspondence for their review.

Commissioner Berland noted for the record that he started making contributions to the Legal Aids Society of Marin about five years ago when he moved his office to Marin County.

3. DIRECTOR'S ORAL REPORT

Budget Priorities for FY 2005/2006

Alex Hinds, Agency Director, summarized the budget goals and key program initiatives for fiscal year 2005-2006 for the Commission's review and recommended continuing approval of the goals, initiatives and challenges for the Community Development Agency (CDA) Planning Division budget year 2005-2006 to the next meeting in order to provide the Commission with sufficient time to review and comment.

Commissioner Barner asked staff if there is a definition of "long-term goal" as used in the staff memorandum. Agency Director Hinds responded that immediate is within a year; short-term is one to three years; and long-term is over three years. Commissioner Barner believed special emphasis should be given to updating the community plans. Agency Director Hinds agreed. Staff recommended establishing a priority list with the Board of Supervisors; streamlining; and hiring additional staff as well as consultants in order to keep up with the demands.

Commissioner Berland asked staff to explain the reason for the additional planner in regard to SPAWN. Agency Director Hinds responded that SPAWN involves a court ruling against the County that may substantially increase the number of initial studies conducted for projects within the County's stream conservation areas.

Commissioner Dickenson discussed Goal #1 and felt it is lacking reference to protecting the natural environment. Agency Director Hinds responded that there is a goal that specifically addressed protecting the environment. Commissioner Dickenson asked to review the entire list. Staff responded in the affirmative.

Commissioner Dickenson was surprised to view the long-term initiatives before short-term and felt it would make more sense to have short-term initiatives listed before long-term. Agency Director Hinds agreed.

Commissioner Holland felt the document was very interesting, but asked staff if there are any initiatives in regard to septic. Agency Director Hinds responded in the affirmative.

Commissioner Berland recommended an initiative concerning new design review procedures, which could be discussed at a later date.

Commissioner Julin asked staff to develop a chart that shows the planning division and the vacancies in order to better understand the staffing part of this document. Agency Director Hinds agreed.

4. OVERVIEW OF THE COUNTY OPEN SPACE DISTRICT'S POLICY REVIEW INITIATIVE (PRESENTATION ONLY BY OPEN SPACE DISTRICT STAFF)

Ron Miska, Assistant General Manager MCOSED, provided the Commission with a presentation on the County's Open Space District's Policy Review Initiative for their consideration with the following main conclusions:

1. Reducing fire hazard risk, protecting special status species, and reducing non-native plant and animal should be long-term stewardship priorities for the District.
2. The new polices do not result in any major changes with regard to the public's use of District lands.
3. Many new polices support land stewardship practices for which there has been no policy basis in the past, or for which existing polices are not clear.
4. The new policies support and complement multiple goals and polices contained in the Draft Countywide Plan Update. Consider reviewing Open Space polices when the CWP is updated again.

Assistant General Manager Miska noted that the next steps would be Parks and Open Space Commission review in March 2005 and Board consideration in April 2005 of the following polices:

- General Use
- Group Use
- Road and Utility
- Temporary Special Use
- Maintenance and Operations
- Land Acquisition and Administration
- Agricultural Lands

Commissioner Barner believed Marin County's Open Space serves more than just Marin and asked that it be noted that it is not only unique to Marin County, but also the Bay Area. Staff responded in the affirmative.

Assistant General Manager Miska introduced four members from the Open Space Trails Committee.

The Commission thanked Assistant General Manager Miska for his presentation.

5. OPEN TIME FOR PUBLIC EXPRESSION (LIMITED TO THREE MINUTES PER SPEAKER) - None
6. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

Chairman Thompson provided staff a newsletter in regard to a new Oregon initiative for staff's review.

Commissioner Berland recommended adding a future agenda item to discuss revised procedures in regard to thresholds for design review at staff administration level versus Commission level. Commissioner Julin supported Commissioner Berland's request.

Commissioner Dickenson deemed it an issue to be discussed during review of Residential Design Guidelines. Chairman Thompson believed there is a mathematic concept that could be considered as well as community character, so he agreed to discuss the matter.

Brian Crawford, Deputy Director, responded that the Design Guidelines are scheduled to be reviewed at the March 28th, 2005 Planning Commission meeting, and a preliminary discussion on revised Design Review procedures could be discussed as well since that topic is included in the Design Guidelines.

Commissioner Holland asked staff if details of any proposal to streamline the appeal process should be shared at the March 28th meeting. Deputy Director Crawford responded that the possibility of streamlining the appeals process has been considered at a general level, although a detailed proposal has not been developed.

Chairman Thompson expressed concern in regard to the staffing of the CTMP project and desired planning staff to have an active role in current and future proposals.

Commissioner Dickenson asked staff if the Rock Quarry complied with the financial guarantee. Deputy Director Crawford agreed to investigate and report back findings. Staff noted that the Quarry received approval from the City of San Rafael.

Deputy Director Crawford reported that the Board of Supervisors on February 1st, 2005 upheld the Design Review Clearance for the Vermef Application at Bel Marin Keys.

