

RESOLUTION NO. 17/2018

**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 PL-2017-0127 FOR THE ADDITION OF A
NEW SECOND STORY TO AN EXISTING SINGLE STORY DWELLING AT 109 GOLDEN
HIND PASSAGE.**

WHEREAS, on November 6, 2017 An application was filed for Major Design Review to construct a new second-story addition and remodel; and

WHEREAS, on December 6, 2017 The Planning Department determined the application to be complete after review of submitted information and recommended that the project qualifies for categorical exemption under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on January 10, 2018 Story poles were constructed; and

WHEREAS, on January 26, 2018 The story poles were certified by a licensed surveyor; and

WHEREAS, on February 2, 2018 Public hearing notices were mailed to property owners and tenants within 300 feet of the property; and

WHEREAS, on February 13, 2018 The Planning Commission held a Public Hearing, provided feedback to the applicant concerning the design of the addition, and continued the hearing to a date certain of March 13, 2018; and

WHEREAS, on March 8, 2018 The story poles were updated at the request of Staff to improve the representation of the proposed design, including the reduced roof height and raised peak over the garage; and

WHEREAS, on March 13, 2018 The Planning Commission held a continued public hearing and conditionally approved Design Review Application PL-2017-0127 for the construction of a 703 square foot second story, atop an existing 1,342 square foot, single story dwelling with an attached 468 square foot garage at 109 Golden Hind Passage, based upon the finding that the proposed project is in substantial conformity with the General Plan and Zoning Ordinance and in accordance with Section 18.30.070 of the Municipal Code; and

WHEREAS, on March 23, 2018 A timely appeal was filed by Franz and Margaret Koller of 110 Golden Hind Passage, requesting that the Town Council reverse the decision of the Planning Commission and deny the application; and

WHEREAS on March 27, 2018 Pursuant to Section 18.34 of the Zoning Ordinance, the Planning Director scheduled the appeal to be heard at the next available hearing, April 17, 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

* * * * *

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 17th day of April, 2018, by the following vote, to wit:

AYES: ANDREWS, BAILEY, CONDON, FURST

NOES: - NONE -

ABSTAIN: - NONE -

ABSENT: RAVASIO

RECUSED: - NONE -

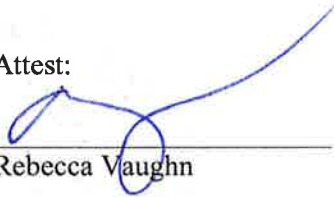


Carla Condon, Mayor

4/17/18

Date

Attest:



Rebecca Vaughn

4/17/18

Date

WHEREAS, on April 6, 2018 A notice of Public Hearing for the Appeal was mailed to property owners and tenants within 300 feet of the subject property and was posted in three public places; and

WHEREAS on April 17, 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-2018-0027 and approves Design Review Application PL-2017-0127 for the addition of a new second story to an existing single story dwelling at 109 Golden Hind Passage 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 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 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 elevations facing neighboring properties 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.” Overall the second story addition ties in well to the existing structure and is in scale with surrounding development.

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 structure will be placed over the existing structure, resulting in no significant modification of the building footprint, or modification of the site. A small porch addition in the front yard will not require any unsightly

grading or other site work that would adversely affect the topography of the site or the natural beauty of the area.

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 addition would be located over the northern portion of the structure which would increase shading to the north. The applicant constructed story poles well in advance of the hearing, to assist in the assessment of these potential shading impacts. On the south side of the structure at 105 Golden Hind, there are two small windows on the side of the garage, as well as a window in the kitchen that would face the addition. A majority of the light that enters into the residence comes from the windows and large doors at the east side of the residence. This condition, paired with the 14.5 foot setback between the proposed upper floor and the neighboring residence significantly limits the effects of any shading that would be cast from the addition. The owner of 105 Golden Hind provided a letter of support.

The windows on the proposed addition would primarily face west toward the street, and east toward a segment San Clemente Creek. A majority of the homes to the east have rear yards that also face the creek, and very few have fences. This condition leads to openness and no clear expectation of privacy in the rear yards of these properties. Many of the homes to the east (ex. 147 to 175 Golden Hind) have views over the creek, toward Mt. Tam and the surrounding foothills. Because of the significant distance between these properties and the subject property (minimum of 200 feet) and the height of distance hills, the increased height of the structure would not have a significant and adverse impact on views for these 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 Mariner Cove subdivision which was originally comprised of single story homes. Since the early 1960's when these homes were constructed, an increasing number have added second stories. Within 500 feet of the project site there are several two story residences including 2, 17, 101, 117 and 163 Golden Hind. Most recently, applicants at 57 Golden Hind received Planning Commission approval for a 962 square foot second story addition in 2016. In 2015, the Planning Commission approved a 704 square foot second story addition at 30 Prince Royal Passage, which was recently completed. The project at 30 Prince Royal did not include lifting the dwelling, while at 57 Golden Hind, the house had already been raised prior to the application for the upper floor addition.

Second story designs are well established in the subdivision and in the immediate vicinity. The size, design and overall integration of these additions into the original single story homes vary from site to site. The proposed project would cover only a portion of the lower floor, maintain the existing roof pitch and architectural theme, while utilizing varied roof peak heights to provide visual interest and help integrate the addition with the existing structure. Furthermore, the addition will be 3.5 feet below the maximum height permitted in the district, and through the increased height of the roof pitch over the garage, the upper and lower floors tie together in a

visually pleasing and natural way. The addition is in scale with the site, surrounding development and would be fully harmonious with the pattern of development in the neighborhood.

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

The existing structure was constructed in 1959 and the floorplan has not been significant modified since that time. The proposed design and construction will use high quality and durable construction and fabrication materials, will raise the structure out of the base floodplain elevation, reducing risk of damage in the case of flooding, and will improve the safety and soundness of the structure for the 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 2 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.

The project will result in a modern dwelling that is built to current building codes, and will comply with FEMA requirements regarding floodplain development. There are no known violations on the site.

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 stamped "Official Exhibit" with a received stamp of March 6, 2018 approved by the Town Council on April 17, 2018. 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 Planning Commission/Zoning Administrator 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. All landscaped areas shall be installed prior to Certificate of Occupancy in compliance with the approved site plan of the approved Design Review Plans.
5. 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

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

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 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(ies) 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

12. 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.
13. 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.
14. 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

15. The proposed raising of the house 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. The Public Works Department will require, following the completion of construction, the submission of a new Elevation Certificate.
16. A floodplain development permit will be prepared by the Town of Corte Madera with fees paid by the applicant.

Grading and Drainage

17. 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.
18. 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.

19. 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.
20. 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.
21. 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

22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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

28. 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.
29. 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

30. 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.
31. 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.
32. 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.
33. 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.