

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. 2008-_____

**A RESOLUTION GRANTING THE LUDWIG APPEAL,
OVERTURNING THE PLANNING COMMISSION'S DENIAL
OF THE WRIGHT/LAWRENCE ET AL. APPEAL,
AND DENYING THE PAGE FLOATING HOME ARCHITECTURAL DEVIATION**

**70 ISSAQUAH DOCK, WALDO POINT HARBOR,
SAUSALITO**

ASSESSOR'S PARCEL 901-050-34

SECTION 1: FINDINGS

- I. WHEREAS Ian Moody, Aquamaison Inc., on behalf of floating home owner Linda Page, submitted a proposal to swap berths for two existing floating homes. The floating home currently berthed at 67 Liberty Dock would be moved to 70 Issaquah Dock, and the floating home at 70 Issaquah Dock would be moved to 67 Liberty Dock. The floating home that would be moved to 70 Issaquah Dock has a maximum height of 20 feet above grade that was approved in 1994 with a Floating Home Architectural Deviation for Robert and Lisa Winn. The height above 16 feet above the waterline was approved in 1994 and must again be approved for the new berth location at 70 Issaquah Dock with a new Floating Home Architectural Deviation. The floating home would be 20 feet and 5 inches from the adjacent floating home at 69 Issaquah Dock where a 10-foot separation is required. The existing floating home at 70 Issaquah has a maximum height of 13 feet and no discretionary review is required to move it to 67 Liberty Dock where it would be berthed 13 feet from the adjacent floating home at 65 Liberty Dock. The subject property is located at 70 Issaquah Dock, Sausalito, and is further identified as Assessor's Parcel 901-050-34.
- II. WHEREAS the Marin County Community Development Agency, Planning Division mailed public notices on January 18, 2008 identifying the applicant, describing the project and its location, and giving the earliest possible administrative decision date to all owners of floating homes within 625 feet of the subject property, and interested parties and organizations. One comment letter was submitted from Mark Lawrence, representing 10 neighbors on Issaquah Dock, requesting a denial of the project due to the blocky and massive appearance, privacy impacts, proximity to the dock, no support from neighbors, and inaccurate story poles. One letter of support for the project was submitted from Michele Affronte, the owner of the floating home at 44 Liberty Dock and the current resident of the floating home at 65 Liberty Dock.
- III. WHEREAS the Marin County Community Development Agency, Planning Division made an administrative decision on February 15, 2008 based on affirmative Floating Home Architectural Deviation findings to approve the project.
- IV. WHEREAS Kimberly Wright, Mark Lawrence, Mark and Debby Ludwig, Richard and Joan Mickley, Ray and JoAnn Dunaway, and Sandra Schlesinger submitted a timely Petition for Appeal of the Community Development Agency's administrative conditional approval to the Planning Commission on March 3, 2008. The Wright/Lawrence et al. Appeal alleges that because the floating home proposed for 70 Issaquah Dock was designed for 67 Liberty Dock, the design would not fit into the

Issaquah Dock neighborhood with a blocky and massive appearance with adverse privacy impacts. The nine bases of appeal are summarized below:

- A. The floating home proposed for 70 Issaquah Dock was designed for its current berth at 67 Liberty Dock and the design would not fit into the neighborhood with a blocky and massive appearance, and adverse privacy impacts to the floating home at 69 Issaquah Dock because 14 windows would face the proposed entry ramp along the side instead of the front of the floating home as is typical in the neighborhood.
- B. The massive, blocky appearance will be closer to the dock than any other floating home on that side of the dock, when the end of the dock is widened in the near future.
- C. The approval of the Allison Floating Home Adjustment (FH 05-5) was supported by nine neighbors, but 10 neighbors at the end of Issaquah Dock are opposed to this project.
- D. The application is incomplete and inaccurate because the story poles do not represent the correct length of the proposed floating home, the plan drawings are inconsistent, and we have not seen a survey or a revised plan. Contrary to the representations made by the applicant: there is an important lateral view from the end of the dock; existing views of the neighborhood will be adversely affected and diminished; and the neighbors do not support the project.
- E. The reason provided by the applicant that the entrance to the floating home could not be redesigned as suggested by Planning staff is not valid because the master bedroom is located at the other end of the floating home and would not be affected by a front entrance. The decorative deck proposal in the front of the floating home would have virtually no effect on the massive, blocky nature of the front of the houseboat.
- F. In the Project Analysis of the Allison Floating Home Adjustment, Planning staff determined that the project would not result in adverse light, air, view, or privacy impacts to adjacent properties and that the Allison project would be architecturally compatible with existing structures in the neighborhood and not detrimental to floating homes in the immediate vicinity. The Allison project was found to be consistent with the established character of the surrounding community. Consequently, because Planning staff have stated that this project is considered new construction, the design of the floating home proposed for 70 Issaquah Dock should be required to have a light and airy design with consideration of the privacy of neighbors, and the architectural character of the neighborhood just as would be required for a house on land.
- G. There is no compelling reason to allow this berth swap. The floating home at 67 Liberty Dock fits the berth at the end of Liberty Dock, and not the berth proposed at Issaquah Dock. It would set a dangerous precedent to allow someone to capriciously switch berth's simply because they want to, and potentially negatively impact many other homes in the process.
- H. The history of the designs of the other floating homes that previously were berthed at 70 Issaquah Dock in the past is irrelevant for the review of this project. We should be protected by existing views, and current code.
- I. The Planning staff approval of the existing floating home at 67 Liberty Dock, with the Winn Floating Home Architectural Deviation in 1994, relied on five findings of fact essentially finding that the design of the floating home in that location would not have blocky or massive appearance within the marina, and would protect views, light, and privacy of the

subject and surrounding vessels. Three of the required findings cannot be made for the same floating home in the berth at 70 Issaquah Dock.

- V. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on April 14, 2008, to consider the merits of the Wright/Lawrence et al. Appeal, and hear testimony in favor of, and in opposition to, the appeal and the project
- VI. WHEREAS the Marin County Planning Commission determined that the bases for the Wright Lawrence et al. Appeal cannot be sustained and that the Community Development Agency acted appropriately in approving the Page Floating Home Architectural Deviation based on the following factors:

Bases of Appeal:

As stated in Section III above, the appeal alleges that because the floating home proposed for 70 Issaquah Dock was designed for 67 Liberty Dock, the design would not fit into the Issaquah Dock neighborhood with a blocky and massive appearance with adverse visual and privacy impacts out of character with the surrounding community.

Response to Appeal:

The design of the floating home meets the code requirements with a width of 20 feet where 20 feet is the maximum allowed, a length of 46 feet where 46 feet is the maximum, and an upper floor level that is 80% of the size of the lower floor level pursuant to Marin County Code Section 19.18.051. The location of the floating home would be 20 feet from the adjacent floating home at 69 Issaquah Dock where 10 feet is the minimum separation allowed for a 2-story floating home pursuant to Marin County Code Section 11.21.050. The 10 feet additional separation would locate the proposed floating home away from the nearest neighbor.

The height and visual appearance would be consistent with the standards for a floating home that could be permitted without a Floating Home Architectural Deviation. The additional height of 4 feet does not block any substantial views or light available to the public or to neighbors. The privacy effects are comparable to any other floating home that could be located within the marina. It is inherent in floating home marinas that neighbors are visible to each other.