March 14, 2005

- Krane Appeal of Agency Withdrawal of Design Review Application: *Public hearing to consider applicant appeal of staff withdrawal of Design Review application proposing a new single-family residence. Project was reviewed by Planning Commission in August 2002 and continued with applicant's consent to revise project design. The agency withdrawal is based upon lack of submittal of revised project since August 2002 Planning Commission hearing. (Old Rancheria Road, Nicasio)*
- Champe Floating Home Adjustment: *Public hearing to consider a Floating Home Adjustment permit to demolish an existing floating home and construct a new approximately 2,600-square-foot floating home on the existing barge. (A dock, Waldo Point Harbor)*

March 28, 2005

- Development Code Technical Amendments: *Public hearing to consider recommending adoption of technical corrections and other minor revisions to the Development Code (Countywide).*
- Single Family residential Design Guidelines: *Public hearing to consider revisions to Draft Single-Family Residential Design Guidelines. (Countywide)*

Proposing to modify the design of the roof of the existing second unit on the subject property. The existing gable roof would be replaced with a barrel roof design. As a result of this modification, the orientation of the roof ridge would be rotated to be perpendicular to the front property line. However, the overall height of the second unit structure would not be increased. The applicant also proposes to enclose 28 square feet of existing lower floor deck area for use as storage space, and modify the interior configuration of the existing bathroom. Proposed exterior materials include new cedar shingle siding and standing seam copper roofing. The subject property is located at **824 Point San Pedro Road, San Rafael**, and is further identified as **Assessor's Parcel 186-153-21**.

The Use Permit application has been withdrawn and the Design Review is being processed administratively.

Chairman Thompson announced at 2:42 p.m. that the Commission would take a short recess and then reconvene with the last agenda item.

8. MASTER PLAN WAIVER, COASTAL PERMIT, DESIGN REVIEW AND USE PERMIT: MICHAEL MORITZ JP

Public hearing to consider a revised resolution recommending approval of the project 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 sited on a woodland knoll upslope and approximately 300 feet south of the existing development on the 84.33-acre subject property. Construction of 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. As proposed, the residence will have a maximum height of 25 feet above natural grade. The proposed garage, sited 50 feet east of the proposed residence, will have a maximum height of 22.16 feet above natural grade through section and 25 feet at the downslope elevation. The applicant also is proposing to legalize and convert to farm worker housing an existing "as-built" 1,500 square foot single-family residence located off the existing driveway and 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 farmworker 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 from, and east of, the new 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 the agricultural production will be served by an existing well. 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 ranch manager who also will occupy the farmworker housing unit. 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 provide permanent preservation of potential agricultural lands and to restrict and maintain the farmworker housing unit for use by farm workers who are actively engaged in the production of agriculture at a below market rental rate as determined by the County. This item was continued from the hearing of January 24, 2005. The Planning Commission will also consider a revised Agricultural Conservation and Production Easement and Declaration of Restrictions in connection with the revised resolution. The property is located at **5675 Horseshoe Hill Road, Bolinas**, and is further identified as **Assessor's Parcel 188-090-13**.

Johanna Patri, Senior Planner, summarized the staff report and recommended that the Commission review the revised Resolution, the revised Agricultural Conservation and Production Easement and Declaration of Restrictions, and the revised Deed Restriction and: 1) conduct a public hearing limited to the revisions to the proposed Resolution, the Agricultural Conservation and Production Easement and Declaration of Restrictions and Deed Restrictions; 2) conditionally approve the Moritz Master Plan Waiver, Coastal Permit, Design Review and Use Permit applications; and 3) recommend approval to the Board of Supervisors of the Agricultural Conservation and Production Easement and Declaration of Restrictions.

Commissioner Dickenson discussed the finding regarding non-renewal of the easement and stated that the intent of the Williamson Act is to preserve land both currently in, and with potential for agricultural use. He believed more thought should be given to the findings as to why the County is not renewing the Williamson Act Contract for this property. Also, he discussed farmworker housing in terms of the County requirement to allow a second residence in the C-APZ zone only if it is used for agricultural worker housing. He asked staff if the agricultural worker housing is destroyed, why would the applicant be required to have this use in perpetuity. Senior Planner Patri responded that the intent of the condition is that as long as the building exists, it should be used for farmworker housing.

Commissioner Greenberg noted that there have been numerous language changes that were not discussed and she asked if County Counsel had reviewed and approved those changes. David Zaltsman, Deputy County Counsel, noted that he reviewed the following: Page 8 of the Recitals; Item 9 – Mediation; Page 9, Item 10, Grantee's Remedies; page 10, Item 10.1 – Costs of Enforcement; Page 10 of the Recitals, Item 12 – insurance, he

recommended language “unless commercially unavailable in the market place”; Page 13 of the Recitals, Item 20 – deletion of sole discretion; Page 15 of the Recitals, Item 15 – reasonableness language.

Senior Planner Patri discussed Page 16, Condition 24 of the Resolution and noted that staff referred to MALT’s language of a 30-foot buffer zone. Commissioner Greenberg believed the distance must make sense.

Senior Planner Patri discussed Page 2, Item G of the Easement and if the Commission’s preference were to change the language, staff would do so. Commissioner Holland recommended using the same language throughout in regard to “*accessory, incidental, or in support of the agricultural uses.*” Staff agreed.

Senior Planner Patri discussed Page 5, Item 4 of the Easement and staff agreed to delete “*compatible*” and maintain “*incidental to.*” Staff referred to Page 6 of the Recitals, Item 5, “*Baseline Data,*” and if the applicant needed more time before recording the easement to gather the baseline documentation it would be acceptable to staff. Commissioner Greenberg believed it could be done very quickly and easily because of all the data collected. She recommended that the time be shortened. She also expressed concern for tree assessment and believed conditions of the trees must be known as well as the woodland and recommended retaining the overall assessment. Chairman Thompson agreed to the tree assessment in order to preserve and monitor as well as replace if needed. Commissioner Greenberg believed an outline of coverage should be known.

Senior Planner Patri discussed Page 8 of the Recitals, Item 8, 4th paragraph, to which “*unreasonably*” could be added to the last sentence to address Commissioner Greenberg’s concern. Commissioner Holland recommended adding language to read, “*that is acceptable to the Grantors, which acceptance shall not be withheld unreasonably.*” Staff agreed.

