



MARIN COUNTY
 COMMUNITY DEVELOPMENT AGENCY
 BRIAN C. CRAWFORD, DIRECTOR

**STAFF REPORT TO THE DEPUTY ZONING ADMINISTRATOR
 VIETOR COASTAL PERMIT AND VARIANCE**

Item No:	C 2	Application No:	CP 07-35 AND VR 07-27
Applicant:	Alethea Patton, Peacock Designs	Owner:	Francesca Vietor
Property Address:	270 Laurel Road, Bolinas	Assessor's Parcel:	191-011-33
Hearing Date:	December 11, 2008	Planner:	Johanna M. Patri, AICP

RECOMMENDATION: Approve With Conditions
APPEAL PERIOD: 5 Working Days to the Planning Commission
LAST DATE FOR ACTION: December 23, 2008

PROJECT DESCRIPTION

The applicant is requesting Coastal Permit and Variance approvals proposing to legalize “as-built” remodeling of, and additions to, a 1,169 square foot permitted single-family residence. The project consists of construction of approximately 978 square feet of additional living floor area on the main level, 212 square feet on the lower level and additional deck areas all built without County permits. The project results in an approximately 2,359 square foot residence consisting of 2,147 square feet of floor area (four bedrooms, three baths) on the main level, with 1,173 square feet of deck area, 212 square feet of floor area on the lower level and 149.3 square feet of understory (ceiling height less than 7.5 feet). The project results in a floor area ratio (FAR) of 15% on the 15,330 square foot parcel. The resultant residence has a maximum height of 23.25 feet as measured from grade to the highest roof ridge. The project is proposed with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence and less than 1 foot to deck; and 9 feet rear (east). The project requires Variance approval for exceptions to required yard setbacks because portions of the “as-built” residence is located as close as 9 feet from the rear (east) property line, where 20 feet is required by Code, and a portion of the “as-built” deck area is located less than 1 foot from the side (north) property line, where 7 feet is required. An existing propane tank and electrical meter, currently located on the adjacent property, will be relocated to the project site. Sewage disposal is proposed to be provided by construction of a new alternative Class 1, four-bedroom on-site sewage disposal system. The proposed sewage disposal design is alternative drip dispersal with pretreatment septic system approved by the Marin County Environmental Health Services. Water for the residence is provided by the Bolinas Community Public Utilities District (BCPUD) based upon an expanded water use permit that was approved by the BCPUD on June 20, 2007. The project includes a Landscape and Vegetation Management Plan.

GENERAL INFORMATION

CWP Land Use Designation:	Coastal Single Family (C-SF5) 2 – 4 units per acre
Zoning:	Coastal, Single-family Residential, Limited Agricultural, 10,000 square feet minimum lot size (C-R-A:B-2)
Lot size:	15,330 square feet
Adjacent Land Uses:	Single-family residential
Vegetation:	Grasses and introduced landscaping
Topography and Slope:	Gentle to moderate slope

Environmental Hazards: None

ENVIRONMENTAL REVIEW

The Environmental Coordinator has determined this project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1(a) of the CEQA Guidelines because it entails legalization of additional square footage to an existing single-family residence on a residentially developed parcel that required no tree removal and minimal excavation and resulted in no significant impacts on the environment.

PUBLIC NOTICE

The Community Development Agency has provided public notice identifying the applicant, describing the project and its location, and giving the public hearing date in accord with California Government Code requirements. This notice has been mailed to all property owners within 300 feet of the subject property. At the time of the drafting of this staff report, no comments were received in response to the public notice distributed for the project.

PLAN CONSISTENCY

The proposed project is consistent with the goals and policies of the Marin Countywide Plan, the Bolinas Community Plan, and the Local Coastal Program, Unit I, because it entails the remodeling and expansion of an existing single-family residence on a residentially developed property within the Coastal Zone, which would not block public views of the coast or result in significant adverse environmental impacts, and because adequate water supply and wastewater disposal can be provided for the project. *(Please refer to the recommended resolution for detailed findings.)*

BACKGROUND

County records indicate that a one bath, one bedroom, approximately 788 square foot single-family residence was constructed on the property with County permits in 1959 and an approximately 381 square foot addition was constructed in 1990 with County permits. The 1990 addition received a Coastal Permit Notice of Exclusion (Categorical Exclusion Order E-82-6) because the project was an addition to a single-family residence that would not result in an increase of more than 50% of the existing floor area or 1,000 square feet, and the addition met all zoning and development standards of the Marin County Development Code (Title 22I). Circa 1999, a previous owner constructed an approximately 206 square foot addition to the main level without County permits. In 2006-2007, the current owner constructed approximately 984 square feet of living area and decks and remodeled the entire residence without County permits. The project proposes to legalize additional square feet of living floor area, under story, and deck area constructed without County permits, resulting in an approximately 2,359 square foot, four bedroom, three bath residence, with 1,173 square feet of deck area and 149.3 square feet of understory. While plans on file in the County are not entirely clear, they indicate the following approximate setbacks from property lines for the portions of the residence built with permits: 53 feet front (west); 17 feet side (north); 67 feet side (south); and 11 feet rear (east) legal, non-conforming setback.

