

## RESOLUTION NO. 23/2022

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DENYING BOTH APPEALS (PL22-0018 & PL22-0022) OF THE PLANNING COMMISSION'S DECISION AND APPROVING PERMIT AMENDMENT APPLICATION NO. PL21-0084 TO AMEND PLANNING COMMISSION RESOLUTION 19-011, THEREBY APPROVING MODIFICATIONS TO A PREVIOUSLY APPROVED DESIGN REVIEW APPLICATION AT 78 GRANADA DRIVE**

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**WHEREAS**, on March 12, 2019, Design Review application PL-2018-0080 DRC was conditionally approved by the Corte Madera Planning Commission through adoption of Planning Commission Resolution 19-011; and

**WHEREAS**, on March 11, 2021, a building permit (BL 2020-0117) was issued allowing for a 1,196 square foot residential addition of an existing two-story residence at 78 Granada Drive pursuant to and subject to Planning Commission Resolution 19-011; and

**WHEREAS**, during construction the applicant made changes to the exterior architectural features and the size of the project without notifying the Town or providing the Planning and Building Department with revised plans. The Planning Department became aware of these changes in October, and determined that the changes required a Permit Amendment approved by the Planning Commission; and

**WHEREAS**, on December 2, 2021, a Permit Amendment application was filed by the applicant to amend the previously approved Planning Commission Resolution 19-011; and

**WHEREAS**, on December 27, 2021, the Planning Department determined the application was complete and determined that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities); and

**WHEREAS**, on January 11, 2022, the Corte Madera Planning Commission held a public meeting on the item, and heard testimony from the applicant and interested parties; and

**WHEREAS**, on January 11, 2022, the Corte Madera Planning Commission made a motion to approve the Permit Amendment application in part and to deny the Permit Amendment application in part. The Planning Commission directed staff to return to a future Planning Commission meeting with the appropriate Resolution, which approves the following modifications:

1. Addition of a window (3 feet wide by 1 foot, 6 inches tall) on the lower level of the east elevation (side).
2. Addition of a window (2 feet, 6 inches wide by 4 feet, 10 inches tall) on the lower level of the north elevation (rear).
3. Change to the cover over the walkway located along a portion of the east elevation from a trellis with a depth of 1 foot to a roof overhang with a depth of 5 feet.
4. Removal of the chimney on the north elevation (rear).
5. Change to the slope of the dining room roof from a roof that slopes up to a roof that slopes down.
6. Change to the pitch of the roof on the west elevation.
7. Removal of the vinyl siding and stucco from the north elevation (rear) and west elevation (side). These materials will be replaced with HardiPlank siding.

8. Increase in floor area of approximately 146 square feet. The length of the dining room on the lower level is extended by 2 feet, 10 inches (approximately 55 square feet) and the existing bedrooms on the second story are extended by 2 feet, 6 inches (approximately 91 square feet).
9. Addition of a window (3 feet wide by 5 feet tall) on the lower level dining room on the west elevation (side).
10. Increase in the size of the sliding glass door on the lower level of the north (rear) elevation.

**WHEREAS**, on February 8, 2022, the Corte Madera Planning Commission approved Permit Amendment application PL21-0084 with the following exception: the proposed modification for the new bay window on the north (rear elevation) was denied. The Planning Commission adopted Resolution No. 22-006 approving ten modifications to the previously approved Design Review application; and

**WHEREAS**, on February 10, 2022 a timely appeal was filed by Marc Stolman and Christine Martin Stolman (Appellant 1) who reside at 82 Granada Drive with the request that the Town Council reverse the decision of the Planning Commission and deny the modifications that were approved by the Planning Commission. The Stolmans stated in their appeal application that they would withdraw the appeal if the owners of 78 Granada Drive did not file an appeal; and

**WHEREAS**, on February 18, 2022, a timely appeal was filed by Chad and Sarah Gerber (Appellant 2) of 78 Granada Drive with the request that the Town Council reverse the decision of the Planning Commission denying the bay window and approve the addition of the upper level bay window; and