Agency Director Hinds noted that staff agreed to make modifications to the standard MALT Easement because MALT made it clear that they are not interested in taking over this easement due to the size and location of the property. Staff is not recommending being this flexible in instances where MALT would take over the easement because MALT is better suited to manage easements than the County. Also, staff has an interest in preserving the community benefits from the project.

Commissioner Greenberg asked staff if agricultural practices change with technologies would it be conceivable that MALT may be the beneficiary of the easement. Agency Director Hinds responded that it is conceivable, but MALT noted that due to the size and location of the property, they were not interested in the proposed easement.

Commissioner Barner commented on Page 6, Item 6 of the Easement, regarding agricultural housing and if there were no operator the unit would be available to other workers engaged in agricultural within Marin County. Agency Director Hinds responded in the affirmative. Staff added that there is a shortage of agricultural housing in Marin County and if the owner desired not to use it, the intent is that this would be suitable housing for an agricultural worker. Staff noted that this is a voluntary agreement that would be difficult to obtain through a normal exaction.

Commissioner Dickenson discussed using the language: “*unless demolished by the Grantor the second unit on the property shall be permanently restricted and maintained for agricultural workers.*” Agency Director Hinds noted that the County is normally not in the position to require individuals to rent, but due to the involuntary agreement, providing agricultural housing was a benefit and the owner voluntarily agreed to provide that housing.

Deputy County Counsel Zaltsman noted that this is just being offered as an additional benefit of the project and it is not a requirement. Senior Planner Patri explained that staff is broadening the scope of the Use Permit to embrace farmworkers of the County if the farm operator of the Moritz property did not desire to live at that location. Staff did not desire the applicant to demolish a perfectly good housing unit after going through the use permit process. Agency Director Hinds noted that the owner recognizes that it is not a condition that the County could require and as a community benefit the owner is willing to do it.

Commissioner Holland stated that the deed restriction is amendable and if a reasonable case is made, it probably could be accommodated, so he did not have any objection to the “perpetuity” language.

Commissioner Dickenson believed Special Condition 22 on Page 15 of the Resolution is redundant and recommended taking out “a” and “b” and just making reference in Condition 23 because it specified all the same items. Senior Planner Patri agreed.

Deputy County Counsel Zaltsman addressed EAC’s letter in regard to the public taking legal action and noted that the Easement is an agreement between a private party and the County. He stated that the Board is going to make a decision and if a violation occurs, a provision could not be added that the public could enforce the Easement between Moritz and the County. Also, waiting for the entire 10-year non-renewal period of the Williamson Act contract before the issuance of a building permit has been an issue from the beginning of staff’s investigation into the contract. He further stated that Government Code includes a complex set of findings and he did not know if the County would stand any chance at all of canceling this contract without an analysis. Commissioner Berland suggested that Government Code Section 51070 might be pursued to immediately terminate the Williamson Act contract. Agency Director Hinds agreed to advise the Board in that regard.

Deputy County Counsel Zaltsman discussed the County regulating activities on BCPUD land as part of the Agricultural Management Plan and agricultural production.

Commissioner Berland asked Nelson Gremmels, Principal Appraiser, to respond to a letter from EAC in regard to the Williamson Act. The County Assessor responded that the assessed value depends on the nature of the land. Most land in Marin County is rated as 75% good and would be \$218.00 an acre, which would be a generalization for Ms. Caufield’s purposes. He noted that it is based on the latest sales. The majority of land is assessed at about \$4,000 to \$5,000 an acre. Commissioner Berland noted that it was his understanding that Mr. Moritz paid 4 million dollars for the property in 1998, which is about \$50,000 an acre for marginally productive agricultural land.

Commissioner Dickenson asked Principal Appraiser Gremmels what is the value for land that has a conservation easement that removes all development rights from the property. The County Assessor responded that there is no land other than Lucas Film Land under a MALT conservation easement that is not under the Williamson Act. There has only been one property that sold while under a MALT easement, and the sales price was almost \$4,000 an acre about 6 years ago. Commissioner Dickenson clarified that the market price is essentially the same regardless of the Williamson Act or not. The County Assessor responded in the affirmative.

Commissioner Holland discussed the Williamson Act Contract and its requirement for agricultural production on the property. Agency Director Hinds responded that the County may wish to establish a standard of agricultural production for ongoing participation in the Williamson Act and if that standard is not met the non-renewal process could be initiated.

Commissioner Holland provided staff with his written comments and changes for their review. He then discussed Page 5 of the Easement and recommended deleting the word “and” from Item “d.” Staff agreed. Commissioner Holland discussed Page 2, Finding II of the Resolution and recommended adding the continuance of the public hearing from January 24th to today. Staff agreed. Commissioner Holland commented on Page 6 of the Resolution in regard to Item “I” and asked staff to review the word “vicinity.” Also, Condition 24 on Page 16 of the Resolution did not include information about BCPUD’s role in regard to approval of the agricultural production and stewardship plan. Senior Planner Patri responded that County Counsel stated that it was not in the County’s best interest to give up to another agency its rights of approval for a project. Therefore CDA should allow for consultation with BCPUD, but retain the authority to approve or deny a plan. Deputy Director Crawford stated because the approval of the final plan is based upon the County’s zoning authority and is a contingency for allowing the project to proceed through all of its post-permit approvals, whether it is receiving a building permit or final occupancy of the residence, it is more appropriate for the County to retain the sole final authority to review and approve the plan rather than deferring or sharing that authority to another agency that doesn’t have the proper regulatory purview.