PROJECT ANALYSIS

Variance Analysis

The project requires Variance approvals for: (a) the rear yard (east) setback of 9 feet for the addition constructed without County permits prior to 1999 by a previous owner, as well as the addition constructed without County

permits in approximately 2006 with a rear yard setback of 11 feet, where 20 feet is required by County code; and (b) the side yard (north) setback of less than 1 foot for a portion of a deck 18 inches above grade constructed without County permits in approximately 2006, where 7 feet is required by County code. Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line.

While Planning staff has determined that it can support the Variance request for the proposed exception to the required 20-foot rear yard setback required by the governing C-R-A:B-2 zoning district, staff finds that it cannot make the required Variance findings to support the side yard setback exception for the expansion of the deck as discussed below and in finding VII of the recommended Resolution.

Rear (East) Yard Setback Exception

As stated above, the residential development previously approved by the County is located 11 feet from the rear (east) property line, where 20 feet is required, resulting in a legal non-conforming condition as it relates to the rear yard setback. Construction of the new alternative drip dispersal on-site sewage disposal system, including leachfields, approved by the Marin County Environmental Health Services, can only be constructed in the front yard, immediately in front of the residence, thereby limiting additional square footage to be built at the front of the permitted 1,169 square foot residence. The additional floor area constructed at the rear of the residence encroaching within the required 20-foot rear yard setback does not substantially result in altering the 11-foot legal non-conforming rear yard setback of the single-family residence approved by the County through the Building Permit process. Additionally, the current rear yard setback of approximately 9 feet provides ample setbacks from the uphill neighboring property and does not impact light, views, or privacy of the adjacent properties.

Granting this portion of the Variance would not constitute a granting of special privilege that is inconsistent with the legal non-conforming condition. The existing County permitted residence with a legal non-conforming setback of approximately 11 feet has existed on site in its present location since 1959. The unpermitted portion of the residence that is 9 feet from the rear property line has been in existence since approximately 1999. The most recent addition (2006-2007) would maintain the same 11-foot legal non-conforming rear yard setback as the original 1959 residence.

Side (North) Yard Setback Exception

The proposed “as-built” addition on the north side of the residence maintains a setback from property line of 11 feet with the side staircase extending 3 feet into the side yard setback, consistent with the required setbacks for the governing C-R-A:B-2 zoning district. However, the “as-built” deck is located less than one foot from the north side property line where County Code allows a 3-foot extension into the required 10-foot side yard setback or requires a minimum setback of 7 feet from the side property line. Historically, the north side setback of that portion of the residence permitted in 1959 has been 17 feet. Staff has not found that special physical circumstances apply to the property that would allow the one-foot setback exception and is therefore recommending through conditions of approval that the portion of deck on the north side encroaching into the required 7-foot setback be removed.

In addition, it should be noted that the Marin County Uniform Building Code mandates that any structures located closer than 3-feet to a property line be constructed using one-hour firewall rated materials. Therefore, the existing deck, located less than one-foot from the side property line will necessitate substantial armoring of the exterior façade and surface of the deck, and could also potentially require the construction of fire-proof underpinnings. Requiring removal of the deck encroachment will result in a structure that will not create negative visual or privacy impacts and would be in keeping with the rural character of the project site and surrounding area. Staff has included

a condition of approval requiring that the applicant revise the project plans to show that all components of the “as-built” deck maintain a minimum 7-foot setback from the north side property line prior to submitting a building permit application. In addition, conditions of approval include requiring that a surveyor or other licensed professional confirm that the entire deck maintains this minimum 7-foot setback from the north side property line.

Conclusion

In summary, as recommended for approval, the Variance approval would facilitate a modest additional rear yard exception to the existing 11-foot legal, non-conforming condition of the 20-foot setback required by the Marin County Development Code (Title 22I) that would be in keeping with the original permitted residence. As modified by conditions of approval, staff finds the required findings for a Coastal Permit and Variance can be made for the project because it will not create a special privilege or create adverse effects to coastal resources.

RECOMMENDATION

Staff recommends that the Deputy Zoning Administrator review the administrative record, conduct a public hearing, and adopt the attached resolution conditionally approving the Vietor Coastal Permit and Variance.