**WHEREAS**, on March 24, 2022, a Notice of the Public Hearing for the two appeals was mailed to all properties within 300 feet of the subject property. The notice was posted in three public places and listed on the Town's website; and

**WHEREAS**, on April 5, 2022, the Corte Madera Town Council holds a public hearing on both appeals.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council does hereby deny Appeal Application PL22-0018 (filed by Marc Stolman & Christine Martin Stolman) and does hereby deny Appeal Application PL22-0022 (filed by Chad & Sarah Gerber). The Town Council approves Permit Amendment Application PL21-0084 with the following exception: the proposed modification for the new bay window on the north (rear elevation) is denied. The decision is 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 exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) because the proposed project includes an addition to an existing single-family residence.

### **DESIGN REVIEW: REQUIRED FINDINGS**

The Town Council 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 to the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.**

Conformance with the General Plan

- *Policy LU-1.1 – Maintain and implement the General Plan Land Use Diagram that describes the distribution and location of land uses prescribed by General Plan policies.*
- *Policy LUC-2.4 – Ensure that new residential development and upgrades to existing residential development are compatible with existing neighborhood character and structures.*
- *Policy LU-2.5 – Encourage property owner reinvestment in upgrades to existing residences and related property improvements.*

The modified project is consistent with the Land Use and Community Development policies of the General Plan. The General Plan Land Use Diagram designated the project site as Low Density Residential (LDR). Development within these areas is limited to single-family homes and accessory residential uses that have low intensity characteristics, including second story residential units. Additionally, schools, day-care centers, places of religious assembly and nursing homes may be permitted.

The project constitutes both an improvement to the home and the neighborhood. The modified project is consistent with the existing neighborhood character because it maintains the architectural style of the residence. The modifications to the project, including the new lower level windows, change to the slope of the dining room roof, addition of an overhang on the lower level of the east elevation, removal of the chimney, removal of vinyl siding & stucco, and additional floor area (approximately 146 square feet), is intended to enhance the livability of the structure and represents reinvestment in the existing residence.

General Plan Land Use Policy 2.8 states that when evaluating new residential development proposals, including additions to existing homes, views shall be considered consistent with Community Design Policies. Guiding principles of the General Plan state that “the evaluation and analysis of new or expansion projects must balance the needs of the homeowner with potential neighborhood impacts affecting views, sunlight, privacy and safety.”

The project balances the needs of the homeowner with potential neighborhood impacts because all approved new windows are all on the lower level, thereby limiting any privacy impacts to the adjacent neighbors. The second story bay window located in the master bedroom on the north (rear) elevation is denied to avoid privacy impacts to the backyard patio/pool area of 82 Granada Drive, the eastern, uphill neighbor.

#### Conformance with the Zoning Ordinance

The project is consistent with the permitted uses in the R-1 Medium Density Residential District and will not exceed the allowable Residential Development Standards established in Municipal Code 18.08 R Residential Districts. The modified project results in approximately 146 square feet of new floor area (approximately 55 square feet to the lower level and 91 square feet to the upper level). The additional floor area meets the various development standards of the zoning district, including floor area, lot coverage, and setbacks.

#### Conformance with any applicable Specific Plan

The project is not within an established Specific Plan area.

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 modified project will not remove any trees or vegetation. Neither the lower level dining room expansion (approximately 55 square feet) nor the upper level existing bedroom expansion (approximately 91 square feet) require any unsightly grading. The project modifications are not located on a ridgeline and would not significantly affect natural landforms.

