

**November 27, 2006**

**Subject: Brock's Boathouse, a registered historic landmark**

**12820 Sir Francis Drake Blvd. APN # 112-193-03**

**C-RSP (Coastal residential single-family planned districts)**

History:

19??: Brock's Boathouse purchased by the Inverness Foundation

1975: Use permit #2622 granted for a period of one year subject to renewal or extension before May 12, 1976 (for Lance Brown boatbuilding and repair)

1977: Use permit extension granted on May 27, 1977 with expiration date of May 12, 1980

1979:

*"At its August Board of Directors meeting, President Anne West presented the directors with a proposal as to the disposition of the boathouse. Her recommendations, modified slightly and then approved, read as follows:*

*...That the property known as Brock's Boathouse and Children's Beach be offered for sale for a period of 90 days, subject to the following conditions:*

- 1. Uses permitted: Boat-building or other low-intensity use considered appropriate by the IA/IF board of directors, with not more than two persons working regularly in the structure.*
- 2. Public access to and use of the beach to be guaranteed in perpetuity.*
- 3. Any use of the property or alteration of the structure must be in accordance with applicable Federal, State, and Marin County regulations.*

—from The Bagpiper, September, 1979

1981: Brock's Boathouse sold to Ed and Nancy Richardson for \$30,000, subject to deed restrictions including the following: "The property shall be used only for low intensity non-residential uses such as boat building, boat repairs, or boat rentals, or for other such low intensity uses which are considered appropriate and so approved by the Trustees of the Inverness Foundation..." [and] "Grantee shall comply with all applicable State, Federal, and County laws concerning the subject property..."

1985: Second use permit extension granted on March 6, 1985 with expiration date of May 25, 1990

1986: Ed Richardson sells Brock's Boathouse to Philip & Paula Kirkeby for \$99,000

1990: Kirkeby submits application to County to rebuild and expand Boathouse; IF opposes, citing deed restrictions and public use of beach:

*The Foundation's intent has always been to enhance the open space and recreational possibilities of the beachfront portion of the land and to restrict the use of the boathouse to commercial boat repair or other low density non-residential uses."*

—March 1990 letter from IF President Robert Cuenin to Mr. and Mrs. Kirkeby

Date unknown: Kirkeby installs unpermitted kitchen, hot tub, and pier modifications

April 11, 1990: Third extension of use permit applied for by Kirkeby and granted with expiration date of May 25, 1995, subject to following conditions:

- original condition imposed in 1975 which states that “small boats are to be repaired within the Boathouse”
- unpermitted kitchen facilities must be removed within 45 days
- unpermitted hot tub must be removed within 45 days
- unpermitted pier extension must be removed within six months
- if conditions are not complied with by dates specified, use permit #2622 shall be considered null and void

1995: County has no evidence that conditions were complied with; use permit is null and void

2001 Boathouse ownership from Phillip & Paula Kirkeby to Kirkeby Family 1999 Trust

2005: Kirkeby family and potential owners (Hope et al) attend Inverness Foundation meeting; perpetual nature of deed restrictions is explained to them by Board

2005: Kirkeby Family Trust sells Boathouse to Madeleine Hope, John Hope, Mette Qvistgaard-Hansen, and Steven Kirkeby for \$200,000

April, 2006: Retaining wall built without permit

July, 2006: Madeleine Hope attends IA/IF board meeting, says she and her partners:

- are doing “modest repairs themselves” to improve safety of building
- are removing ivy and blackberries
- are setting up an LLC for Launch for Hire recreational boat use
- may offer private art lessons

September, October, November 2006: IA/IF receives complaints from neighbors about large-scale, noisy events taking place at Boathouse; various IA/IF board members discuss situation with Boathouse owners; Madeleine Hope says she is not being paid for the use of the building, that there was no commercial use; says she would like to see some activities there that would allow building to “play a more integral role in this town.”

November 21, 2006: Debbi Poiani, Senior Enforcement Officer, Marin County Community Development Agency says that:

- Property was zoned R-1 (as boat repair business) until coastal zoning came into effect and zoning was changed to C-RSP (Coastal residential single-family planned district)
- Richardson boatbuilding was a permitted, legal, nonconforming use
- Kirkeby family made unpermitted changes (kitchen, dock, hot tub)
- They later applied for extension of use permit #2622 to allow building and/or repair of small boats (see above)

- Conditions of extension were not complied with (kitchen, hot tub, dock changes not removed, as far as County knows), therefore, use permit is null and void
- Even if Kirkeby family had met conditions of use permit, the boat building permit has now expired

## CONCLUSION

- Per Debbi Poiani: THERE IS NO LEGAL COMMERCIAL OR PUBLIC CONFORMING OR NON-CONFORMING USE UNDER THIS ZONING UNLESS THE BUILDING IS OCCUPIED AS A RESIDENCE

- Per IF deed restriction: NO RESIDENTIAL USE IS ALLOWED

- Even if any new non-conforming use were allowed, it would require:

- 1 Use permit
- 2 Coastal permit
- 3 Design review
- 4 Residence (which is not allowed by IF deed restriction)