- VII. WHEREAS Mark L. Ludwig submitted a timely appeal from the Planning Commission's decision on April 28, 2008 asserting that the proposed floating home has not been considered as new construction by the Planning Commission and Planning Department, and the floating home proposed to be relocated to 70 Issaquah Dock was carefully designed to suit the particular situation existing at 67 Liberty Dock 14 years ago. The design, configuration, and appearance of the proposed floating home should not be approved for the different berth at 70 Issaquah Dock.
- VIII. On May 9, 2008, Ms. Page submitted a revised project design proposal for consideration by the Board of Supervisors that indicates a ramp access from Issaquah Dock directly to an expanded deck on the side of the floating home to eliminate the need for a 120 square foot floating dock. The revised ramp design would be a minimum of 15.25 feet from Mr. Ludwig's floating home at 69 Issaquah Dock, and would reduce the amount of shadow fill in the bay. The revised project design also deletes a window facing 69 Issaquah Dock, and adds two new windows and a "Boat House" sign on the front façade facing 66 Issaquah Dock.

- IX. WHEREAS the Marin County Board of Supervisors held a duly noticed public hearing on June 10, 2008, to consider the merits of the Ludwig Appeal, and hear testimony in favor of, and in opposition to, the appeal and the project.
- X. WHEREAS the Marin County Board of Supervisors finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1 because the relocation of two existing floating homes to swap berth locations would not result in significant environmental impacts.
- XI. WHEREAS the Marin County Board of Supervisors finds that the proposed project is consistent with the Marin Countywide Plan because:
- A. The project is consistent with the Countywide Plan land use designation as a residential floating home berth swap in a residential marina area in Waldo Point Harbor.
 - B. The project would comply with Marin County standards for flood control, geotechnical engineering, and seismic safety, and include improvements to protect lives and property from hazard.
 - C. The project would comply with governing development standards related to roadway construction, parking, grading, drainage, flood control and utility improvements as verified by the Department of Public Works.
 - D. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.
 - E. The project would have no soil disturbance and no effects to natural vegetation.
 - F. The project would result in development that would conform to the governing standards related to floating home size and location in an existing floating home berth in the Waldo Point Harbor marina.
 - G. The project would be consistent with the land use designation of Floating Home Marina (FH).
- XII. WHEREAS the Marin County Board of Supervisors finds that the proposed project is consistent with the Richardson Bay Special Area Plan policies as development that would preserve the natural habitat values of Richardson Bay as a small residential development that merely swaps the locations of two existing floating homes in the established Waldo Point Harbor marina.
- XIII. WHEREAS the Marin County Board of Supervisors finds that the proposed project is not consistent with all of the mandatory findings to approve the Page Floating Home Architectural Deviation pursuant to Marin County Code Section 22.46.030.C.1 that limits the height of floating homes to 16 feet measured from waterline to rooftop unless specific findings can be made to allow a vessel height of not more than 20 feet (Section 22.46.040.A of the Marin County Code) as specified below.
- A. **The deviation is comparable and compatible with the size of neighboring floating homes.**
- The project would not be compatible with the neighboring floating homes. The proposed floating home for 70 Issaquah Dock has a width of 20 feet, length of 46 feet, and a maximum height of 20 feet for the main central portion of the super-structure. The floor area is approximately 1,499 square feet. The adjacent floating home, on the opposite side of the dock, at 66 Issaquah Dock is 28 feet wide, 44 feet long, with a maximum height of 26 feet

and a floor area of 2,267 feet, including the lower level barge floor that has 940 square feet. The adjacent floating home at 69 Issaquah Dock is 20 feet by 46 feet, with a maximum height of 27 feet. The floating home at 64 Issaquah Dock is 28 feet by 46 feet with a maximum height of 20 feet.

The Board of Supervisors finds that the Planning Commission made its decision to approve the project based on factual evidence in the administrative record but incorrectly made Floating Home Architectural Deviation findings because the floating home would have a height that would be incompatible with the surrounding neighborhood. In addition, the floating home is not suited to the berth due to its height, design characteristics, and location relative to the surrounding floating homes and the bay. The Board of Supervisors and the Planning Commission made an informed decision after review of the administrative record including the Community Development Agency's administrative decision to approve the proposal on February 15, 2008, additional correspondence, and public testimony. The Board of Supervisors and the Planning Commission convened public hearings and discussed the merits of the project before a decision was made. The decision to deny the floating home was based on an analysis of the existing character of the neighborhood where many similarly-sized floating homes exist but the design characteristics of the proposed floating home would not be compatible with the surrounding neighborhood.

