



**STAFF REPORT TO THE MARIN COUNTY  
PLANNING COMMISSION  
Young Appeal of the North Marin Water District Coastal Permit**

**Recommendation: Deny Appeal and Approve with Conditions**  
**Hearing Date: October 22, 2018**

Application No(s):	P2159	Owner(s):	North Marin Water District
Agenda Item:	1	Assessor's Parcel No(s):	114-120-09
Last Date for Action:	November 26, 2018	Property Address:	Drakes View Ave, Inverness
		Project Planner:	Sabrina Sihakom
		Signature:	
Countywide Plan Designation:	C-SF3 (Coastal, Single-Family, 1 unit/1-5 acres)		
Community Plan Area:	Inverness Ridge Communities Plan		
Zoning District:	C-RSP-0.25 (Coastal, Residential, Single-Family, Planned, 1 unit/4 acres)		
Environmental Determination:	Negative Declaration State Clearinghouse #2018052031		

**PROJECT SUMMARY**

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 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 water treatment and storage capacity but would not increase the number of properties served by North Marin Water District facilities.

Coastal Permit approval is required pursuant to interim Marin County Code Section 22.56.0401 because the project entails improvements to a property located in a Coastal zoning district not otherwise exempt from Coastal Permit requirements.

**PROJECT SETTING**

Characteristics of the site and surrounding area are summarized below:

Lot Area: 5,500 square feet

Adjacent Land Uses: Residential and open area

Topography and Slope: Moderate sloping at 16% average slope

Existing Vegetation: Introduced and native vegetation

Environmental Hazards: The property and surrounding area is located in a very high fire risk area

The project site is an active water storage facility developed with one redwood water tank and an existing telecommunication shed. A previous tank was destroyed by fire. The water tanks are part of a greater water delivery system that provides domestic drinking water and fire suppression supply for Inverness. The project site is surrounded by a neighboring single-family residence to the northwest and is accessible through a shared access along the driveway of the neighboring residence, as well as a 10-foot utility easement along the northern property line.

## **BACKGROUND**

A Coastal Permit application was submitted on February 7, 2018. The applicant provided an Initial Study prepared by Leonard Charles and Associates, May 2018. The Initial Study included the following reports by reference:

- Biological Site Assessment prepared by Leonard Charles and Associates, April 2018. The biological consultant concluded that the project as proposed would not have an impact on the environment because the site has been previously disturbed by the existing water storage facility and the proposed project was found to have no significant effects on the environment, after mitigation.
- Geotechnical Investigation, prepared by Miller Pacific, November 17, 2017, which provided a preliminary geotechnical evaluation of the site and concluded that the project is feasible from the geotechnical standpoint.

A Mitigated Negative Declaration was prepared for the project pursuant to the requirements of the California Environmental Quality Act (CEQA) by the North Marin Water District acting as Lead Agency. The Mitigated Negative Declaration was filed with the Marin County Recorder's Office on June 27, 2018 after satisfying all CEQA requirements. The project was found to have no significant effects on the environment, after mitigation. The mitigations are not required as conditions of approval because the applicant, as the lead agency, has agreed to and adopted the Mitigated Negative Declaration.

The project was referred to the Marin County Department of Public Works (DPW) and the Marin County Fire Department on February 15, 2018 and the California Coastal Commission (CCC) on March 1, 2018. Their responses are attached.

A notice was posted on the project site on March 1, 2018 identifying the applicant and describing the project and its location. Site visits were conducted on March 1, 2018. The Community Development Agency provided a mailed public notice on July 27, 2018 identifying the applicant, describing the project and its location, and of a hearing date before the Deputy Zoning Administrator of September 13, 2018 in accordance with California Government Code requirements. This notice had been mailed to all property owners within 325 feet of the subject property.

The Community Development Agency received comments from Erik Martinez on behalf of the California Coastal Commission raising concerns regarding mitigation for construction impacts to special status bats, northern spotted owl, and migratory birds. The project applicant provided written response to the comments clarifying that the project has been mitigated to reduce possible construction impacts on northern spotted owls and special-status species of bats to a less than significant level and impacts to migratory birds to a less than significant level (their response is attached).

### **Bases of Appeal**

On September 13, 2018, the Community Development Agency Deputy Zoning Administrator conducted a public hearing, reviewed the administrative record, and adopted Resolution No. 18-116, conditionally approving the project. Following the adoption of the resolution, an appeal was filed by the owner of the adjacent properties, Jessie Colin Young for Owl Mountain LLC. The properties are located northeast of the project site and are further identified as Assessor's Parcels 114-120-72 and 114-120-73. The bases of appeal include failure to receive public notice of the project, the visual and aesthetic impacts of the project on the appellant's properties, and concerns regarding the impacts of the project on the environment.

The attached resolution contains a further description of, and responses to, the bases of appeal.

### **RECOMMENDATION**

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and deny the Appeal and sustain the Marin County Deputy Zoning Administrator's Decision conditionally approving the North Marin Water District Coastal Permit, based on the findings and subject to the conditions contained in the attached resolution.

