

RESOLUTION NO. 5/2018

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA
DENYING THE APPEAL OF THE PLANNING COMMISSION'S DECISION AND
APPROVING DESIGN REVIEW APPLICATION NO. PL-2017-0125, THEREBY ALLOWING
THE CONSTRUCTION OF A 542 SQUARE FOOT ADDITION AT 22 SEMINOLE AVENUE.**

WHEREAS on October, 2017 The applicants and their architect met with Staff to discuss the design review process and the development of their submittal materials, prior to submitting an application; and

WHEREAS on November 1, 2017 An application was filed for Major Design Review to construct a new second-story addition and remodel; and

WHEREAS on November 29, 2017 The applicants provided revised floor plans and exterior elevations in response to feedback received from neighboring residents; and

WHEREAS on November 30, 2017 The Planning Department determined the application to be complete after review of submitted information and determined that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS on December 22, 2017 Story poles were constructed; and

WHEREAS on December 29, 2017 Public notice was mailed to all residents and property owners within 300 feet of the property, posted notice in three public places; and

WHEREAS on December 29, 2017 The story poles were certified by a licensed surveyor; and

WHEREAS on January 9, 2018 The Planning Commission held a public hearing and made a motion to approve Resolution 18-001 with the added condition that the applicant plant one 24 inch box podocarpus or two pittosporum, or other plantings of the applicants' choosing, planted prior to construction for the purposes of privacy screening, thereby allowing the construction of a new 542 square foot second story addition to an existing 1,911 square foot single story residence located at 22 Seminole Avenue, based upon the findings in accordance with Section 18.30.070 of the Municipal Code; and

WHEREAS on January 12, 2018 A timely appeal was filed by Inge Morrison who resides at 27 Lakeside Drive, to the Town Council with the request that the Town Council reverse the decision of the Planning Commission and deny the application; and

WHEREAS on January 18, 2018 Pursuant to Section 18.34 of the Zoning Ordinance, the Planning Director scheduled the appeal to be heard at the next available hearing, February 6, 2018. The applicant, appellant and Town Council members were notified of the scheduled date. Staff provided contact information of the applicant and appellant to members of the Council to facilitate scheduling of site visits; and

WHEREAS on January 26, 2018 A Notice of Public Hearing for the Appeal was mailed to all properties within 300 feet of the subject property, and was posted in three public places; and

WHEREAS on February 6, 2018 The Corte Madera Town Council holds a public hearing on the Appeal;

NOW, THEREFORE, BE IT RESOLVED, that the Town Council does hereby deny Appeal Application PL-2018-0008 and approves Design Review Application PL-2017-0125 for the addition of a new 542 square foot second story to an existing single story dwelling at 22 Seminole Avenue based upon the findings listed below in accordance with Section 18.30.070 of the Municipal Code, and subject to the below conditions of approval.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) DETERMINATION

This project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to California Code of Regulations, Title 14, Division 6, Chapter 3, (“CEQA Guidelines”), under Section 15301, because said Guidelines provision exempts the construction of minor additions to existing structures.

DESIGN REVIEW: REQUIRED FINDINGS

The Planning Commission hereby makes the following findings required by Section 18.30.070 of the Corte Madera Municipal Code and based on California State law.

1. The project conforms with the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.

The project is a modest addition which would meet the goals and policies of the General Plan, while also meeting all development standards of the Zoning Ordinance including but not limited to: height, floor area, setbacks, lot coverage and parking.

For projects that involve the second story construction, General Plan Implementation Program CD-2.4.a encourages applicants to consider the following:

- design approaches that break the mass of wall planes
- the use of quality architectural design and materials compatible with the main body of the home
- the location of the proposed second story relative to placement of residences on adjoining properties
- limiting the impact of the proposed second story on privacy to adjoining residences and yards through features such as window size and placement, physical screening, etc.

