

**RESOLUTION NO. 11/2018**

**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-2017-0045, THEREBY ALLOWING  
THE CONSTRUCTION OF A 4,360 SQUARE FOOT DWELLING AT 8 WESTWARD DRIVE.**

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**WHEREAS, on April 3, 2017** A Design Review application was submitted for a new two level, 4,670 square foot residence at 8 Westward Drive; and

**WHEREAS, on April 11, 2017** The Planning Department determined the application to be incomplete and requested additional information including a landscape plan, section drawings and demolition notes. Staff also shared several concerns regarding bulk and massing, view impacts and neighborhood compatibility; and

**WHEREAS, on May 17, 2017** The applicant provided a written response and updated plans in response to the incompleteness letter; and

**WHEREAS, on June 4, 2017** The applicants constructed story poles at the request of Staff; and

**WHEREAS, on June 7, 2017** Staff met with Tom Sherwood of 10 Westward to view story poles from the property and evaluate potential view and privacy impacts; and

**WHEREAS, on June 9, 2017** The Planning Department determined the application to be incomplete and requested additional information including clarification regarding the site plan and whether it was based on a survey, request for additional material sample of roofing material and cut sheets of lighting. Staff shared several concerns regarding bulk and massing, potential view and privacy impacts; and

**WHEREAS, on July 31, 2017** The applicant provided responses to the June 9 incompleteness letter, including updated plans; and

**WHEREAS, on August 29, 2017** The Planning Department determined the application to be complete after review of submitted information and recommends that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines; and

**WHEREAS, on September 1, 2017** Public hearing notices were mailed to property owners and tenants within 300' of the property; and

**WHEREAS, on September 12, 2017** The Planning Commission held a public hearing and made a motion to continue the hearing to a date uncertain, to allow the applicant to revise the plans in response to concerns regarding view impacts and massing; and

**WHEREAS, on November 13, 2017** The applicant provided revised plans, updated project description and revised findings for completeness review; and

**WHEREAS, on November 29, 2017** Story poles were constructed 12 days prior to the hearing date. Story poles are typically required to be completed 14 days before the hearing; and

**WHEREAS, on November 30, 2017** The application was deemed complete and a Notice of Public Hearing was sent to all property owners and residents within 300 feet of the subject property; and

**WHEREAS, on December 12, 2017** The Planning Commission held a public hearing and requested that the applicant revise the plans to a degree which would not result in any significant and adverse impact to views for 10 Westward Drive. The hearing was continued to a date certain of January 23, 2018; and

**WHEREAS, on December 21, 2017** The applicants modified the story poles to reflect changes to the project plans. Staff met with the applicants and Tom Sherwood of 10 Westward Drive to view the modified story poles from the rear yard at 10 Westward Drive; and

**WHEREAS, on January 12, 2018** The applicants provided revised plans to Staff, including modifications to the upper floor setbacks and the addition of a rear balcony; and

**WHEREAS, on January 23, 2018** The Planning Commission held a public hearing and could not make Design Review Finding 3 regarding view impacts, directed the applicant to revise the application to reduce impacts to views from 10 Westward Drive by moving the northwest wall of the “playroom” on the upper level of the proposed structure, to the east, to the line of the chimney, and continued the hearing to a date certain of February 13, 2018; and

**WHEREAS, on February 13, 2018** The Planning Commission held a continued public hearing and unanimously approved Resolution 18-002 (Attachment 2), thereby approving an application to construct a new single family dwelling at 8 Westward Drive; and

**WHEREAS, on February 21, 2018** A timely appeal was filed by Tom and Jan Sherwood who reside at 10 Westward Drive, with the request that the Town Council reverse the decision of the Planning Commission and deny the application; and

**WHEREAS, on February 22, 2018** Pursuant to Section 18.34 of the Zoning Ordinance, the Planning Director scheduled the appeal to be heard at the next available hearing, March 6, 2018. The applicant and appellant were then notified of the scheduled date; and

**WHEREAS, on February 23, 2018** A Notice of Public Hearing for the Appeal was mailed to all properties within 300 feet of the subject property and posted in three public places; and

**WHEREAS, on March 6, 2018** The Corte Madera Town Council held a public hearing on the Appeal;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council does hereby deny Appeal Application PL-2018-0021 and approves Design Review Application PL-2017-0045 thereby allowing the construction of a 4,360 square foot dwelling at 8 Westward Drive 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 proposed project is consistent with both the Zoning Ordinance and the General Plan. The project meets all development standards of the R-1 Zoning District including but not limited to: height, floor area, setbacks, lot coverage and parking.

The project 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,” which is a neighborhood of primarily two story homes.

The proposed residence would increase the floor area of the residence in a manner which is harmonious with a neighborhood that is continually being improved through similar projects. The structure would be the largest in the immediate vicinity however the design limits the visibility of the massing by placing portions of the lower floor in the rear yard where they would not be visible from the street elevation and would not extend above the height of the adjacent fence line. The design of the structure uses significant articulation between wall faces to create “design approaches that break the mass of wall planes,” in consistency with General Plan Implementation Program CD-2.4.a. The design uses clerestory windows in deliberate locations on the north elevation and eliminates windows completely on the south elevation to limit privacy impacts. This is consistent with the residential design guidelines suggested in Policy CD-2.4 which calls for “limiting the impact of the proposed second story on privacy to adjoining residences... through features such as window size and placement...etc.”