Attachments:

1. Recommended resolution
2. Project plans
3. Petition for Appeal, received September 24, 2018
4. Mitigated Negative Declaration dated June 26, 2018
5. Planning Application Review, Department of Public Works dated July 23, 2018
6. Emails from the California Coastal Commission dated May 23, 2018 and Monday July 23, 2018
7. Email from the North Marin Water District dated September 5, 2018

**MARIN COUNTY PLANNING COMMISSION**

**RESOLUTION NO. \_\_\_\_\_  
A RESOLUTION DENYING THE YOUNG APPEAL AND APPROVING THE NORTH MARIN  
WATER DISTRICT COASTAL PERMIT  
DRAKES VIEW DRIVE, INVERNESS  
ASSESSOR'S PARCEL: 114-120-09**

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**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, the appellant, Ryan J. Patterson on behalf of Jesse Colin Young et al., submitted a timely appeal of the Deputy Zoning Administrator's decision conditionally approving the North Marin Water District Coastal Permit. The bases of appeal and analysis thereof are discussed below.
4. **WHEREAS**, the Marin County Community Development Agency has provided public notice identifying the applicant and appellant, describing the project and its location, and the date of the public hearing. This notice has been mailed to all property owners within 600 feet of the subject property.
5. **WHEREAS**, the Marin County Planning Commission held a duly noticed public hearing on October 22, 2018 to consider the merits of the project and the bases of appeal, and to hear testimony in favor of and in opposition to the project.
6. **WHEREAS**, the Marin County Planning Commission finds that the Young appeal lacks sufficient merit to overturn the approval of the project. In the interest of clarity, the bases of appeal can be organized into the following categories: (A) Public Noticing; (B) Visual Prominence; and (C) Environmental Impacts.

### **(A) Public Noticing**

The appellants assert that they received no notice of the project, the permit application, or a notice of the public hearing before the Deputy Zoning Administrator.

#### **Response**

Pursuant to Marin County Interim Development Code Section 22.56.065.I, public notices for coastal project applications requiring a public hearing shall be noticed by mailing notices ten working days prior to the date of the hearing to all property owners within three hundred feet of the project boundaries. Additionally, a pending application sign shall be posted at the project site at least ten working days prior to the date of the hearing.

The Community Development Agency (CDA) posted a notice on the site on March 1, 2018, well before ten working days prior to the date of the hearing. Additionally, the CDA mailed a public notice on August 28, 2018, 11 working days prior to the hearing, identifying the applicant, describing the project and its location, and of a hearing date before the Deputy Zoning Administrator on September 13, 2018. The mailing was sent within a 325-foot search radius from the boundaries of the subject property and was posted online on the project website.

### **(B) Visual Prominence**

The appellants assert that the project would result in visual impacts that will be equivalent or greater to their property than that of the neighbor at 420 Drakes View Drive, Inverness.

#### **Response**

The project is located on a localized high point that is not on a visually prominent ridgeline visible from nearby highways or other developed areas. The project site is adequately screened from downslope properties with existing mature vegetation. The neighboring residence at 420 Drakes View Drive is immediately northwest of the proposed tank site and has a direct view of the tank site to the east of the residence.

The project has been modified to reduce the visual impact of the proposed tank with 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 to provide additional screening along the western edge of the property. Existing mature vegetation adequately screens the project site along the northern edge of the subject property. The appellants' properties adjacent to the project site are downslope and are separated from the project site by dense, mature vegetation. Thus, the project has been mitigated to reduce aesthetic and visual impacts to a less than significant level.

### **(C) Environmental Impacts**

The appellants assert that the project would result in significant environmental impacts including erosion, the removal of trees, the aesthetic impact of the tank, and potential construction impacts on special status wildlife species. The appellants assert that the mitigation measures are inadequate, and that they should have been consulted during the environmental review process.

## Response

The North Marin Water District, as the lead agency, prepared an Initial Study pursuant to the requirements of the California Environmental Quality Act. The District conducted a public scoping meeting on preparing the Initial Study on November 2, 2017. The Draft Mitigated Negative Declaration for the proposed project was circulated for public review beginning on May 11, 2018 and ending on June 11, 2018. The District held a public hearing to consider the adoption of the Mitigated Negative Declaration and approved of the project on June 26, 2018.

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, and no comments were received from state agencies. The project has been mitigated to reduce any impacts on the environment identified in the record as potentially significant to a less than significant level; therefore, the project was found to have no significant effects on the environment, after mitigation. The mitigations are not required as conditions of approval because the applicant, as the lead agency, has agreed to and adopted the Mitigated Negative Declaration. Further, since the district is the lead agency, the environmental review is outside of the Planning Commission's purview.

7. **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.

8. **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 State 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).

9. **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 grade where a maximum height of 25 feet above grade is allowed by the governing C-RSP zoning district. 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 adjacent to a neighboring residence located immediately northwest of the proposed tank site on a localized high point that is not on a visually prominent ridgeline visible from nearby highways or other developed areas. Existing vegetation adequately screens the project site, and the proposed grading associated with the foundation of the tank would result in a lower visual appearance. Furthermore, the project has been mitigated to reduce the visual impact of the proposed tank to the neighboring residence 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. Therefore, the proposed development would not obstruct any significant views as seen from public viewing places and 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 Marin County Planning Commission denies the Young et al. Appeal of the North Marin Water District Coastal Permit, and authorizes the project described in condition of approval 1, 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 Planning Commission hereby approves the Inverness Public Utility District Coastal Permit subject to the conditions as specified below:

#### **CDA-Planning Division**

1. This Coastal Permit approval authorizes the replacement of an existing 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 20 feet, 8 inches above 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.
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: APPEAL RIGHTS**

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and the required fee must be submitted in

the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than five business days from the date of this decision (**October 30, 2018**).

**SECTION VI: ADOPTION**

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 22<sup>nd</sup> day of October 2018 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

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MARGOT BIEHLE, CHAIR  
MARIN COUNTY PLANNING COMMISSION

Attest:

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Ana Hilda Mosher  
Planning Commission Recording Secretary