This application puts each of these principles into practice. The addition is well integrated with the existing structure and site in terms of massing and siting. The upper floor would be stepped back from the front and sides, reducing the visual impact of the additional building mass. The 542 square foot addition is in proportion with the lower floor which is 1,911 square feet, inclusive of the garage. The design is further integrated with the existing structure through the use of similar roof pitch, and matching colors and materials. The design uses clerestory windows in deliberate locations on the north, south and west elevations to significantly limit privacy impacts. Each of these measures is consistent with the General Plan policies and has resulted in a well-developed project that is appropriate for the site.

The project also complies with the General Plan because it represents a significant reinvestment in existing housing stock that will improve the safety and structural integrity of the residence. The project is consistent with General Plan Policy CD-2.3, which requires that “new residential construction, including large additions, to respect the scale and character of nearby structures by minimizing abrupt or excessive difference in appearance or scale,” and Policy LU 2.4, that seeks to “ensure that new residential development and upgrades to existing residential development are compatible with existing neighborhood character and structures.”

The General Plan states that “with Corte Madera’s residential neighborhoods nearly built out, the focus in the coming years turns to improving the neighborhood character of these areas (General Plan, pg. 5-4)” Given this understanding, the General Plan emphasizes that expansion projects “must balance the needs of the home owner with potential neighborhood impacts affecting views, sunlight, privacy and safety (General Plan, pg. 5-4)” This project achieves the objectives of the Zoning Ordinance and General Plan, because it improves the quality and livability of the home for the occupants through thoughtful and well-designed improvements that are consistent with the residential character of the neighborhood, while doing so in a way which avoids any significant negative impacts to surrounding property owners.

The Design Guidelines of the Zoning Ordinance encourage, but do not require, single story construction. In developing their application, the applicants considered several single story designs before arriving at the two story proposal under consideration. The subject property is smaller than the standard lot size in the R-1 district and the location of the existing home is such that there is limited space between the home and the required side, front and rear yards (where development is prohibited). There is only 3 feet between the existing structure and the rear yard, significantly limiting options for additions in that area. An addition that would comply with the rear yard setback would not meet the intent of the applicant’s application and would require the reworking of a majority of the floorplan which would otherwise be left unmodified in the applicant’s proposal. Conversion of the garage space to living area- an idea suggested by the appellant- would eliminate the garage and require the applicants to replace parking spaces elsewhere on the lot. Based on required parking standards, the applicants would then be required to construct a covered parking space in the area of the existing front lawn, necessitating the relocation of the driveway and a significant reduction of the front lawn. Ultimately, the Council finds that the application is consistent with all requirements of the Zoning Ordinance and General Plan.

2. **The project will not unnecessarily remove trees and natural vegetation, will preserve natural landforms and ridgelines, does not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the natural beauty of the Town.**

The addition would be built over the existing structure and would not result in grading or other modification of the site. This modestly scaled and well integrated residential addition would not adversely affect the natural beauty of the Town. New plantings in the rear yard, including trees in the northwest corner, would supplement the existing trees in the rear yard of the lot. Through the additions to landscaping, and improvement of the existing home, the project would contribute to the appearance of the property and the neighborhood.

3. **The project will not significantly and adversely affect the views, sunlight, or privacy of nearby residences, provides adequate buffering between residential and nonresidential uses, and otherwise is in the best interests of the public health, safety and general welfare.**

The current floor plan has the master bedroom located at the front of the house, facing the street (See East Elevation). The application originally proposed a different floorplan where the master bedroom was located at the rear of the house, in the northwest corner. The windows of the bedroom faced west, toward Mount Tamalpais. After sharing the plans with neighboring property owners, some neighbors shared concerns regarding privacy impacts of the windows from the master bedroom. In response to these concerns the applicant relocated the master bedroom to the proposed location, away from the rear of the house. The master bathroom was then relocated to the northwest corner of the addition, where clerestory windows can provide light without impacting privacy of the applicant or the neighbors, specifically at 27 Lakeside Drive who shared concern of such impacts.