**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 approved residential addition at 78 Granada Drive is located on the east side of the property, placing the addition closest to the eastern property at 82 Granada Drive. The applicant made several modifications to the previously approved lower level dining room addition. The dining room addition is located closest to the neighbor at 82 Granada Drive. The modifications to the dining room include the following: a new awning window (3 feet wide by 1 foot, 6 inches tall) on the east elevation (side), a change in the slope of the dining room roof from a roof that slopes up to a roof that slopes down, a larger sliding glass door on the north elevation (rear), a new window (3 feet wide by 5 feet tall) on the west elevation (side), and approximately 55 square feet of new floor area (the dining room was extended out 2 feet, 10 inches towards the rear yard). The setback from the dining room to the eastern property boundary did not change and remains at 18 feet, 3 inches. The neighboring property to the east is situated at a higher elevation than the project site; therefore, the changes to the lower level dining room do not result in any impacts to views or privacy for this neighbor. In addition, the modification to the dining room roof from a roof that slopes up to a roof that slopes down reduces the height of the roof from 12 feet, 11 inches to 11 feet.

In addition to the modifications noted above, the applicant modified the cover over the walkway located along a portion of the lower level of the east elevation from a trellis with a depth of one foot to a roof overhang with a depth of five feet, added a window in the living room on the north elevation (rear), removed the chimney from the north elevation (rear), changed the pitch of the roof on the west elevation, and removed vinyl siding and stucco from portions of the residence (north and west elevations). None of these changes results in any view or privacy impacts to the neighboring property at 82 Granada Drive.

The existing bedrooms on the upper level were extended by 2 feet, 6 inches towards the rear yard. This change does not result in any view impacts to the easterly neighbor since the addition to the existing bedrooms does not extend beyond the approved second story master bedroom addition at 78 Granada Drive.

The addition is set back over 60 feet from the western neighbor at 74 Granada Drive. Because of the topography of these lots and the relation of the addition to each of these properties, the modified project would not have a significant impact on privacy or views for the adjacent properties. The neighbor at 74 Granada Drive also provided a letter of support for the Permit Amendment application.

The bay window in the master bedroom is denied. The upper level bay window includes three windows: 1) a 1 foot, 10 inch wide by 4 foot, 10 inch tall casement window oriented to the west, 2) a 4 foot, 10 inch wide by 4 foot, 10 inch tall fixed window oriented to the north, and 3) a 1 foot, 10 inch wide by 4 foot, 10 inch tall casement window oriented to the east. The bay window results in a significant privacy impact to the neighboring property at 82 Granada Drive. The backyard of 82 Granada Drive is relatively flat and includes a patio and pool. It has been designed

as a significant outdoor amenity and living space for its residents and the property owners of 82 Granada Drive have indicated they use their backyard frequently.

Bay windows are specifically designed to provide wide angle views from the interior of a space toward outside spaces. Photographs included in the staff report for the January 11, 2022 Planning Commission meeting and presented at the public hearing, show that one of the bay windows provides direct views toward the pool/patio area at 82 Granada Drive. This privacy impact is exacerbated by the fact that the bay window is intended to serve as a seating area and therefore views into the pool/patio area at 82 Granada Drive, and the resulting intrusion on privacy, could reasonably be expected to occur for relatively longer durations of time than if designed without seating. In addition, the bay window at 78 Granada Drive extends beyond the wall plane two feet, resulting in the windows shifting more prominently into northern view from the existing patio area of 82 Granada Drive, affecting the perception of privacy for the occupants of 82 Granada Drive when utilizing their backyard space. For all of the reasons noted above, the bay window constructed in the master bedroom at 78 Granada Drive creates a significant and adverse privacy impact to the neighboring property at 82 Granada Drive; therefore, the proposed modification for a new bay window on the north (rear) elevation is denied.

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 subject property is in a residential neighborhood characterized by two-story residences with a variety of architectural styles. The proposed modified project will maintain the existing architectural style of the home and will not significantly alter the site plan, landscaping, or existing vegetation. The modified project integrates well into the existing design because it continues to mimic the architectural style of the existing home. The modifications, including the new windows on the lower level, change to the overhang on the east elevation, removal of the chimney, change to the slope of the dining room roof, and additional floor area (dining room and existing bedrooms), are in scale with the existing residence and with the development in the area. The change to the roof over the dining room (from a roof that slopes up to a roof that slopes down) reduces the overall height of the dining room. The colors and materials have not changed, and include light blue/gray HardiPlank siding, with white trim and a grey shingled roof. The removal of the vinyl siding and stucco from the west elevation and portions of the north elevation will result in a more cohesive design.

