



COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford
DIRECTOR

December 18, 2018

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

www.marincounty.org/cda

SUBJECT: North Marin Water District appeal of the Planning Commission's action partially sustaining the Young Appeal and conditionally approving the North Marin Water District Coastal Permit Drakes View Drive, Inverness
APN 114-120-09

Dear Board Members,

RECOMMENDATION:

On behalf of the Planning Commission, staff recommends that the Board of Supervisors deny the North Marin Water District appeal and sustain the Planning Commission's action partially sustaining the Young Appeal and conditionally approving the North Marin Water District Coastal Permit with project modifications for the construction of a new 125,000-gallon water storage tank to replace two smaller tanks in Inverness.

SUMMARY:

The North Marin Water District (NMWD) has filed for a Coastal Permit proposing a new 20.6-foot tall 125,000-gallon water tank that would replace two smaller tanks. The Marin County Deputy Zoning Administrator (DZA) approved the proposed water tank on September 13, 2018. Jesse Colin Young, an adjacent neighbor at 25 Buck Point Road, appealed the DZA's decision citing primarily the view impacts to the appellant's vacant property. The Planning Commission concurred by finding that views from the appellant's property would be impacted and approved the project with two additional conditions of approval to lower the tank to a maximum height of 18 feet above natural grade and to fund the planting of additional landscaping on the appellant's property, citing a provision in the Marin County Interim Code that establishes a 25-foot height limit and an 18-foot height limit for ridgeline areas (Section 22.57.086I.2.e).

The NMWD appealed the Planning Commission's decision, citing primarily that a public works project is not subject to the height limit for a ridge zone. The Planning Commission applied reasonable discretion by imposing the condition to lower the height of the tank to 18 feet to reduce visual impacts, citing the presence of a visually sensitive ridgeline. Although the height limit in the code references a "house", the basic purpose of the 18-foot height limit is to ensure that structures not be sited in visually prominent ridgeline areas, and application of the 18-foot requirement in a broad

manner is consistent with its intent. Since the Commission cannot require the applicant to install planting on an adjoining property (without the consent of the adjoining owner), the Commission imposed a condition requiring the NMWD to fund for such planting. In order to strengthen the nexus between the funding requirement and the visual impact as well as potential ambiguity regarding implementation of the condition, staff recommends that the Board consider modifying Condition 2b of the attached resolution to either make it advisory in nature, or alternatively (with the approval of the neighbor), to modify the condition by including more discrete parameters such as minimum type and size of plantings.

REVIEWED BY: (These boxes must be checked)

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

SIGNATURE:

Sabrina Sihakom
Planner

REVIEWED BY:

Brian C. Crawford
Director

ATTACHMENTS:

1. Recommended Resolution Denying the North Marin Water District Appeal and Conditionally Approving the North Marin Water District Coastal Permit
2. North Marin Water District Petition for Appeal and attachments dated October 30, 2018
3. Staff Report and Resolution PC18-002 from the Planning Commission Hearing on October 22, 2018
4. Staff Report and Resolution No. 18-116 from the DZA Hearing on September 13, 2018
5. Project plans received on July 3, 2018
6. Email from Maria de la Fuente dated December 4, 2018
7. Email from David Brast dated December 5, 2015
8. Email from Sarah Hoffman, on behalf of Jesse Colin Young dated December 6, 2017
9. Email from the North Marin Water District dated December 10, 2018

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION DENYING THE NORTH MARIN WATER DISTRICT APPEAL AND
CONDITIONALLY APPROVING THE NORTH MARIN WATER DISTRICT COASTAL PERMIT
DRAKES VIEW DRIVE, INVERNESS
ASSESSOR'S PARCEL: 114-120-09