This addition would not significantly and adversely affect the privacy of nearby residences. The northern face of the addition has two clerestory windows. The northern neighbor has no windows on the south elevation, facing the subject property. The proposed east elevation has several primary windows of the master bedroom, all of which face the public street where there is no reasonable expectation of privacy and no privacy impact to adjacent property owners. On the south elevation, like the north elevation, there are two clerestory windows, with sill heights of 5'10." On the west side of the addition, the applicants have deliberately located the master bathroom in the northwest corner and utilized clerestory windows in that bathroom to eliminate any clear views from those windows to and from neighboring properties. The small adjacent bedroom has several windows which face west toward the dense trees in the applicants' rear yard. The addition of plantings in the northwest corner of the property would fill in a gap of the existing shrubbery and trees, providing supplementary screening that would protect the privacy of the applicants and the occupants of 27 Lakeside Drive.

As shown in the roof plan, the addition has been stepped back from the front and side walls of the lower floor to minimize visual bulk and help the addition to integrate well into the architecture of the lower floor while minimizing any potential shading impacts. The height of the structure would increase by 9 feet to 23 feet 10 inches- more than 6 feet below the maximum permitted height of a single family dwelling. In this area, the sun shines on southern elevations during the majority of the year. Therefore, shadows are cast to the north. In this case, the neighboring property at 24 Seminole Avenue is most proximate to the location of the addition. For this reason, the design steps back the addition from the north property line, creating a setback of approximately 13 feet from the neighboring dwelling. The actual peak of the addition is 26 feet from the neighboring dwelling, which has no windows on the southern side, facing the subject property. Given the lack of windows and distance between the proposed addition and adjacent dwelling, the project would have no significant and adverse impact on sunlight for neighboring properties. The addition may cause shading in the rear yard of 27 Lakeside, but it is likely this shading would be apparent only during the winter months due to the low height of the sun, and only for a brief time in the morning due to the arrangement of both properties in relation to the rising sun.

Many properties on the opposite side of the street enjoy western views toward Mt. Tam. This addition was stepped to the north side of the property, maintaining the existing view corridor,

over the roof of the existing structure, toward Mt. Tam. This modest second story addition would not significantly and adversely affect the views of any surrounding residences.

- 4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site and in the vicinity and with the landforms and vegetation in the vicinity of the site.**

The project is located in the Madera Gardens subdivision which was originally developed with single story homes. Some letters submitted in response to the application have suggested that two-story houses are out of character with the neighborhood. Since the early 1950's when these homes were constructed, a number of homes in this subdivision have added second stories and resulted in a mix of one and two story homes. There are over 20 homes in the surrounding area in the vicinity of the project site which have a second story. Within ¼ mile of the project site there are several, including 50, 57, and 63 Lakeside Dr, 7 Birch, 4 and 8 Council Crest, 6 Seminole Ave and most recently, 34 Mohawk Drive which was completed in 2012. With two two-story residences within a block of the subject property and many more in the broader context of the Madera Gardens subdivision, the proposed second story addition is compatible within this neighborhood and both in scale, and harmonious with the existing development on the site and in the vicinity.

- 5. Development materials and techniques will result in durable high-quality structures.**

The existing structure was constructed in 1953 and has had few improvements made since that time. The proposed design and construction will use high quality and durable construction and fabrication materials and will improve the safety and soundness of the structure for future occupants.

- 6. The structures, site plan, and landscaping create an internal sense of order, provide a visually pleasing setting for occupants, visitors, and the general community, are appropriate to the function of the site, and provide safe and convenient access to the property for pedestrians, cyclists and vehicles.**

The property is setback from the front property lines and maintains a clear line of site for those entering and exiting the property as well as those passing along the street. No changes to the front yard are proposed as part of this application, maintaining the consistent front yard character of the street. The existing site conditions provide safe and convenient access to the property for pedestrians, cyclists and vehicles.