B. The deviation results in adequate open space and viewsheds both within and to the marina.

The project would add 4 feet of additional height and bulk, which would result in 25% more height and bulk above the 16-foot height standard, in comparison to the height that is allowed by right in the Floating Home District. The existing floating home proposed for 70 Issaquah Dock would be located 20 feet, 5 inches from the adjacent floating home at 69 Issaquah Dock and would not substantially diminish open space or viewsheds in comparison to the height and size of a floating home allowed by right in the marina. The relocation of the floating home to 70 Issaquah Dock would not substantially diminish open space and viewsheds within and to the marina.

C. All features allowed by the deviation will not extend above 20 feet from the water line.

The maximum height of the project would be 20 feet above the waterline.

D. The deviation will not provide for an additional story of living or storage space.

The project would not provide an additional story of living space or storage space.

E. The deviation will not result in public health and safety hazards, including, but not limited to, applicable fire safety standards.

The project would comply with the 10-foot separation requirement for fire safety from adjoining floating homes with 20 feet, 5 inches of separation proposed from the adjacent floating home at 69 Issaquah Dock. The Marin County Fire Marshal reviewed the project and stated that he had no comments regarding any fire safety hazards.

F. The deviation is consistent with the intents of Chapters 11.24 and 19.18 of the County Code.

The project would swap the berths of two existing floating homes that would retain the same heights and sizes of the existing floating homes with no adverse effects to the marina. The

project would comply with the minimum separation standard of 10 feet between 2-story floating homes because the floating home to be located at 70 Issaquah Dock would be 20 feet, 5 inches from the adjacent floating home at 69 Issaquah Dock. The floating home proposed to be located at 67 Liberty Dock would be 13 feet from the adjacent floating home at 65 Liberty Dock.

XIV. WHEREAS the Marin County Board of Supervisors determined that the bases for the Ludwig Appeal can be sustained based on the following reasons:

Ludwig Bases of Appeal:

The proposed floating home has not been considered as new construction by the Planning Commission and Planning Department, and the floating home proposed to be relocated to 70 Issaquah Dock was carefully designed to suit the particular situation existing at 67 Liberty Dock 14 years ago. The design, configuration, and appearance of the proposed floating home should not be approved for the different berth at 70 Issaquah Dock.

Response to Appeal

The Board of Supervisors finds that the Planning Commission made its decision to approve the project based on factual evidence in the administrative record but incorrectly made Floating Home Architectural Deviation findings because the floating home would have a height that would be incompatible with the surrounding neighborhood. In addition, the floating home is not suited to the berth due to its height, design characteristics, and location relative to the surrounding floating homes and the bay. The Board of Supervisors and the Planning Commission made an informed decision after review of the administrative record including the Community Development Agency's administrative decision to approve the proposal on February 15, 2008, additional correspondence, and public testimony. The Board of Supervisors and the Planning Commission convened public hearings and discussed the merits of the project before a decision was made. The decision to deny the floating home was based on an analysis of the existing character of the neighborhood where many similarly-sized floating homes exist but the design characteristics of the proposed floating home would not be compatible with the surrounding neighborhood.

SECTION 2: DECISION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby grants the Ludwig Appeal, overturns the Planning Commission's decision to deny the Wright/Lawrence et al. Appeal, and denies the Page Floating Home Architectural Deviation (FA 08-2).

SECTION 3: ADOPTION

ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 10th day of June 2008, by the following vote:

AYES: SUPERVISORS: Arnold, Brown, Adams, Kinsey, and McGlashan

NOES: SUPERVISORS: none

ABSENT: SUPERVISORS: none

CHARLES McGLASHAN, PRESIDENT
BOARD OF SUPERVISORS

ATTEST:

CLERK