Attachments:

1. Proposed Resolution recommending approval with conditions of the Vietor Coastal Permit and Variance.
2. CEQA Exemption
3. Location Map
4. Parcel Map
5. Project Plans
6. Geotechnical Design Memorandum, prepared by Salem Howes Associates, 11/21/2008
7. Fuel Modification and Management Plan
8. Department of Public Works, Land Use and Water Resources memorandum, 10/14/2008
9. Environmental Health Services memorandum, 10/17/2008
10. Bolinas Fire Protection District letter, 10/17/2008
11. Bolinas Community Public Utility District letter, 6/5/2008

MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. ____

A RESOLUTION CONDITIONALLY APPROVING
THE VIETOR COASTAL PERMIT AND VARIANCE
270 LAUREL ROAD, BOLINAS

ASSESSOR'S PARCEL NO. 191-011-33

SECTION 1: FINDINGS

- I. WHEREAS Peacock Designs, on behalf of the owner Francesca Vietor, is requesting Coastal Permit and Variance approvals The applicant is requesting Coastal Permit and Variance approvals proposing to legalize “as-built” requesting Coastal Permit and Variance approvals proposing to legalize “as-built” remodeling of, and additions to, a 1,169 square foot permitted single-family residence. The project consists of construction of approximately 978 square feet of additional living floor area on the main level, 212 square feet on the lower level and additional deck areas all built without County permits. The project results in an approximately 2,359 square foot residence consisting of 2,147 square feet of floor area (four bedrooms, three baths) on the main level, with 1,173 square feet of deck area, 212 square feet of floor area on the lower level and 149.3 square feet of understory (ceiling height less than 7.5 feet). The project results in a floor area ratio (FAR) of 15% on the 15,330 square foot parcel. The resultant residence has a maximum height of 23.25 feet as measured from grade to the highest roof ridge. The project is proposed with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence and less than 1 foot to deck; and 9 feet rear (east). The project requires Variance approval for exceptions to required yard setbacks because portions of the “as-built” residence is located as close as 9 feet from the rear (east) property line, where 20 feet is required by Code, and a portion of the “as-built” deck area is located less than 1 foot from the side (north) property line, where 7 feet is required. An existing propane tank and electrical meter, currently located on the adjacent property, will be relocated to the project site. Sewage disposal is proposed to be provided by construction of a new alternative Class 1, four-bedroom on-site sewage disposal system. The proposed sewage disposal design is alternative drip dispersal with pretreatment septic system approved by the Marin County Environmental Health Services. Water for the residence is provided by the Bolinas Community Public Utilities District (BCPUD) based upon an expanded water use permit that was approved by the BCPUD on June 20, 2007. The project includes a Landscape and Vegetation Management Plan. The property is located at **270 Laurel Road, Bolinas** and is further identified as **Assessor’s Parcel No. 191-011-33**.
- II. WHEREAS the Marin County Deputy Zoning Administrator held a duly noticed public hearing on December 11, 2008 to consider the merits of the project, and hear testimony in favor of and in opposition to the project.
- III. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act, per Section 15301, Class 1(a) because it entails the legalization of additional square footage to an existing single-family residence on a residentially developed parcel that required no tree removal and minimal excavation and resulted in no significant impacts on the environment.

- IV. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the pertinent policies of the Marin Countywide Plan (CWP) that emphasize preservation of, and compatibility with, the surrounding natural resources and built environment as outlined below.
- A. The project is consistent with the governing *CWP Coastal Single-Family 5 (C-SF5) 2 – 4 dwelling units per acre land use designation (CWP Policy CD-8.6 and Community Development Map 7.11)*.
 - B. During the review process, environmental review pursuant to CEQA was conducted, including submittal of a “Geotechnical Evaluation” to assess the potential impact of the proposed development on natural resources and the environment and to assure protection of the sensitive woodland resources (*CWP Policy BIO-2.1*).
 - C. The project is consistent with *CWP* natural systems policies requiring the enhancement, protection, and management of native habitats and the protection of woodlands, forest, and tree resources (*CWP Policies BIO-1.1 and BIO-1.3*).
 - D. The project complies with *CWP* natural systems policies supporting vegetation and wildlife disease management programs, limiting the impacts of Sudden Oak Death syndrome and other diseases harmful to native vegetation and promoting the use of native plant species (*CWP Policies BIO-1.4, BIO-1.5 and BIO-1.6*).
 - E. The project will not result in impacts to special-status species (*CWP Policies BIO-1.1, BIO-2.1, and BIO-2.2*).
 - F. The project will not significantly impact the ecotones on the project site, or natural transitions between habitat types on the project site and those ecotones on the public open space east of the project site, or impact corridors for wildlife movement (*CWP Policies BIO-2.3 and BIO-2.4*).
 - G. No wetlands or stream conservation areas will be affected by the project (*CWP Policies BIO-3.1 and CWP BIO-4.1*).
 - H. The project will not result in significant stormwater runoff to downstream creeks or soil erosion and discharge of sediments into surface runoff (*CWP Policies WR-2.1, WR-2.2, WR-2.3, and WR-2.4*).
 - I. The project avoids hazardous geological areas and will be designed to County earthquake standards through review of the Building Permit application review (*CWP Policies EH-2.1, EH-2.3, and CD-2.8*).
 - J. The project design and improvements ensure adequate fire protection (*CWP Policy EH-4.1*), removal of hazardous vegetation (*CWP Policy EH-4.2*), water for fire suppression (*CWP Policy EH-4.c*), defensible space and compliance with Marin County fire safety standards, construction of fire sprinklers and fire-resistant roofing and building materials (*CWP Policies EH-4.d, EH-4.e, EH-4.f, and EH-4.n*), and clearance of vegetation around the proposed structure (*CWP Policy EH-4.h*).
 - K. The project will ensure that development in the rural area is consistent with local design and scale and does not detract from the open character of the surrounding landscape or public open space (*CWP Policy DES-1.2*).
 - L. The project will require energy efficient standards for exterior lighting, reducing excessive lighting, light pollution, light trespass, and glare. (*CWP Policy DES-1.h*).