- 7. To the maximum extent feasible, the project includes the maintenance, rehabilitation, and improvement of existing sites, structures, and landscaping, and will correct any violations of the Zoning Ordinance, Building Code, or other municipal violations that exist on the site.**

There are no known violations on the project site. The project will comply with all applicable regulations and standards.

- 8. The design and location of signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, the signs are visually harmonious with surrounding development and there are no illegal signs on the site.**

The project does not include any signs.

CONDITIONS OF APPROVAL

PLANNING DEPARTMENT

Plans

1. **Consistency with Approved Plans** - Except as otherwise noted in these conditions of approval, plans submitted to the Building Department for plan check shall be identical to the plans and the color and materials board titled "Boznanski Residence," stamped "Official Exhibit" with a received stamp of January 25, 2018 approved by the Town Council on February 6. If any changes are made to the approved Design Review plans, the applicant is responsible for clearly identifying all such changes and reviewing them with the Planning Department prior to submitting for a building permit or a revision to the building and/or grading permit. All changes made between the drawings and specifications approved by the Town Council and the Building Permit submittal must be clearly highlighted with a "bubble" or "cloud" on plans and marked with a "Delta 'P'" at the time of initial Building Permit submittal. A list describing in detail all such changes shall be submitted and attached to these plans.

No changes shall be made to the approved plans without written approval from the Corte Madera Planning Department. If the applicant proposes changes that require Planning Department review to determine conformance with the approved plans, the Planning Director may require a \$500 deposit for a Permit Amendment, pursuant to the Corte Madera Fee Schedule. The Planning Director may also refer proposed changes of the approved plans to the Planning Commission for review. Any changes that have not been clouded and noted and explicitly approved in writing by the Planning Director are not approved. Construction or demolition that does not conform to the Design Review approval is not valid and shall be subject to stop work orders and may require removal."

2. **Conditions of Approval** - Plans submitted for building permit application shall include these conditions of approval on one or more of the plan sheets.
3. **Owner and Contractor Statement** - The applicant shall provide with the building permit application submittal a signed "Owner and Contractor Statement" (attached). This signed document acknowledges that the owner and contractor have read, understand and accept the responsibility to implement the conditions of approval.

Landscaping

4. The applicant shall plant one 24 inch box podocarpus or two pittosporum, or other plantings of the applicants' choosing at the northwest corner of the property, for the purposes of privacy screening between 22 Seminole Ave and 27 Lakeside Drive. These plantings must be in place at the time that construction commences and be maintained. Any proposed changes to the plantings that provide the screening described herein must be approved by to Planning Department.
5. All landscaped areas shall be installed prior to Certificate of Occupancy in compliance with the approved site plan of the approved Design Review Plans.

6. Any landscaped area provided in compliance with this title shall feature water-conserving landscape designs and shall be permanently maintained by the property owner, including automatic watering, weeding, pruning, fertilizing, spraying, or other form of insect control, replacement of plant materials as needed, and any other operations needed to ensure proper maintenance. Failure to meet these requirements shall be cause for the issuance of a citation, an order of compliance, nuisance abatement action, and/or the revocation of any land use approval for which the landscape requirements were made a condition of approval. If the respondent refuses to comply with the provisions of the citation and order, legal proceedings may be initiated by the town attorney to obtain compliance when such proceedings are authorized by the Town Council.