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

The proposed modifications will conform to current California Building Code and Wildland Urban Interface (WUI) Fire Code, and will utilize durable and attractive high-quality building materials and construction techniques.

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 proposed modifications are compatible with the existing character of the neighborhood and are intended to enhance the livability of the structure for the occupants. The increase in size to the dining room results in an appropriately sized room that is large enough to accommodate the width of a standard sized dining room table. The 2 foot, 6 inch extension of the two existing bedrooms

results in the weight of the structure tying into the sheer wall below, which increases the rigidity of the original structure. The new lower level windows proposed in the dining room and living room will provide additional natural light and air. The project does not significantly change the existing architectural style of the structure and will enhance the setting for the occupants.

The proposed modifications will not alter the relationship of the structure to the public right-of-way, and maintains the current configuration for access off Granada Drive. The project will not impede 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.**

On December 10, 2021, the Town Code Enforcement Division issued a Notice of Violation for the construction work at 78 Granada Drive ordering the owners to correct the violation within 90 days. The Notice directed the owners to obtain an updated building permit, and Town approvals required to obtain that permit. On December 10, 2021, the Code Enforcement Division also issued a Modified Stop Work Order on areas within the residence where the non-permitted work occurred and a Pre-administrative Citation.

On December 2, 2021, the property owners submitted Permit Amendment Application PL21-0084. This application constitutes the first step in complying with the Notice of Violation. The second step in complying with the Notice of Violation will be to apply for a revision to the Building Permit.

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.**

No signs are proposed as part of this project. Currently there are no known illegal signs on the site.

#### CONDITIONS OF APPROVAL

1. These conditions of approval shall supplement, rather than replace, the conditions of approval adopted pursuant to Planning Commission Resolution 19-011.
2. This approval permits only those revisions noted on the Revised Project Plans (March 2022) stamped "Official Exhibit" with a RECEIVED stamped date of March 28, 2022, except for the bay window on the north elevation of the master bedroom, which shall be reconstructed to comply with the original design approved by the Planning Commission on March 12, 2019.
3. The proposed project shall be constructed substantially in accordance with the Revised Project Plans (March 2022) stamped "Official Exhibit" with a RECEIVED stamped of March 28, 2022. Such plans supersede previously approved plans, approved on March 12, 2019 pursuant to Planning Commission Resolution No. 19-011, except for the bay window on the north elevation of the master bedroom, which shall be reconstructed to comply with the original design approved by the Planning Commission on March 12, 2019.
4. No changes to the property that would be inconsistent with approved plans shall be allowed

without written approval from the Corte Madera Planning Department. The Planning Director may refer changes to the Planning Commission.

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.

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.

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JUDICIAL REVIEW

Unless a shorter statute of limitations applies, the time within which judicial review must be sought is



governed by California Code of Civil Procedure, section 1094.6.

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**I HEREBY CERTIFY** that the foregoing resolution denying Appeal Application PL22-0018 filed by Marc Stolman & Christine Martin Stolman was duly adopted by the Town Council of Corte Madera at the meeting held on the 5<sup>th</sup> day of April, 2022 by the following vote, to wit:

AYES: Councilmembers: Beckman, Casissa, Lee, Mongan, Ravasio  
NOES: Councilmembers: - None -  
ABSTAIN: Councilmembers: - None -  
ABSENT: Councilmembers: - None -

**I HEREBY CERTIFY** that the foregoing resolution denying Appeal Application PL22-0022 filed by Chad and Sarah Gerber was duly adopted by the Town Council of Corte Madera at the meeting held on the 5<sup>th</sup> day of April, 2022 by the following vote, to wit:

AYES: Councilmembers: Beckman, Casissa, Lee, Ravasio  
NOES: Councilmembers: Mongan  
ABSTAIN: Councilmembers: - None -  
ABSENT: Councilmembers: - None -

APPROVED:



Fred Casissa, Mayor

ATTEST:

Rebecca Vaughn, Town Clerk