- M. The project will preserve visual quality and protect scenic quality and views of the natural environment from adverse impacts related to development (*CWP Policy DES-4.1*).
 - N. The project will comply with the Marin County Single Family Dwelling Energy Efficiency Ordinance (*CWP Policy EN-1.c*).
- V. WHEREAS the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the Bolinas Community Plan and Gridded Mesa Plan for the reasons outlined below.
- A. The proposed project would not adversely impact the surrounding built environment relative to views from public viewing locations, access from Laurel Road, and building design, mass and bulk.
 - B. The subject property maintains adequate off-street parking to accommodate the proposed project as verified by the Marin County Department of Public Works.
 - C. The subject property would have adequate water supply and sewage disposal, as confirmed by the Bolinas Community Public Utilities District and the Environmental Health Services Division.
 - D. The project site is not located in an area of geologic hazards and as verified by a licensed geotechnical engineer, the proposed project is not subject to the provisions of the Bolinas Gridded Mesa plan's Bluff Erosion Zone policies.
- VI. WHEREAS, the Marin County Deputy Zoning Administrator finds that the proposed project is consistent with the mandatory findings to approve a Coastal Permit (Section 22.56.130I of the Marin County Code) for the reasons outlined below.
- A. Water Supply:

Water for the proposed residence would be provided by the Bolinas Community Public Utilities District (BCPUD), as confirmed by BCPUD staff.
 - B. Septic System Standards:

The Marin County Environmental Health Services Division has reviewed and conditionally approved construction of a new septic permit for the proposed project.
 - C. Grading and Excavation:

Construction of the "as built" project required minimal (less than 250 cubic yards) grading.
 - D. Archaeological Resources:

Review of the Marin County Archaeological Sites Inventory indicates that much of Bolinas, including the subject property, is located in an area of archaeological sensitivity. However, the subject property was previously disturbed by the construction of the existing single-family residence, minimal grading is proposed, and the project is not likely to disturb cultural resources. Nonetheless, conditions of project approval would require that in the event cultural resources are discovered during site preparation or construction of this project, all work shall immediately be stopped and the services of a qualified

consulting archaeologist shall be engaged to assess the value of the resource and to develop appropriate mitigation measures to meet Local Coastal Program requirements.

E. Coastal Access:

The site is not located adjacent to a coastal area identified by the Local Coastal Program Unit I, where public access is desirable or feasible nor will the proposed project inhibit coastal access. The site is not located near any tidelands or submerged lands subject to the public trust doctrine.

F. Housing:

The proposed project consists of legalizing expansion of an existing single-family residence in a residential zone and would not result in the demolition or conversion of housing affordable to households of lower or moderate income.

G. Stream Conservation Protection:

This project site is not situated in an area subject to the streamside conservation policies as identified on the National Resources Map for Unit I of the Local Coastal Program.

H. Dune Protection:

The project site is not located in a dune protection area as identified by the Natural Resources Map for Unit I of the Local Coastal Program.

I. Wildlife Habitat:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area of sensitive wildlife resources. A review of the California Natural Diversity Database (NDDDB), prepared by the California Department of Fish and Game, indicates that the unlisted Ricksecker's Water Scavenger Beetle (*Hydrochara rickseckeri*) potentially exist within the vicinity of the subject property. The limited developments on the property, and minimal tree removal, would not result in significant impacts to Ricksecker's Water Scavenger Beetle habitat area. No significant or adverse impacts to the biological resources of the property would result from the project.