Construction

7. Construction Management Plan - A Construction Management Plan and Parking Plan shall be prepared by the applicant and submitted at or before the time of building permit application submittal to the satisfaction of the Planning and Building and Public Works Departments in order to minimize impacts on the neighborhood during the construction period.
8. Hours of Construction - Hours of construction shall be limited to 7:30 a.m. to 5:00 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday, provided that if any reasonable and credible work-related complaints are received by the Town about construction on a weekend, no further work shall be conducted on a Saturday; and provided further, if any reasonable and credible work-related complaints are received by the Town about construction during any weekday, the Planning Director is vested with the authority to impose reasonable conditions to address the issues that gave rise to the complaint. Whether or not a complaint about construction is reasonable and credible shall be left to the sole and sound judgment of the Planning Director. In order to mitigate the adverse impacts the applicant's construction activities have on neighboring property owners and renters, the Planning Director shall be vested with the authority to impose reasonable conditions on the applicant's hours of construction and/or the applicant's construction activities. No workers shall be on the site except during these hours. Without limiting the generality of the foregoing, no preparatory work or staging shall be allowed to occur on the site or on adjacent properties except during the hours specified above. No work shall be performed on a legal holiday.

Other Permits

9. Graywater Requirements - If this project requires a new water service or a larger water meter then prior to submitting an application for a building permit with the Town of Corte Madera, the applicant shall provide written documentation that the project complies with the graywater provisions of Title 13 of the Marin Municipal Water District (MMWD) Code (Ordinance 429). MMWD Graywater information is available at marinwater.org/155/Graywater or 415-945-1530.
10. Permits From Other Agencies (i.e. BCDC, MMWD, CDFG, etc.) – As part of the application for a building permit, grading permit or significant tree removal, the applicant shall provide in writing approved permits from the appropriate agency(cies) or written statements that a permit is not required, from the local, state or federal agencies with jurisdiction over the project site. It shall be the responsibility of the applicant to determine whether approvals and/or permits are

required.

Impact Fees

11. School District Mitigation Fees - Applicant is responsible for ascertaining whether School District mitigation fees will be required by the Larkspur-Corte Madera School District for this project. If fees are required, the district will require that these fees be paid prior to the applicant receiving a building permit for this project.

Lighting

12. Exterior Lighting Dark Sky Compliant – Exempting existing fixtures shown on approved plans, all new exterior lighting must be “dark sky friendly” and not create a glare or hazard on adjoining streets, properties or residential areas. Said lighting must be designed and installed so that the filaments, light sources or lenses are shielded with opaque material in such a way that they will not be visible at property lines. The exterior lights should have a color temperature of 3500 Kelvin or lower (warm not cool). Any changes to proposed lighting must be approved by the Planning Department.

Inspections

13. Final Planning Inspection - Prior to a final Building Division inspection of this project, the applicants shall contact the Planning Department to schedule an inspection of the finished project to ensure compliance with all of the required conditions of approval per the resolution approving the project.
14. Access for Inspections - The applicant and subject property owner shall permit the Planning Department or its representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the construction being performed under the authority of this approval is in accordance with the terms and conditions described herein.
15. Permit Expiration - This approval shall remain valid for a period of one year from the approval day, after which the approval shall lapse and become null and void. The issuance of a building permit shall constitute an extension of the approval which shall then remain valid during the same time period the building permit is active. If a building permit has not been issued before expiration of the approval, an extension may be requested as prescribed in Section 18.30.090 (Design Review) of the Town Zoning Ordinance. Such requests must be made before expiration of the approval. If the building permit(s) expire before completion of the project, the Planning Director may at his/her discretion, permit an extension of the approval.

PUBLIC WORKS DEPARTMENT

Special Flood Hazard Area

16. This project is an improvement to an existing residential structure within a FEMA-designated Special Flood Hazard Area (SFHA). Municipal Code Title 16, Protection of Flood Hazard Areas, requires that new structures or “substantially improved” existing structures in a SFHA must conform to all applicable flood damage prevention provisions. Prior to the issuance of Building

Permit, a determination regarding “substantial improvement” will be made and a Floodplain Development Permit will be issued by the Public Works Department for the project. If the work is found to be a “substantial improvement”, the project must conform to the requirements of Chapter 16.10.080 of the Municipal Code. This will require that the lowest floor of the structure be raised to an elevation that, following ultimate settlement, is at least one foot above the base flood elevation of 10.0 NAVD. A preliminary review of the materials submitted shows the structure improvements would not be considered a substantial improvement. However the construction drawings will be reviewed during building permit application along with a contractors construction estimate to determine substantial improvement.