Senior Planner Patri noted that the County is requiring fencing on BCPUD land as long as Moritz has grazing rights. Cela O'Connor, Marin resident, believed fencing would be problematic and banks must be protected along with the riparian area and desired the 100-foot SCA as requested by BCPUD in order to protect the fish habitat.

Commissioner Holland commented on Page 18, Condition 31 of the Resolution in regard to the Bolinas Fire Protection District requirement and asked staff to investigate to be sure this is correct. Senior Planner Patri agreed.

Commissioner Holland discussed Page 11 of the Easement, Item 12.2e and expressed concern for grading associated with hazardous materials. Commissioner Greenberg pointed out that it would be subject to any applicable law.

The hearing was opened to the public.

Douglas Ferguson, attorney, representing the applicant, noted last month the Commission moved on a straw vote of 5/2 to approve this project and desired the Resolution to call for a recommendation to the Board that the Williamson Act not be renewed and that some of the easement concerns be addressed. It is the applicant's position that this project is consistent with the Williamson Act, but if that were the cost of gaining approval they would accept it, but did not believe it is a good idea. Also, they worked very close with staff on the easement issues and reminded the Commission that it was the applicant initially who proposed the idea of a permanent conservation and agricultural restricted easement and the concept of having some teeth in the agricultural easement. In discussions with MALT and staff, this is a model that can be used in the future. He added that an easement must have fairness and feasibility. He asked that the baseline report be prepared soon, but not before the easement is recorded. They had the clear impression from last month that the Commission did not desire to negotiate the easement and the last two hours have been spent on very tiny points in regard to the easement, which is exactly the process that the Commission did not desire to take. He added that the letter he submitted to staff is no longer a concern in regard to 25 head of cattle; and removing the words, "*first structure.*" They believe the easement before the Commission with the changes is acceptable, with one significant exception in regard to regulations on BCPUD land and they respectfully disagree with Deputy County Counsel's comments. He further added that through this applicant's willingness and imagination, the County has gained a new method that is significantly important to West Marin and they encouraged the Commission to approve this project.

Catherine Caufield, representing EAC, discussed voluntary easements versus the C-APZ zoning requirement for an easement, and stated that she did not understand why the proposed easement is being considered as voluntary. She believed the easement developed is not fair. She desired an easement that is not subject to different interpretations. Also, the County is not experienced in enforcement and that is why the MALT easement should be used. She felt this is an uncooperative applicant and a County not experienced with easements. Whether or not the County intends this to be a model easement, it will become a model. She added that the conditions of the easement are a mess and this application is incompatible with the zoning and recommended that staff get it right. She did not believe this easement is good enough for Marin County and recommended that the Commission deny this easement.

Gordon Bennett, representing the Sierra Club, agreed that this easement is required under C-APZ zoning. He has a certain amount of sympathy for the applicant because it is a very complicated process and this should be part of the Countywide planning process. He discussed this matter with his attorney and noted some changes. He added that since MALT declined the offer that is a problem and there should be some appropriate stewardship. He provided a third party enforcement piece that was prepared by his attorney for the Commission's consideration. He suggested that they try to attempt to incorporate all the changes in a new document with at least five full working days to digest the information before the next meeting in order to get this process right.

Cela O'Connor, Marin resident, stated that this is not a lease that BCPUD had given, but a settlement agreement in regard to conditions of grazing the land. When sold, the grazing right is gone. She desired a full 100-foot setback with a fence. She stated that this is a special piece of land that must be preserved. She further discussed 25-head of cattle, which would be very difficult without BCPUD land, and pointed out that the BCPUD land is an integral part of the grazing operation.

The public hearing was closed.

Commissioner Julin stated that the core of this project is in fact residential and not incidental to agricultural. She believed the easement is a distraction and what is occurring has to do with agriculture for the entire County and any decision on this project must be made within the context of its effect on viability and sustainability of agriculture within the County. She pointed out that denial of this new house is backed up by the County's policies and zoning. Also, the Agricultural Economic Analysis report from 2003 repeatedly makes the point that high value residential development undermines the will to maintain agricultural use. The report also contains an analysis of five sample parcels with one being the Moritz's parcel and the proposed improvements total almost 1.5 million dollars. A sample of similarly zoned parcels have an average total of \$2,712 per acre and the Moritz's project would be 10.5 times this and this will affect the goal of providing sustainable agriculture for the greater community. She felt the Countywide Plan Polices and C-APZ zoning reinforce denial of this project. Should the Commission not desire to make that recommendation, she believed it would be of enormous value to have a presentation by the author of this report in order to understand whether or not this project should be recommended for approval to the Board.

Agency Director Hinds responded that Mr. Strong was hired by the County to prepare an economic analysis pertaining to residential development and its effects on the viability of continued agricultural production, and then drew upon the analysis to propose size limitations on homes in the CWP update. Also, when agricultural land is gentrified it no longer remains economically viable. However, people have the right to sell their property. He further noted that the County no longer has a contract with Mr. Strong, but staff would invite Mr. Strong to make a presentation to the Commission, if so desired.

Commissioner Dickenson noted that Mr. Strong did make a presentation to the Commission and it was very interesting in terms of the ability to control affordable housing. They must recognize that all agricultural zoning allows development of a single-family home and no economic test is applied. He added that it is not appropriate to apply ideas or concepts to this applicant that have not been adopted by the Board. The current regulations allow the applicant to build a house and the house proposed is relatively modest in size and in an appropriate location. The applicant is going beyond what the Williamson Act Contract requires. The house is being used to subsidize the agricultural use and heritage on the property. He clearly believed this application is in support of continued agricultural use and he is prepared to approve the Resolution with a few minor wording changes.