J. Protection of Native Plant Communities:

The Natural Resources Map for Unit I of the Local Coastal Program indicates that the subject property is not located in an area containing rare plants. A review of the NDDDB, prepared by the California Department of Fish and Game, indicates that the subject property is not located in the habitat area for rare plant species. No significant or adverse impacts to the biological resources of the property would result from the project.

K. Shoreline Protection:

Marin County Code Section 22.56.130(K) restricts development within a certain distance of the bluff of Bolinas Mesa. However, the project site is not located adjacent to, or near, the shoreline or within the bluff erosion zone. The project site is located approximately 3/8 of a mile from the bluff. According to SalemHowes Associates Inc., Geotechnical Engineers and Geologists, based on a high and unrealistic

bluff retreat rate of 1.25 feet per year, bluff retreat would not be expected to reach this location for an estimated 800 years.

L. Geologic Hazards:

The project site is not located in an area of geologic hazards as indicated on Geologic Hazards Map for Unit I of the Local Coastal Program and is not located within the delineated boundaries of the San Andreas Fault zone as identified on the Earthquake (Alquist-Priolo) Special Studies Zone Map. The project site is approximately 3/4 mile west of the Earthquake (Alquist-Priolo) Special Studies Zone delineated along the San Andreas Fault Zone. The project site is not located within the Bluff Erosion Zone identified in the Bolinas Gridded Mesa Plan.

As with all properties in Bolinas, the project site would be subjected to strong ground shaking during a proximate seismic event. The Marin County Community Development Agency - Building and Safety Division will determine seismic compliance with the Uniform Building Code during the plan check process.

M. Public Works Projects:

This proposed project does not entail expansion of public roads, flood control projects, or utility service and will not affect any public works projects.

N. Land Division Standards:

No land division is proposed as part of this project.

O. Visual Resources:

The height, scale, and design of the proposed structure would comply with the standards of the governing zoning and will be compatible with the established character of the surrounding community.

P. Recreation/Visitor Facilities:

The proposed project would not provide commercial or recreational facilities, and the project site is not governed by VCR (Village Commercial Residential) zoning regulations that require a mixture of residential and commercial uses.

Q. Historic Resource Preservation:

The subject parcel has been previously developed with a single-family residence that is in a state of disrepair. The proposed project is for an interior remodel and construction of a new rear yard deck and front porch that would be compatible the architectural character of the existing residence. Furthermore, the property is not located within the designated historic preservation boundaries for Bolinas as identified in the Marin County Historic Study for the Local Coastal Program.

VII. WHEREAS the Deputy Zoning Administrator finds: (a) mandatory findings to approve a Variance per Section 22.86.025(4)I of the Marin County Development Code (Title 22I) and Section 65906 of the California Government Code for the rear yard (east) setback of 9 feet, where 20 feet is required by County code can be made; but (b) mandatory findings to approve a Variance per Section 22.86.025(4)I of the Marin County

Development Code (Title 22I) and Section 65906 of the California Government Code for the side yard (north) setback of less than 1 foot for a portion of the deck 18 inches above grade, where 7 feet is required by County code cannot be made as outlined below.

A. Because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property owners in the vicinity and under identical zoning districts.

This finding can be made for the rear (east) yard setback exception: The original residential development approved by the County in 1959 before current development standards with setbacks were established, is located 11 feet from the rear (east) property line, where 20 feet is required, resulting in a legal non-conforming condition as it relates to the rear yard setback. The soil conditions within the Bolinas area are such that require extensive land areas for primary as well as secondary leaching areas. Construction of the new alternative drip dispersal on-site sewage disposal system, including leachfields, approved by the Marin County Environmental Health Services, can only be constructed in the front yard, immediately in front of the residence, thereby limiting additional square footage to be built at the front of the permitted 1,169 square foot residence. The additional floor area constructed at the rear of the residence with a setback of 9 feet and encroaching within the required 20-foot rear yard setback does not substantially result in altering the 11-foot legal non-conforming rear yard setback of the single-family residence approved by the County through the Building Permit process in 1959. Additionally, the current rear yard setback of approximately 9 feet provides ample setbacks from the uphill neighboring property and does not impact light, views, or privacy of the adjacent properties.