SECTION I: FINDINGS

1. **WHEREAS**, the North Marin Water District has submitted a Coastal Permit application for the replacement of a previously destroyed 25,000-gallon water storage tank and an existing 50,000-gallon redwood water tank with a new 125,000-gallon concrete water storage tank and associated gate valves and overflow drain vaults on the 5,500 square-foot lot in Inverness. The proposed water tank is approximately 34 feet in diameter and would reach a maximum height of 20 feet, 8 inches above surrounding grade. The new tank is proposed to be located approximately 22 feet, 6 inches from the western front property line, 5 feet from the northern side property line, 22 feet, 6 inches from the southern side property line, and 22 feet from the western rear property line. Proposed building materials include earth toned, reinforced concrete proposed to mimic the visual appearance and patina of the existing redwood tank. The proposed water tank would modernize the current water treatment and storage capacity but would not increase the number of properties served by North Marin Water District facilities. The property is located at Drakes View Drive, Inverness, and is further identified as Assessor's Parcel 114-120-09.
2. **WHEREAS**, on September 13, 2018, the Marin County Deputy Zoning Administrator held a duly noticed public hearing and adopted a resolution conditionally approving the North Marin Water District Coastal Permit.
3. **WHEREAS**, on September 24, 2018, Ryan J. Patterson, on behalf of Jesse Colin Young, submitted a timely appeal of the North Marin Water District Coastal Permit approval.
4. **WHEREAS**, on October 22, 2018, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider the project.
5. **WHEREAS**, on October 22, 2018, the Marin County Planning Commission partially denied and partially sustained the Young appeal and adopted a resolution approving the project with modifications.
6. **WHEREAS**, on October 30, 2018, the North Marin Water District, the project applicant, submitted a timely appeal of the Planning Commission's decision partially denying and partially approving the Young appeal and approving the project with modifications.
7. **WHEREAS**, on December 18, 2018, the Marin County Board of Supervisors held a duly noticed public hearing to take public testimony and consider the project.
8. **WHEREAS**, the bases of appeal are insufficient to overturn the Planning Commission's decision, for the reasons discussed below.

The bases of appeal can be organized into the following categories: (A) reduced service pressure levels and fire protection supply resulting from a reduced tank height, and (B) applicability of height limits on ridge lots.

(A) Reduced service pressure levels and fire protection supply resulting from a reduced tank height

The applicant asserts that decreasing the tank height would result in reduced service pressure to customers and lowering the tank height would cause a decrease in fire protection capacity with a 15% decrease in storage from the proposed 125,000-gallon capacity.

Response

Pursuant to Marin County Interim Code Section 22.56.130I.M.3, utility service expansions shall be limited to the minimum necessary to service development as identified by Local Coastal Plan (LCP) land use policies, and all such public works projects shall conform to the resource and visual policies of the LCP. The applicant proposes an increase in existing capacity of 50,000 gallons from the existing tank to 125,000 gallons with the replacement tank. The proposal would modernize the current water treatment and storage capacity but would not increase the number of properties served by North Marin Water District facilities. Therefore, the proposed water storage tank would result in a greater capacity than the existing tank and would meet the minimum necessary to service existing development.

(B) Applicability of height limits on ridge lots

The applicant asserts that the project is a public utility infrastructure, so Marin County Interim Code Section 22.57.086.I.2.e does not apply to the project.

Response

Marin County Interim Code Section 22.57.086.I.2.e states, “where a ridge is too flat to allow placement of a house down from the ridge, a height limit of one story or a maximum of eighteen feet to the top of the roof shall be imposed”. Though the provision references a “house”, the basic purpose of the 18-foot height limit is to ensure that structures not be sited in visually prominent ridgeline areas, and application of the requirement in a broad manner is consistent with its intent. The Planning Commission concluded that the project site is located on a visually sensitive ridgeline and given the proximity of the tank five feet from the property line shared with the neighboring property at 25 Buck Point Road, the proposed water tank would be visually intrusive. To address these concerns, a condition of approval will require the applicant to reduce the height of the tank to a maximum height of 18 feet above existing grade, and to fund and plant additional landscaping at 25 Buck Point Road to further screen the structure.

9. **WHEREAS**, an Initial Study has been prepared by the North Marin Water District pursuant to the requirements of the California Environmental Quality Act and qualified for a Mitigated Negative Declaration because any impacts on the environment identified in the record as potentially significant have been mitigated to a less than significant level. The North Marin Water District submitted a Notice of Determination and the Mitigated Negative Declaration to the State Clearinghouse on May 11, 2018 for a 30-day review period ending on June 11, 2018. No comments were received from state agencies.

10. **WHEREAS**, the proposed project is exempt from local land use permit requirements pursuant to Marin County Development Code section 22.06.05.F because the project involves the construction of a new tank for the storage of water by a local agency as provided by Government Code Section 53091(e); however, the project requires Coastal Permit approval pursuant to Marin County Interim Development Code 22.56.040.I because the project entails improvements to a public works facility in a coastal zoning district not otherwise exempt from Coastal Permit requirements pursuant to State Public Resources Code 30610(b).

11. **WHEREAS**, the project is consistent with the mandatory findings for Coastal Permit approval (Marin County Code Section 22.56.130I).