**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 project will not adversely affect the natural beauty of the Town. The project will utilize the existing graded portion of the lot and avoid any change in the existing topography, unnecessary

grading or unsightly changes to the slope. There is one existing tree in the front yard which is shown on the landscaping plan and will be protected throughout construction. Much of the site is bare dirt and will be planted as indicated on the landscaping plan. New plantings will be primarily drought tolerant, non-invasive, native plantings, respecting the close proximity to Ring Mountain open space and complying with provisions of the General Plan which encourage the use of such vegetation.

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 dwellings on Westward, in the immediate vicinity of the project, are located on the slopes Ring Mountain. Despite this topography and the locations of each lot situated above the marsh, the floorplans and window locations of the original homes were often *not* designed to take advantage of the views which may otherwise be available from these hillside lots. This is the case with the upslope property at 10 Westward where view impacts are under consideration.

Views from 10 Westward are primarily limited to the patio area in the rear yard, with some limited views from the upper floor including a small bathroom window looking northwest and windows in the upper living room area, facing north/northeast. The living room windows primarily look out onto neighborhood trees, with some views of the marsh and foothills to the north. The widest views of the marsh can be seen from the patio in the rear yard, looking north/northeast. These views can be seen when standing on the patio, but not when seated, and cannot be readily seen from elsewhere in the rear yard. A majority of the existing bay and foothill views to the north would *not* be impacted by the project.

The view from the patio is only visible if a number of specific conditions are met (viewer located on the raised patio, must be standing), the view would only be partially blocked, and the views from the living room windows would be largely unaffected. The Commission finds that while this project would impact views from 10 Westward Drive, based on the specific facts of this project, these impacts have been determined not to be significant and adverse.

During the winter months when the sun is the lowest in the southern sky, the dwelling would cause some shading impacts to 2 Westward Drive. Despite this, the availability of sunlight on this neighboring property would not be significantly and adversely impacted due to the upper floor setback on the north elevation which creates significant spacing between this and the downslope property at 2 Westward. No other properties would have significant sunlight impacts due to the topography of neighboring lots, where other dwellings are located above the proposed project. Privacy impacts would not be significant and adverse because windows have been limited to clerestory windows on the north elevation and windows have been eliminated on the south elevation. Windows at the rear of the structure would not allow for views into neighboring structures but would allow minimal, oblique views into neighboring yards. This is an established condition due to the topography of the lots and the fact that windows of each upslope home allow existing views into surrounding yards.

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 lot is 11,900 square feet, or 59% larger than the minimum lot size in the R-1 Zoning District. The proposed structure would be 4,360 square feet, the largest structure in the immediate vicinity. The project utilizes several techniques to minimize the apparent size of the structure, including articulation of wall planes throughout, setbacks between the upper and lower floors, and by extending a portion of the lower floor into the rear yard. The extension into the rear yard would not be visible from the street, and the roofline over that element would be lower than the fence line of the upslope property (10 Westward Dr.), significantly limiting any visual impact of that component of the project.

Surrounding development is comprised primarily of 2 story residences. A majority of residences in the immediate vicinity retain much of their original 1960's architecture while some have undergone major remodel projects that highlight modern design preferences through the use of modern materials, colors and architectural elements. One such example is the neighboring property at 2 Westward, which is a 4,267 square foot dwelling with craftsman design elements that received design review approvals in 2004 and 2010. Further up the street at 394 Prince Royal Drive, a 3,400 square foot residence with craftsman style design elements was approved by the Planning Commission in 2001. The proposed project would represent an architectural style that is unique in the immediate vicinity but is expressed elsewhere in the subdivision, such as the recently approved 159 Prince Royal Drive, 207 Prince Royal Drive and 82 Sonora Drive.

The proposed design uses a gabled roof that matches the peak height of the existing structure, while the ridgeline has been raised throughout. The design would utilize a combination of materials including painted wood board and batten siding, standing seam metal roofing and metal framed windows throughout. A color and materials sheet was submitted, including actual paint chip samples. A comprehensive landscaping plan is included, which would introduce many varieties of drought tolerant and noninvasive plants. Overall the structure and landscaping are in scale and harmonious with the surrounding development and the project avoids modification of the lot topography that would be out of character with the neighborhood.

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

The existing structure was constructed in 1964 and 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. The project will provide two covered parking spaces in the garage as well as space for at least 3 cars in the driveway. The project will be an attractive, modern and visually pleasing addition to the neighborhood and will not create an adverse condition for pedestrians, cyclists or 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.**

Retaining walls in the rear and side yards were removed without building permits. Building permits were issued on January 11 to install new retaining walls. A condition of approval has been included on this application to require construction of the retaining walls prior to issuance of any building permits which would be unrelated to this outstanding issue. The project will comply with all applicable regulations and standards. The proposed structure would be a significant improvement over the aging structure that currently occupies the property.