This finding cannot be made for the side (north) yard setback exception: There is no unusual physical characteristic of the property or physical special circumstances associated with the property that would allow this finding to be made. The proposed “as-built” addition on the north side of the residence maintains a setback from property line of 11 feet with the side staircase extending 3 feet into the side yard setback, consistent with the required setbacks for the governing C-R-A:B-2 zoning district. However, the “as-built” deck is located less than one foot from the north side property line where the Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. Historically, the north side setback of that portion of the residence permitted in 1959 has been 17 feet. There is no special physical circumstance applicable to the project site that would allow the one-foot setback from the property line. There is a total square footage of approximately 1,173 square feet for the “as-built” deck and additional land area that would not require a Variance to setbacks is available for additional decking. Conditions of approval require that approximately 84 square feet of that portion of deck on the north side encroaching into the required 7-foot setback be removed, leaving approximately 1,089 square feet of decking, which is a substantial amount of deck area.

B. The granting of a Variance for the property will not be detrimental to the public welfare or injurious to other property in the vicinity.

This finding can be made for the rear (east) yard setback exception: The granting of a Variance for the “as-built” portion of additional floor area with a rear yard setback of 9 feet, within the required 20-foot rear yard setback would not be detrimental to the adjacent property or other properties in the vicinity primarily. The legal, non-conforming setback of 11 feet has been in existence since 1959 and a portion of the addition with a setback of 9 feet has been in existence since 1999 with no apparent adverse impacts to surrounding properties. The legalization of these “as-built” encroachments into the rear yard setback do

not result in significant additional bulk or mass to the existing residence. The granting of a Variance from the required rear yard setback results in the same setback plane as development that has historically existed on site, while allowing for modest improvements to the permitted residence.

This finding cannot be made for the side (north) yard setback exception: That portion of the “as-built” deck within the required side yard setback is excessive and is located only one foot from the property line, where Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. In addition, activities of the owners on this portion of the deck, this close to the neighboring property line, has the potential to impact the privacy of the neighboring property. In addition, for fire safety reasons, the Marin County Uniform Building Code mandates that any structures located closer than 3-feet to a property line be constructed using one-hour firewall rated materials. Therefore, the existing deck, located less than one-foot from the side property line will necessitate substantial armoring of the exterior façade and surface of the deck, and could also potentially require the construction of fire-proof underpinnings. Requiring removal of the deck encroachment will result in a structure that will not create negative visual or privacy impacts and would be in keeping with the rural character of the project site and surrounding area.

C. The granting of a Variance for the property does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity under an identical zoning district.

This finding can be made for the rear (east) yard setback exception: As discussed in Finding A above, the subject property has physical limitations and special circumstances that allow the required new septic system in accordance with Marin County Environmental Health Services requirements to be constructed only in the front yard, adjacent to the front of the residence, resulting in virtually the entire front yard area to be taken up by the septic system that is needed to provide adequate sewage disposal. The Variance for the rear yard setback exception will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district. Granting this portion of the Variance would not constitute a granting of special privilege that is significantly inconsistent with the legal non-conforming condition. The existing County permitted residence with a legal non-conforming setback of approximately 11 feet has existed on site in its present location since 1959. The unpermitted portion of the residence that is 9 feet from the rear property line has been in existence since approximately 1999. The most recent addition (2006-2007) would maintain the same 11-foot legal non-conforming rear yard setback as the original 1959 residence.

This finding cannot be made for the side (north) yard setback exception: As discussed in Finding A above, there is no unusual physical characteristic of the property or physical special circumstances associated with the property that would demonstrate why this proposed setback exception would not constitute a grant of a special privilege as there is sufficient decking area without granting a Variance for additional square footage within the required setback. The “as-built” deck is located less than one foot from the north side property line where the Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. Historically, the north side setback of that portion of the residence permitted in 1959 has been 17 feet. There is no special physical circumstance applicable to the project site that would allow the one-foot setback from the property line.

D. The granting of a Variance for the property does not authorize a use or activity which is not otherwise expressly authorized by the particular zoning district regulations governing such property.

This finding can be made for the rear (east) yard setback exception: The granting of the Variance for the “as-built” additional floor area within the required rear yard setback will allow the property owner additional living area to an existing residence, a use that is authorized as a principal use by the governing C-R-A:B-2 zoning district.

This finding cannot be made for the side (north) yard setback exception: While a deck attached to a primary residence is a principle use within the C-R-A:B-2 zoning district, as stated above Marin County Development Code (Title 22I), Section 22.72.035I (2) (b) allows an attached deck, exceeding 18 inches in height above the surrounding finished grade, to extend up to 3 feet into a required side yard setback (in this case 10 feet), except that no deck may be closer than 3 feet to a side property line. This provision is primarily for fire safety reasons in accordance with the Marin County Uniform Building Code.