Agency Director Hinds continued to recommend approval of the project. He added that there remain concerns about the language in the easement and many desired to have the easement rewritten. If so desired, the Commission could recommend that to the Board. However, he asked that edits to the easement not drive whether or not to approve the permit request today. Commissioner Berland disagreed with staff and could not separate the two matters. He agreed that the easement is distracting the project and he did not believe this project is legally sustainable with or without the easement. He did not have time to review the material adequately and if forced to vote on the project today he would deny the project, but if the majority of the Commission desired to approve the project, at least consideration of the easement should be continued to provide additional time for the Commission to review.

Commissioner Barner noted his support for the Resolution and did not view any conflict with what the applicant is trying to accomplish.

Commissioner Greenberg noted that, as suggested by staff, the Resolution and Easement are treated separately; she would not support the project. She is very unhappy with the process in regard to input for changes to the easement, but without the easement, she believes they could not be approved, so in her view the easement is very important. Her understanding from the last meeting was that staff would take the input from that meeting and would limit changes to just that material for the Commission review. In fact there were additional meetings with the applicant subsequent to that hearing and new changes were made. She is not confident at this point that the easement would not be modified at a later date and she did not trust the process. On the merits of the project in terms of just the Resolution, this project would not comply with County standards and zoning requirements. She stated that it is the Easement that offers benefits that may make it possible to approve the Resolution, which is why the Commission

must consider the Easement's final language. If the Commission determines it should review the final language, then this matter should be continued before forwarding the matter to the Board.

Chairman Thompson asked staff if they could continue this matter to the next meeting to review the revised document that is complete with all the information discussed today. Staff stated that no matter what is done today, the Commission cannot approve the easement and if the project is not approved it would be appealed to the Board. Staff further noted that unless the applicant agreed to a continuance, staff did not desire to have a continuance and recommended voting on the matter.

Commissioner Barner recommended that the entire matter go to the Board because he did not see any point in continuing the matter again. Agency Director Hinds noted that the Commission must take action on the permit. Staff reiterated that unless the applicant agrees with a continuance, the Commission should take action today. Michael Moritz, applicant, did not agree to a continuance.

Commissioner Dickenson recommended that the easement wording come back to the Commission for review prior to approval of the easement by the Board. Staff agreed.

Chairman Thompson asked for a motion.

M/s, Dickenson/Barner, approve the draft Resolution for the Moritz Master Plan Waiver, Coastal Permit, Design Review and Use Permit applications with the following changes: Page 11 insert “and the associated garage” to read, “and demolish said structure and the associated garage after the life-time estate granted to the previous owner ceases;” Delete the words, “within the vicinity” from Page 6 under Finding IX(I) and add the word “on” to read, “or endangered animal species potentially exist on the subject property;” Page 10 under Finding XIII(B) the third line should be changed to state, “limited agricultural production and potential of the property;” Page 11, Item g. should be revised to state, “This approval allows the continuation of the existing cattle grazing operation;” delete the words “OR FIRST STRUCTURE” from Page 13, Condition 8; The wording in Condition 10 on Page 14 is not consistent with the findings and should be changed to read, “the applicant shall submit building permit plans and convert the 1,410-square-foot existing residence to a guesthouse by removing the kitchen including cooking facilities and cabinets, and demolish said structure and the associated garage after life-time estate granted to the previous owner ceases;” Special Condition 22 on Page 15 should be revised to read, “the Moritz Deed of Agricultural Conservation and Production Easement and Declaration of Restrictions (Easement) shall be reviewed by the Planning Commission and accepted by the Board of Supervisors and recorded by the County. The terms of Easement shall comply with all conditions of approval as necessary and shall include the following provisions;” delete Items “a” and “b” from Special Condition 22 and revise Item “a.” to state, “Only one additional dwelling unit shall be available at the subject project, additional unit shall be agricultural worker housing as described in Condition 23;” Condition 23c on Page 16 should be clear that this residence shall be used in perpetuity; Condition 32 on Page 18 should be revised to state, “The applicant shall map on the site plan for any building permit application the 10-foot wide floating recorded access easement;” the date on Page 19 should be revised to read, “February 28th, 2005;” the appeal date should be revised to read “March 7, 2005;” and Condition 24 should state, “bank” rather than “bed.”

Commissioner Barner discussed Condition 26 and suggested that before final inspection of the single-family residence the requirements listed in Condition 24 with regard to fencing should be in place. Commissioner Dickenson agreed with that amendment.

Commissioner Holland noted that the relationship to agriculture and the reasons this Commission denied this project twice before have not changed, staff stated that the justification for having the house is that the person building the home is making investments to the agricultural world. Agency Director Hinds noted that agriculture costs money and the applicant has agreed to make investments in fencing, cattle, a barn and in other agricultural infrastructure, including permanent protection of the land and a commitment to provide agricultural worker housing that is in short

supply. Agency Director Hinds felt the best way to keep agricultural occurring was to help agriculture stay in business. Staff further noted that it is a very tastefully designed small home with conditions.

Commissioner Holland pointed out that if the Commission turns this down and the applicant appeals to the Board, the Board could approve and then the Commission is out of the loop and would not get a chance to review the easement, so with a huge amount of reluctance, he would support the Resolution and forward this to the Board with additional amendments to the Resolution and the Easement.

Commissioner Dickenson welcomed any suggested amendments. He pointed out that he was not on the Commission when the previous application was reviewed, but there is a world of difference between the previous proposal and this one. Also, there is not a one-size fit all solution in regard to protection of agriculture and on this property this proposal makes the most sense.