A. Water Supply.

The proposed development consists of the construction of one new water storage tank that would replace two existing redwood water storage tanks, one of which was previously destroyed in the 1995 Mount Vision fire, in order to improve the North Marin Water District's overall existing water conveyance system. The remaining tank is proposed to be removed following the construction of the new, proposed tank. The proposed water storage tank would continue to provide the storage of domestic drinking water and is equipped to be used for fire protection for existing development in Inverness. Moreover, the project does not entail the construction of any new water wells. Therefore, the project is consistent with this finding.

B. Septic System Standards.

The project does not entail residential development and the site does not utilize septic systems for sewage disposal.

C. Grading and Excavation.

The project entails the construction of a new water storage tank encompassing the footprint of a water tank previously destroyed by fire. The area of the proposed tank will require some grading and earthwork in order to prepare the site for a larger tank footprint and the construction of a berm proposed to reduce the visual appearance of the tank while providing a stable slope above the maintenance access pad around the tank. The grading will also result in a lower visual profile of the tank. The earthwork volume is approximately 190 cubic yards of cut and 20 cubic yards of fill, resulting in 170 cubic yards of cut proposed to be off-hauled. The project is proposed to utilize best management practices with regards to the removal and deposition of site spoils. Additionally, an erosion control plan would occur in accordance with the standards as required by the Department of Public Works during the Building Permit review process; therefore, the project as proposed is consistent with this finding.

D. Archaeological Resources.

A review of the Marin County Archaeological Sites Inventory Maps on file in the Planning Division indicates that the subject property is in an area of no archaeological sensitivity and is already previously disturbed due to prior development. Moreover, pursuant to Section 22.56.130.D of the Interim Marin County Code, in the event archeological or paleontological resources are uncovered during construction, all work shall immediately

cease, and the services of a qualified consulting archaeologist be engaged to assess the value of the resource and to develop appropriate response measures. Therefore, the project is consistent with this finding.

E. Coastal Access.

The project site is not located adjacent to the shoreline and the project would have no impact upon coastal access. Therefore, the project is consistent with this finding.

F. Housing.

The project would have no impact upon the availability of affordable housing stock within the Inverness Ridge community because it does not involve the removal of existing housing. Therefore, the project is consistent with this finding.

G. Stream and Wetland Resource Protection.

The project is not located within or adjacent to any sensitive streams or creeks; therefore, the project is consistent with this finding.

H. Dune Protection.

There are no natural dunes in the development area.

I. Wildlife Habitat Protection.

A search of the California Natural Diversity Database indicates that subject property is located in an area of sensitive wildlife resources. The Biological Site Assessment prepared by Leonard Charles and Associates, April of 2018 concluded that there would be no impacts to special status plants, significant wildlife, or special status natural communities because there are none located on or near the proposed project site. Additionally, the site has been previously disturbed and developed with an existing water storage facility consisting of two water storage tanks (one of which has since been destroyed by fire).

The report does mention that there is a possibility that the site could be utilized as a roost for western red bat and hoary bat, which are two bat species listed as a California Species of Special Concern, or for migratory bird nesting. The project has been mitigated so that the removal of any trees or other suitable habitat showing evidence of special-status bat activity will occur outside of the period least likely to impact the bats as determined by a qualified bat biologist (generally between February 15 and October 15 if winter hibernacula are observed or between August 15 and April 15 if maternity roosts are present). Additionally, a pre-construction nesting bird survey would be performed prior to construction and the project would be assessed to establish a no-disturbance buffer area around nest sites. Therefore, the project is consistent with this finding.

J. Protection of Native Plant Communities.

A search of the CNDDDB mapping database indicates that the project site is within potential habitat for Mt. Vision Ceanothus (*Ceanothus gloriosus var. porrectus*), Swamp Harebell (*Campanula californica*), Marin Manzanita (*Arctostaphylos virgata*), and Western

Leatherwood (*Dirca occidentalis*). The Biological Site Assessment conducted by Leonard Charles and Associates also notes that there seven special-status plants species that have a potential to occur. However, no special status species were identified on the site and are unlikely to occur due to the impacted nature of the site. Thus, there are no identifiable impacts to native plant communities resulting from the proposed project, and this project is consistent with this finding.

K. Shoreline Protection.

The proposed project is not located adjacent to the shoreline or within a bluff erosion zone.

L. Geologic Hazards.

The project site is located in a Seismic Shaking Amplification Hazard Area Zone 1 (least ground shaking amplification) and is not located adjacent to any streams which periodically flood or within close vicinity of any known fault lines. The Marin County Community Development Agency – Building and Safety Division would require seismic compliance with the California Building Code.