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the Vietor Coastal Permit (CP 07-35) and Variance (VR 07-27) in accordance with the Marin County Development Code (Title 22I) Section 22.56.130 and Section 22.86.025(4)I respectively subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. The Vietor, Coastal Permit and Variance approvals allow the legalization of “as-built” additions to a 1,169 square foot permitted single-family residence as follows:
 - a. Construction of approximately 978 square feet of additional living floor area on the main level;
 - b. Construction of approximately 212 square feet on the lower level;
 - c. Construction of approximately 149.3 square feet of understory (ceiling height less than 7.5 feet); and
 - d. Construction of approximately 1,089 square feet of deck area.
 - e. The approved project shall result in a maximum 2,359 square foot residence resulting in a maximum floor area ratio (FAR) of 15.3% on the 15,330 square foot parcel, with a maximum height of 23.25 feet as measured from grade to the highest roof ridge.
 - f. The project is approved with the following setbacks from corresponding property lines: 45.5 feet front (west); 57 feet side (south); 11 feet side (north) to residence with a minimum setback of 7 feet to the deck; and 9 feet rear (east).
 - g. The existing propane tank and electrical meter, currently located on the adjacent property, shall be relocated to the project site.

- h. Sewage disposal is approved for construction of a new alternative Class 1, four-bedroom on-site sewage disposal system with an alternative drip dispersal and pretreatment septic system approved by the Marin County Environmental Health Services.
- i. Water for the residence shall be provided by the Bolinas Community Public Utilities District (BCPUD) based upon an expanded water use permit that was approved by the BCPUD on June 20, 2007.
- j. The approved project includes the implementation of a Landscape and Vegetation Management Plan.

The property is located at **270 Laurel Road, Bolinas** and is further identified as **Assessor's Parcel No. 191-011-33**.

- 2. Except as modified herein, plans submitted for Building Permits shall substantially conform to plans on file in the Marin County Community Development Agency, Planning Division identified as Exhibit A, received September 25, 2008 and entitled Vietor-Hertsgaard Residence, 270 Laurel Road, Bolinas, CA" prepared by Peacock Designs.
- 3. WITHIN 15 DAYS FROM THE DATE OF APPROVAL AND BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit one complete set of revised plans to the Director for review and approval, and incorporated as Exhibit A-1, that indicate the following modification:
 - a. Revised plan sets showing the removal of any components of the "as-built" deck structure (including piers and overhangs) closer than 7 feet to the side (north) property line.
- 4. WITHIN 30 DAYS FROM THE DATE OF APPROVAL OF THE MODIFIED PLAN IN ACCORDANCE WITH CONDITION 3 ABOVE, THE APPLICANT SHALL SUBMIT BUILDING PERMIT PLANS AND A BUILDING PERMIT APPLICATION FOR ALL WORK ON THE APPROVED RESIDENCE.
- 5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall:
 - a. Revise the Site Plan or other first sheet of the office and job site copies of the Building Permit plans to list these Coastal Permit and Variance Conditions of Approval as notes;
 - b. Show on the building permit plans all approved building setbacks indicating the minimum distance of the building from the nearest property line at the closest point; and
 - c. Submit a signed Statement of Conformance demonstrating that the project qualifies for "Gold" or better rating per Marin County Code Section 22.42.060. F., under the Marin Green Home: New Home Green Building Residential Design Guidelines. The Building Permit shall include specifications demonstrating compliance with all construction-related measures that are used to meet the "Gold" or better rating. In addition, the Single Family Dwelling Energy efficiency Ordinance shall apply to this project.
- 6. Exterior lighting shall be permitted for safety purposes only, must consist of energy efficient, low lumen output, and low wattage fixtures, and must be directed downward and hooded to prevent glare for neighboring properties.
- 7. All construction activities shall comply with the following standards:

- a. Construction activity is only permitted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 9:00 a.m. and 5:00 p.m. on Saturday. No construction shall be permitted on Sundays and the following holidays (New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.
- b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.
8. During construction, the applicant shall take all appropriate measures, including watering of disturbed areas and covering the beds of trucks hauling fill to or spoils from the site, to prevent dust from grading and fill activity from depositing on surrounding properties.
9. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
10. All roofing, siding, flashing, metal work and trim shall be an appropriately subdued, nonreflective color.
11. If archaeological resources are discovered during grading, trenching, or other construction activities all work at the site shall stop immediately, and the project sponsor shall inform the Marin County Environmental Coordinator of the discovery. A registered archaeologist, chosen by the County and paid for by the project sponsor, shall assess the site and shall submit a written report to the Marin County Community Development Agency Director advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Director. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Director.
12. Any changes or additions to the project shall be submitted to the Community Development Agency, Planning Division for review and approval before the contemplated modifications may be initiated.
13. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of the Schmidt Coastal Permit, for which action is brought within the applicable statute of limitations.
14. WITHIN 90 DAYS OF THE ISSUANCE OF THE BUILDING PERMIT, the applicant shall correct/complete all work in accordance with the approved building permit plans and the building permit application and call for a final inspection.
15. BEFORE FINAL INSPECTION, the applicant shall have a licensed land surveyor or civil engineer with proper certification conduct a survey of the side (north) and rear (east) property lines and install property line markers that can be readily verified by the Building and Safety Inspection staff to verify building setbacks of 9 feet from the rear (east) property line and 7 feet to the deck at the side (north) property line

and submit a written (stamped) confirmation to the Planning Division confirming that the staking of the property lines has been properly completed. In addition, it is recommended that the required setback lines be clearly marked by stakes similar to batter boards that are installed at the foundation corners.

16. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall record a waiver of public liability holding the County of Marin, other governmental agencies, and the public harmless because of loss experienced by geologic or flooding actions. The waiver of public liability shall be submitted to the Community Development Director for review and approval prior to recordation.

Marin County Environmental Health Services

17. WITHIN 30 DAYS OF THE ISSUANCE OF THE BUILDING PERMIT, the applicant shall install the septic system, due to the fact the residence is currently operating with a substandard septic system. During the time of construction of the septic system, and until such time as the new septic system receives a final inspection from Environmental Health Services, the residence shall not be occupied. The septic contractor shall have the necessary licenses and experience in Marin County with installation of drip dispersal systems and also have the experience and knowledge to work in potential wet weather conditions, if necessary. BEFORE FINAL INSPECTION OF THE RESIDENCE, the property owner will be required to obtain an Operating Permit for the new septic system prior to calling for a final inspection by the Building Department.

Marin County Department of Public Works

18. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and the Fire Department.
19. BEFORE ISSUANCE OF A BUILDING PERMIT the applicant shall comply with the following requirements:
 - a. The plans shall be reviewed and approved by Registered Civil Engineer with soils engineering expertise or a Registered Geotechnical Engineer. Certification shall be either by the engineer's stamp and signature on the plans, or by stamp and signed letter.
 - b. A registered Engineer shall design the site/driveway retaining walls, drainage, and grading plans. Plans must have the engineer's signature and stamp.
 - c. A separate Building Permit is required for site/driveway retaining walls with a height more than 4' (or 3' when backfill area is sloped or has a surcharge).
 - d. A registered Engineer shall design the drainage, and grading plans. Plans must have the engineer's signature and stamp.
 - e. Submit an Erosion and Siltation Control Plan if grading or site disturbance is to occur between October 15 and April 15.

Bolinas Fire Protection District

20. Address Sign: Street address to be posted where readily visible from Laurel Road. Sign to be of three inch minimum letters with 3/8" stroke and with background of contrasting color.
21. Fire Sprinklers: If required, design approval and site inspection completed by building department.
22. Smoke Detectors: Provide smoke detectors per UBC/UFC.

23. Roof: Design approval and site inspection completed by building department.
24. Vegetation: A defensible space zone (minimum 30-100 feet) is required. The defensible space zone must be in place prior to framing. Trees shall not be planted in a location that, when mature, will contact overhead power lines. Schedule site meeting with Fire Department prior to construction.
25. Structures: Construction and inspections per UBC and Marin County codes.
26. The LPG tank shall be secured to concrete foundation or by other methods to withstand failure of cylinder and associated plumbing which may cause propane release during a seismic event or land movement. Maintain thirty feet separation from all structures. It is recommended that propane tank be sited away from driveway so as not to interfere with access in the event of flame impingement which may cause tank to vent flames. Provide fifteen feet defensible space around propane tank.
27. Laurel Road shall remain open and accessible for emergency vehicles from project property to Alder Road year round and shall not be blocked by parking. Currently road is blocked with parking and overgrowth of vegetation.

Bolinas Community Public Utility District

28. The applicant shall comply with all District requirements prior to issuance of a final inspection

SECTION III: VESTING AND APPEAL RIGHTS

NOW, THEREFORE BE IT FURTHER RESOLVED that the applicant must vest the Vietor Coastal Permit and Variance approval with the issuance of Building Permits and substantial completion of all the approved work in accordance with all required time frames contained in the Conditions of Approval, or all rights granted in these approvals shall lapse. The applicant may submit a written request for an extension of time for cause and the Director will review the request.

NOW, THEREFORE BE IT FURTHER RESOLVED that this decision is final unless appealed to the Planning Commission. A Petition for Appeal and a \$600.00 filing fee must be submitted in the Community Development Agency - Planning Division, Room 308, Civic Center, San Rafael, no later than **4:00 p.m. on December 18, 2008.**

SECTION IV: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 11th day of December 2008.

JEREMY TEJIRIAN, AICP
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Joyce Evans
Recording Secretary