Commissioner Berland was present in May of 2000 when the first proposal came forward to the Commission and he believed the project has become larger due to the covered porches. He expressed concern that the covered porches add to the bulk and mass of the property. He stated that an approval of this proposal would set an important precedent and result in substantially higher land prices for agricultural land in West Marin. He hoped the Commission would consider the precedence that would be set for similar properties in the future in regard to economically disadvantaged properties in West Marin. He further noted that he cannot support the project.

Commissioner Holland modified Page 2 of the Resolution by adding the word “*primarily*” to read, “*actively and primarily engaged in agriculture production in Marin County*” as well as in all areas where it occurs. Also, Page 16 under Item 23c he recommended changing the third line to state, “*ensure that the rental of the agricultural worker housing unit is structured at a below market rental rate.*” Commissioner Dickenson and Commissioner Barner agreed with those amendments.

Commissioner Holland reiterated his extreme misgivings and he does not believe in putting too much emphasis on precedence because no two cases are exactly alike.

Commissioner Julin cannot support the project and desired that the record include her rationale as proposed: 1) that the proposed project did not conform to County polices, and zoning regulations, and she is unable to make the findings required to approve it; and 2) the proposed project would negatively impact the viability of agriculture in Marin County in that land values resulting from such estate-type development seriously undermine affordable agriculture. (*See findings reported in Marin County Agricultural Economic Analysis November 2003, by Strong Associates*).

Commissioner Berland noted he would deny the project based on the fact that it is contrary to C-APZ zoning; contrary to the Williamson Act Contract and Resolution 71-38; and that he cannot make Findings VIII, XI, and XIII.

Motion passed 4:3 by the Commission with Commissioners Greenberg, Berland, and Julin opposed.

Chairman Thompson adjourned the Planning Commission meeting at 6:21 p.m.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION PC 05-003

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, extending from 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, ochre, 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, 1,410 square foot primary single-family residence to a guesthouse by removing the kitchen, including cooking facilities and cabinets, and demolish said structure after the life-time estate granted to the previous owner ceases. 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 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 uses will be served by an off-site spring on lands owned by the Bolinas Community Public Utility District (BCPUD) with grazing and water rights granted to the Moritz property by an easement over the BCPUD lands (recorded document Book 3668 OR Page 317). The Moritz proposal precludes the withdrawal or use of water from Pine Gulch Creek, except in an emergency.

The property owners propose to continue the existing cattle grazing operation on the Moritz and the BCPUD parcels. The cattle grazing operation is 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 who are actively and primarily engaged in agriculture production in Marin County.

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 held a duly-noticed public hearing on August 23, 2004, to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project and continued the public hearing to November 15, 2004, at the request of the applicant, further continued the matter to the public hearing of December 13, 2004, and at the request of the applicant, further continued the matter to the public hearing of January 24, 2005 to consider the merits of the project, and hear testimony in favor of, and in opposition to, the project, and further continued the matter to the public hearing of February 28, 2005, at which hearing the Commission approved the subject project with various revisions to the draft Resolution.
- III. 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 and Declaration of Restrictions, 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 would be located outside of the County required 100-foot wide Stream Conservation Area and riparian protection and stream buffer area along Pine Gulch Creek. Construction of the project requires minimal tree removal (two (18-inch and 36-inch) California bay laurel, three (12-inch, 12-inch, and 9-inch) 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 preliminarily 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 project would not cause significant adverse effect to agricultural resources because the resultant total development would be sited on less than 5% of the 84.33 gross acreage (approximately 2.75 acres or 3%, including driveways); preserves the most viable agricultural lands for current and future agricultural use; and does not result in the loss of prime soils. In addition, the approved development would not impact coastal visual resources or natural resources.

- IV. 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 one primary single-family residence, 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, 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 I, 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 84.33-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 project's preliminary 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 with one residence deed restricted for agricultural worker housing; (7) the project is consistent with the LCP, Unit I 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; (8) the project is sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations; (9) the residential development is sited in close proximity of the existing driveway road and Horseshoe Hill Road; (10) 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; (11) conditions of approval require the property owner to prepare and implement a stewardship plan for the protection of Pine Gulch Creek on the adjacent grazing lands owned by the Bolinas Community Public Utility District; and (12) 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 and primarily engaged in the production of agriculture.
- 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 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); and (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). 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). Within the context of the entire 84.33-acre property, the project is sufficiently clustered with the historic ranch development by siting the new residence in a location well off of the ridgeline and upper elevations of the property and within an oak woodland area whereby the most viable agricultural land and visual and natural resources are preserved and geological hazards are avoided.

- 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 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.
- 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, 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.
- VIII. 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 permitted land use (Marin County Code (MCC) Sections 22.57.031 (Purpose) and 22.57.032 (Principal Permitted Uses)). The approved new

residential development would constitute the principally permitted residence and the agricultural worker-housing 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. Pursuant to 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. Pursuant to MCC Section 22.57.024 (a) (Design Guidelines), the proposed development 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 as required by MCC Section 22.57.024 (d) (Design Guidelines).

- IX. 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 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. The proposed residence and accessory improvements are located well outside of the riparian protection and stream protection buffer required by the Local Coastal Program Unit I. The applicant is not proposing to withdraw or use any water from Pine Gulch Creek other than for emergency purposes.
- 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 on 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. The Natural Resources Map for Unit I of the Local Coastal Program and the California Natural Diversity Data Base, do identify the potential for the presence of salmon and steelhead, identified as endangered species, within Pine Gulch Creek, located on the "Lands of the Bolinas Community Public Utility District" (BCPUD) adjacent to the Moritz property. No structures are being proposed for development on the BCPUD lands and project approval requires a designated 100-foot wide Stream Conservation Area.
- 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 on a fault trace, but is located within the Alquist-Priolo Special Studies Zone, an area of geologic hazards as indicated on Geologic Hazards Map for Unit I of the Local Coastal Program. The applicant has submitted a Geotechnical Engineering Review, prepared by SalemHowes Associates that concludes that the subject site is suitable for the proposed development.