M. Public Works Projects.

The project entails the replacement of two existing redwood water storage tanks, one of which was previously destroyed by fire, with one new water storage tank. The water storage facility is a part of a greater water delivery system that provides domestic drinking water and fire suppression supply for Inverness. The project would improve existing facilities and would not be entail the development of new connections. Though the storage capacity would increase from an aggregate capacity of 75,000 gallons to 125,000 gallons, the increase would provide the minimum capacity necessary to serve existing development and to help ensure sufficient capacity in future dry weather and drought years. Any associated utility extensions associated with the project would not lead to an impact on existing utilities that already service the community. Therefore, the project is consistent with this finding.

N. Land Division Standards.

No land division or property line adjustment is proposed as part of this project.

O. Visual Resources and Community Character.

The project entails the construction of one 125,000-gallon water storage tank that would reach a maximum height of 20 feet, 8 inches above existing grade. The proposed tank would replace two water tanks, one of which was previously destroyed by fire. The remaining tank is proposed to be removed following the construction of the new tank. The existing utility distribution lines will remain underground.

The subject property is on a ridge lot adjacent to a neighboring residence located immediately northwest of the proposed tank site that has a direct view of the existing tank site and is also adjacent to a down sloping property to the northeast. The project has been mitigated to reduce the visual impact of the proposed tank to the neighboring residence at 420 Drakes View Drive, further identified as Assessor's Parcel 114-120-58, to a less than

significant level. Per Mitigation Measure A-1, the tank will be constructed of colored concrete designed to mimic the visual appearance and patina of the existing redwood tank. Additionally, a berm will be established and landscaped with a mix of non-pyrophytic shrubs and trees native to Marin County. However, the project is located approximately five feet from the southern property line of the adjacent property at 25 Buck Point Road, further identified as Assessor's Parcel 114-120-72, and would be visually intrusive to the adjacent property.

To address these concerns, a condition of approval will require the applicant to reduce the height of the structure to a maximum height of 18 feet above existing grade, and to provide a fund for additional landscaping at 25 Buck Point Road to further screen the structure. Therefore, as modified, the proposed development is consistent with this finding.

P. Recreational/Commercial/Visitor Facilities.

The project would not provide commercial or recreational facilities, and the project site is not governed by any zoning district or regulations which require a mixture of residential and commercial uses.

Q. Historic Resource Preservation.

The subject property is not located within any designated historic district boundaries of the Inverness Ridge Community as identified in the Marin County Historic Study for the Local Coastal Program. Therefore, the project is consistent with this finding.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Board of Supervisors and is subject to the conditions of project approval.

This decision certifies the proposed project's conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby denies the North Marin Water District appeal and approves the North Marin Water District Coastal Permit subject to the conditions listed below.

CDA-Planning Division

1. This Coastal Permit approval authorizes the replacement of a redwood water storage tank previously destroyed by fire and an existing 50,000-gallon redwood water storage tank with one 125-000-gallon water storage tank and associated gate valves and overflow drain vaults on the 5,500 square-foot lot in Inverness. The water storage tank is approved to be 34 feet in

diameter and is approved to reach a maximum height of 18 feet above existing grade. The new tank is approved to be located approximately 22 feet, 6 inches from the western front property line, 5 feet from the northern side property line, 22 feet, 6 inches from the southern side property line, and 22 feet from the western rear property line. The approved water tank would modernize the water treatment and storage capacity but would not increase the number of properties served by North Marin Water District facilities.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "North Marin Water District Tank 4A Replacement Project," consisting of 19 sheets prepared by GHD, Inc. received in final form on July 03, 2018, and on file with the Marin County Community Development Agency.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the project to conform to the following requirements:

- a. The plans shall be revised to show the height of the proposed water tank at a maximum height of 18 feet above existing grade.
 - b. The applicant shall provide written verification that a fund has been provided for additional landscaping at 25 Buck Point Road.
3. The adjustment of the existing access easement for construction identified as "construction access" to a new access easement for construction identified as "construction access gravel driveway" on sheet 3 of 19 of Exhibit A shall substantially conform to this approval.
 4. The project shall conform to the Planning Division's "Uniformly Applied Standards 2018" with respect to all of the standard conditions of approval.

SECTION IV: VESTING

NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within **two years** of the date of the approval, shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 18th day of December, 2018, by the following vote to wit:

AYES: SUPERVISORS

NOES:

ABSENT:

DAMON CONNOLLY, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:

Matthew H. Hymel
Clerk of the Board of Supervisors