17. It is recommended that, regardless of whether or not the improvements are determined to be “substantial”, the applicant consider raising the structure at this time as part of the planned improvements in order to protect it against flooding. At a minimum, the applicant should consider constructing any new addition to an elevation that is at or above the base flood elevation.
18. If during building permit review the project is found to be a “substantial improvement”, and must therefore conform to the requirements of Chapter 16.10.080 of the Municipal Code, the Public Works Department will require, following the completion of construction, the submission of an Elevation Certificate.

Grading and Drainage

19. Where possible, drainage facilities shall be installed to collect roof drainage and surface water runoff from driveways, walkways, and other paved surfaces. Drainage shall be conveyed and disposed in a manner that avoids concentrated flows and minimizes impacts to adjoining properties. Drainage collection systems shall be designed to Town standards and the flow shall be conveyed to a publicly maintained or natural storm drain system. Runoff shall not be diverted from one drainage area to another. The subsurface drainage system of the foundation or the retaining wall shall remain separate from the surface drainage system.
20. Per Municipal Code Section 12.56.010, portions of the existing sidewalk and/or driveway approach along the property frontage that show severe cracking and/or displacement will require repair or replacement as required by the Public Works Department.

Work In Public Right-of-Way

21. Per Town Resolution No. 3314, a project over \$10,000.00 is subject to the Street Impact Fee equal to 1% of the project valuation. Applicability of this fee will be determined at the time of Building Permit.
22. At the time of Building Permit, the Public Works/Engineering Department will inspect encroachments, vegetation, sidewalks, and drainage at the property for compliance with the Town Municipal Code. The applicant shall bring the property into compliance with the Municipal Code in accordance with Town standards and to the satisfaction of the Public Works Director/Town Engineer prior to final acceptance of the project.
23. The applicant will be required to obtain an Encroachment Permit from the Public Works Department for all activities within, or use of, the public right-of-way (curbs, sidewalks, etc...) per Municipal Code Section 12.04.040. Work in the public right-of-way shall be in conformance with the Marin County Uniform Construction Standards and Specifications. The permit shall be obtained prior to any work being performed within the Town right-of-way.
24. Per Municipal Code Section 12.04.040, an Encroachment Permit from the Public Works Department will be required for any activities within, or use of, the public right-of-way such as

placement of debris boxes, staging of equipment in the street, traffic control activities, or street closures, subject to the review and approval of the Public Works Department.

25. The applicant may be required to prepare and submit a Construction Management Plan to the Public Works/Engineering Department prior to the issuance of the Building Permit. The Plan shall provide a general overview of the construction process as it affects the public right-of-way and surrounding neighbors. At a minimum, the plan should outline the schedule of construction, the locations for staging of equipment and materials, and the truck routes that will be used for deliveries.
26. Prior to the issuance of the Building Permit, the applicant may be required to provide a Construction Parking Plan to Public Works. The Plan shall propose a system to minimize the effect of construction worker parking in the neighborhood, include an estimate of the number of workers and vehicles that will be present on the site during various phases of construction, and indicate where sufficient off-street parking will be provided.

Sanitary Sewer

27. The existing sewer lateral serving the property shall be pressure tested or inspected by in-line video equipment from the building foundation to the main in accordance with Sanitary District No. 2 standards. Should the lateral fail this test, the applicant shall obtain a Sanitary Sewer Permit for the repair or replacement of the lateral in accordance with District standards prior to final acceptance of the project.
28. The applicant may be required to obtain a Sanitary Sewer Permit to be issued by Sanitary District No. 2 for all work associated with the sanitary sewer mains or laterals serving this property, including the installation of a backflow preventer device. An application for this permit shall be made to the District prior to beginning any work on the sanitary sewer system.