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.

- 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. (Local Coastal Program Unit I Visual Resource Policy 21)

- 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.

X. WHEREAS, the Marin County Planning Commission 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 project is consistent with the Countywide Plan's (CWP) Agricultural one unit per 31 to 60 acres (AG-1) land use designation for the property (Policy CD-8.8) because the project will result in one principal single-family residence and accessory structures and one existing residence to be used exclusively for agricultural worker housing, subject to the grant of a Use Permit. The project will conform to the CWP 100-foot wide Stream Conservation Area setback (Policies EQ-2.3 and EQ-2.4), and will retain natural vegetation, prevent water pollution, and minimize flood hazards from runoff (Policy EQ-3.21). The continuation of the livestock grazing operation and conveyance of an Agricultural Conservation and Production Easement to the County will further CWP policies in the Agriculture Element relative to the preservation of agriculture lands.

The project is consistent with the relevant policies of the Local Coastal Program, Unit I because the project will result in permanently preserving the productive agricultural lands and oak woodlands on the property. The project will not result in any visual impacts to the natural environment as viewed off-site from Horseshoe Hill Road or Federal parklands.

The project is consistent with the relevant policies of the Bolinas Community Plan because it will preserve the rural setting of the prevailing agricultural lands and open space, provide for agricultural production on the property, and provide protection for Pine Gulch Creek.

- B. 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 unit 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 agricultural worker housing unit 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.

- C. 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.
- D. The approved project will not directly, 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 X. A. and X. B. is supportive of this finding.
- E. 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.
- F. 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.

The primary residence will have a maximum height of 25 feet above natural grade and the accessory structure will have a maximum height of 22.16 feet. Marin County Code, Sections 22.57.035 (Development Standards and Requirements C-APZ zoning district) and 22.57.024 (Design Standards) (B) (Building Height) limits primary residences to a height of 25 feet and accessory structures to a height of 15 feet. However, these requirements may be waived upon presentation of evidence that a deviation from these standards will not violate the intent of Marin County Code Section 22.47.101 as it relates to impacts to visual resources and the public benefit. In this case, the small (979 square feet) accessory structure with a maximum height of 22.16 feet, 2.84 feet below the maximum height for new residential development allowed in the Coastal Zone will not impact any public views and will be screened from off-site views by the canopies of the existing oak trees.

Conditions of approval stipulate that field fencing on the Moritz property shall be limited to a post and wire strand 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.

- G. 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, including the use of low-flow water fixtures and other water-saving devices.

- XI. 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 the 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. Through the terms of the Easement, conditional approval requires the property owners 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.
- XII. 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 actively and primarily 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 preserving and maintaining in perpetuity the agricultural worker housing unit at a below market rental rate as determined by the County staff for use by agricultural workers engaged in agricultural production on the subject property or agricultural workers elsewhere in Marin County who are actively and primarily engaged in the production of agriculture.

XIII. WHEREAS, the Marin County Planning Commission finds that Special Condition 25 (written Notice of Non-renewal of the current Williamson Act Contract [Land Conservation Contract No. 15313] in accordance with the provisions of the State Government Code, Section 51245) is appropriate for this project for the reasons listed below.

- A. The proposed project, as recommended for approval, is: (1) accessory, incidental or in support of the agricultural land uses and natural resources associated with the property; and (2) consistent with all pertinent County policies and ordinances, including the C-APZ governing zoning district regulations.
- B. While the proposed project meets the Countywide Plan policies and zoning requirements for agricultural preservation, the existing contract should not be renewed for the purpose of providing tax benefits because of the limited agricultural production and potential of the property.
- C. Recordation of the Agricultural Conservation and Production Easement and Declaration of Restrictions meets the intent of the Williamson Act for the purpose of preserving agricultural and natural resource lands.
- D. During the remaining period of the contract, only agricultural/open space lands will be assessed under the tax benefits granted by the Williamson Act contract.

NOW, THEREFORE, BE IT 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, ochre, 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 1,410 square foot primary single-family residence to a guest house by removal of the kitchen, including cooking facilities and cabinets, and requires demolition of said structure and the existing 974 square foot associated garage after the lifetime estate granted to the previous owner ceases.

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 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, or as modified by the Bolinas Fire Protection District.

g. *Agricultural Land Use and Preservation and Stewardship*

This approval allows the continuation of the existing cattle grazing operation.

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 and primarily engaged in the production of agriculture.