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.

#### CONSTRUCTION

4. Retaining Walls – the applicant may submit building permit applications following the expiration of the applicable appeal period; however no building permits will be issued until the Building Official has determined that the applicant has satisfactorily remedied the existing code enforcement case related to the construction of required retaining walls.
5. Preconstruction Meeting – Prior to submitting a building permit, a preconstruction meeting shall take place with all appropriate representatives of the project construction team, Town representatives and any other agencies. The meeting shall address items such as the construction management and parking plan, required permits, traffic and parking management, work schedule, delivery schedule, contact person(s), neighborhood notification, insurance, damage deposits, etc.
6. 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.
7. 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 OR OTHER REQUIREMENTS

8. 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](http://marinwater.org/155/Graywater) or 415-945-1530.

9. 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

10. 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

11. 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 AND VERIFICATIONS

12. Property Line and Setback Verification - Upon issuance of a Building Permit, the property line and setback location(s) at areas of construction must be identified on site by a licensed land surveyor or registered civil engineer. The licensed land surveyor or registered civil engineer shall submit a written confirmation to the Building Department that the staking of the property lines has been properly completed.
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.

#### FIRE DEPARTMENT:

1. Fire Sprinkler Requirement. A fire sprinkler system shall be installed throughout the entire building, which complies with the requirements of the National Fire Protection Association (NFPA) 13-D and local standards. A separate deferred permit shall be required for this system. Plans and specifications for the system shall be submitted by an individual or firm licensed to design and /or design-build sprinkler systems.
2. Smoke Alarms. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.
3. Carbon Monoxide Alarms. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition exceeds one thousand dollars. CO alarms shall be located outside of each dwelling unit sleeping are in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit including basements.
4. Address. Address numbers at least 4” tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed to a light or be reflective numbers. If your project is a new house or substantial remodel, they may only be internally illuminated or illuminated an adjacent light controlled by a photocell and switched only by a breaker so it will remain illuminated all night. If not currently as described, they must be installed as part of this project.

#### PUBLIC WORKS DEPARTMENT

##### Grading and Drainage

1. In accordance with section 15.20.030 of the Municipal Code, the applicant may be required to obtain a **Grading and Drainage Permit** from the Public Works Department prior to issuance of a Building Permit. The application for this permit shall include, but not be limited to, a site grading plan/drainage plan showing topographic information prepared by a licensed civil engineer or landscape architect. If a geotechnical report is required, the project geotechnical/soils engineer shall review and approve the grading/drainage plan for conformance to the report prepared for the project. All grading and drainage permits require the applicant complete the “Construction Erosion and Sediment Control Plan Applicant Package”, section “MCSTOPPP ESCP Standard Template” pages 1 through 11 and submit with the Grading and Drainage Permit prior to the issuance of a Building Permit.
2. Grading within this area may be subject to the requirements of Section 15.20.220 “Supervised Grading” of the Municipal Code. A determination will be made by the Public Works Department at the time of the Grading and Drainage Permit.
3. No earthwork shall take place during the rainy season between October 15th and April 15th without special written authorization from the Director of Public Works. Unless specifically exempted, earthwork operations will require an **Erosion and Sediment Control Permit** from the

Public Works Department per Municipal Code Section 15.20.285. The permit will require the installation and maintenance of appropriate erosion and sedimentation control measures for the proposed work. The applicant will be required to obtain the permit prior to the issuance of Building Permit.

4. As of July 1, 2015 new projects must comply with NPDES Phase II permit storm water discharge requirements. Show how this project will comply with the new requirements and fill out required forms. This requirement will be prepared by an Engineer familiar with NPDES Phase II permit storm water discharge requirements.
5. Retaining walls and/or grading shall not be any closer than two feet from any property line per Municipal Code Section 15.20.250(c).
6. 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.
7. 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

8. 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.
9. 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.
10. 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.
11. 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.
12. 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.

13. 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

14. Per Town Ordinance 21.32.050 and Sanitary District #2 Ordinance 34 § 2, the applicant is subject to an additional **Sewer Connection Charge** based upon an alteration of use (increase to four or more bathroom). The additional sewer connection charge for fiscal year 2016-2017 would be \$2,103.
15. 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.
16. 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

17. 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.
18. 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.
19. 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.
20. 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 March, 2018, by the following vote, to wit:

AYES: FURST, CONDON, RAVASIO

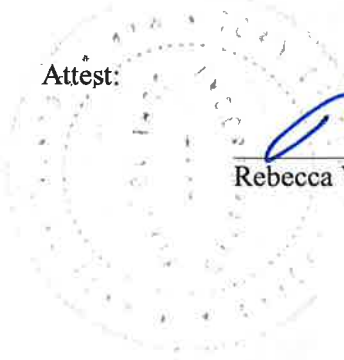
NOES: ANDREWS

ABSTAIN:

ABSENT: BAILEY

*Carla Condon* *March 7, 2018*  
Carla Condon, Mayor Date

Attest:



*[Signature]* *March 7, 2018*  
Rebecca Vaughn Date