Construction Operations

29. Prior to the issuance of a Building Permit, it may be required that a cash deposit up to a maximum amount of \$10,000 be posted for bonding purposes to ensure repair of any damage to roadways, landscaping, and other public improvements in the Town right-of-way caused by the applicant's construction-related activities. The amount of the cash deposit shall be determined at the time of the Building Permit. Said cash deposit shall not be released until the project, including all landscaping, is completed and all required repairs have been made.
30. Prior to the issuance of Building Permit, a video or photographic inspection of the existing conditions of the roadways and other public improvements adjoining the project may be required of the applicant. The inspection results shall be submitted to the Public Works Department.
31. Any damage to the street caused by heavy equipment or because of project construction activities shall be repaired, at the applicant's expense, prior to issuance of the Certificate of Occupancy. All hazardous damage shall be repaired immediately. Any heavy equipment brought to the construction site shall be transported by truck.
32. Per Municipal Code Section 9.33.100, the applicant shall employ best management practices (BMPs) as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and

mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

STOP WORK ORDER - RED TAG ORDINANCE

Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.

INDEMNIFICATION AGREEMENT

The applicant shall - Defend, indemnify, and hold harmless the Town of Corte Madera and its agents, officers, attorneys, or employees from any claim, action or proceeding (collectively referred to as "proceeding") brought against the Town or its agents, officers, attorneys, or employees to attack, set aside, void, or annul this approval, which proceeding is brought within the applicable statute of limitations. The indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town, if any, and the cost of suit, attorney's fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, the Town, and/or the parties initiating or bringing such proceeding.

The applicant shall - Defend, indemnify, and hold harmless the Town, its agents, officers, attorneys, or employees for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending any document, if made necessary by said proceeding and if applicant desires to pursue securing such approvals, after initiation of such proceeding, which are conditioned on the approval of such documents.

The applicant shall - In the event that a proceeding is brought, the Town shall promptly notify the applicant of the existence of the proceeding and the Town will cooperate fully in the defense of such proceeding. In the event that the applicant is required to defend the Town in connection with any said proceeding, the Town shall retain the right to (1) approve the counsel to defend the Town, (2) approve all significant decisions concerning the matter in which the defense is conducted, and (3) approve any and all settlements, which approval shall not be unreasonably withheld. The Town shall also have the right not to participate in said defense, except that the Town agrees to cooperate with the applicant in the defense of said proceeding. If the Town chooses to have counsel of its own defend any proceeding where the applicant has already retained counsel to defend the Town in such matters, the fees and expenses of the counsel selected by the Town shall be paid by the Town. Notwithstanding the immediately preceding sentence, if the Town attorney's office participates in the defense, all Town attorney fees and costs shall be paid by the applicant.

JUDICIAL REVIEW

Unless a shorter statute of limitations applies, the time within which judicial review must be sought is governed by cal. Code of civ. Procedure, section 1094.6.

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 6th day of February, 2018, by the following vote, to wit:

AYES: ANDREWS, CONDON, FURST, RAVASIO

NOES:

ABSTAIN:

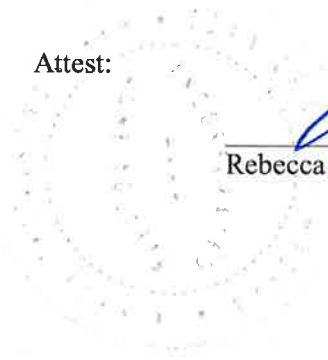
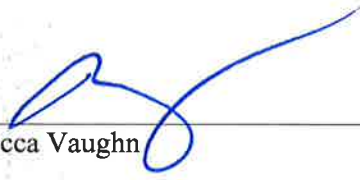
ABSENT:

RECUSED: BAILEY



Carla Condon, Mayor Date 2/6/18

Attest:

Rebecca Vaughn Date 2/6/18