h. *Approved Site Disturbance*

This approval permits: (a) a maximum removal of five trees:(two California bay laurel, three Coast live oaks) due to construction activities 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 substantially 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; (b) the Arborist Report, prepared by Tree Shapers, LLC; and (c) all conditions contained herein.
3. Except as modified herein by Conditions of Approval, use and operation of the property shall be in substantial conformance with the documentation and provisions contained in the preliminary 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 final Agricultural Production and Stewardship Plan (APSP) required under the Agricultural Conservation and Production Easement shall consist of revisions as required by the terms of the final Moritz Deed of Agricultural Conservation and Production Easement and Declaration of Restrictions discussed in Condition 1. (g) above and the designation of two protection zones identified as the: (a) "Agriculture Production Zone; and (b) "Preservation Zone". The APSP shall establish sustainable grazing practices on the Moritz property and shall extend to the "Lands of the Bolinas Community Public Utility District (BCPUD) so long as the owners of the Moritz property exercises grazing rights over the BCPUD lands.
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 saving 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, ochre, 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. Demolition of the accessory structures shall be subject to the Bay Area Air Quality Management District permit notification for hazardous substances.
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 native trees proposed for removal shall be replaced with native trees at a ratio of 2:1 with a minimum size of 15-gallon trees and shall be located at the development site. 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, 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 adhere to best management practices in the agricultural industry for control of polluted run-off, manure management, and overall maintenance of sustainable grazing practices both on the Moritz property and the “Lands of the Bolinas Community Public Utility District so long as the owners of the Moritz property exercise grazing rights over the BCPUD lands.
9. Field fencing outside of the building areas shall be limited to wire strand 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 at the driveway entrance 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 1,410 square foot existing residence to a guesthouse by removing the kitchen, including cooking facilities and cabinets. (Said structure and the existing 974 square foot associated garage shall be demolished after the life-time estate granted to the previous owner ceases.)The applicant shall call for a Community Development Agency staff for inspection of the guesthouse 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 a 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, except for emergency fire suppression purposes.
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 by the Community Development Agency.
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. BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE NEW RESIDENCE, the Moritz Deed of Agricultural Conservation and Production Easement and Declaration of Restrictions (Easement) shall be reviewed by the Planning Commission and accepted by the Marin County Board of Supervisors and recorded by the County. The terms of the Easement shall comply with all conditions of approval as necessary and shall include the following provisions:
 - a. Only one additional dwelling unit to the primary residence shall be allowed on the subject property. This additional dwelling unit shall be the agricultural worker housing as described in Condition 23 below.
 - b. The Easement shall designate two protection zones as shown on the attached exhibit (Exhibit 1) identified as the (1) "Agriculture Production Zone; and (2) "Preservation Zone".
23. VESTING AND MAINTENANCE OF THE 1,500 SQUARE FOOT AGRICULTURAL WORKER HOUSING UNIT on the property is subject to the requirements listed below.

- a. WITHIN 60 DAYS OF THE DATE OF APPROVAL, the applicant/owner shall submit plans and apply for a Building Permit for the as-built construction of the residence.
 - b. WITHIN 150 DAYS OF RECEIPT OF A BUILDING PERMIT, the applicant/owner shall complete all improvements and other 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 at his sole discretion may grant a time extension for cause.
 - c. PRIOR TO FINAL INSPECTION, the owners shall record an Agricultural Worker Housing Deed Restriction against the title of the property stipulating: (a) the owners shall work with the Marin County Affordable Housing Strategist to ensure that the rental of the agricultural worker housing unit is structured at a below market rental rate for use by agricultural workers in Marin County who are actively and primarily engaged in the production of agriculture; (b) this residence shall be used exclusively and in perpetuity as housing for agricultural workers who are actively and primarily engaged in agricultural production either on the subject property or within the County of Marin; and (c) the agricultural worker housing unit shall be valid for the remaining life of the approved structure so long as the current owners or subsequent owner(s) of the property comply with the conditions of approval.
24. The property owners are required to prepare and implement a Stream Conservation Area Stewardship Plan (SCASP) for the Pine Gulch Creek riparian corridor subject to the review of the Marin County Community Development Agency, after consultation with the Marin County Department of Public Works, Creek Naturalist and the Bolinas Community Public Utility District. The Stream Conservation Area shall extend a minimum of 50 feet from the outer edge of the riparian vegetation, but in no case shall be located less than 100 feet from the top of the creek bank. The stewardship plan shall include conservation and management measures, such as fencing and control of livestock grazing within a stream buffer area, wildlife habitat and maintenance of migration routes and wildlife access to the stream, preservation of riparian vegetation, control of sediments and pollutants, and erosion control and stream bank stability. Grazing of animals is prohibited within a minimum 30-foot buffer zone from the top of the creek bank. Public agencies, such as the Marin Resource Conservation District, and other organizations with appropriate technical expertise in this area should be consulted in the preparation and implementation of the stewardship plan. The SCASP shall be implemented prior to final inspection of the new single-family residence.
 25. BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE NEW RESIDENCE, written Notice of Non-renewal of the current Williamson Act Contract (Land Conservation Contract No 15313) with the County shall be served in accordance with the provisions of the State Government Code, Section 51245.
 26. BEFORE FINAL INSPECTION OF THE SINGLE-FAMILY RESIDENCE, the owners shall comply with all fencing and stewardship provisions of the approved SCASP as required in Condition 24 above.

Department of Public Works - Land Use and Water Resources

27. BEFORE ISSUANCE OF A BUILDING PERMIT FOR 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.
28. 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 under penalty of perjury 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

- 29. 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.
- 30. Sewage: BEFORE ISSUANCE OF A BUILDING PERMIT FOR THE FIRST STRUCTURE OR ISSUANCE OF ANY BUILDING PERMIT APPROVALS, permitted sewage disposal system(s) are needed for the primary residence, the agricultural worker housing, and the guesthouse. Please note that the farm worker house is limited to two bedrooms and the guesthouse 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

- 31. BEFORE ISSUANCE 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 or as modified by the Bolinas Fire Protection District during the building permit plan approvals; (g) installation of propane gas tank; and (h) fuel modification plan and fuel management plan.

Bolinas Community Public Utility District

32. The applicant shall map on the site plan of any building permit application 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 complying 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 February 28, 2007, 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 Board of Supervisors. 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 March 7, 2005.

SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 28th day of February 2005.

AYES: Thompson, Holland, Dickenson, Barner
NOES: Greenberg, Berland, Julin
ABSTAIN:
ABSENT:

STEVE C. THOMPSON, CHAIRMAN
MARIN COUNTY PLANNING COMMISSION

Attest:

Jessica Woods
Recording Secretary

Cur/jp/PC/Moritz, March 14, 2005 Revised Resolution